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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
Vol. 62, No. 58
Wednesday, March 26, 1997

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 415 and 457

General Crop Insurance Regulations; Forage Production Crop Insurance Regulations, and Common Crop Insurance Regulations; Forage Production 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 forage production. 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 forage production crop insurance regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, add an optional forage production winter coverage endorsement, and to restrict the effect of the current forage production crop insurance regulations to the 1997 and prior crop years.

EFFECTIVE DATE: April 25, 1997.

FOR FURTHER INFORMATION CONTACT: Richard Brayton, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 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 exempt for the purposes of Executive Order No. 12866, and, therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

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 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. The effect of this regulation on small entities will be no greater than on larger 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 if adequate records are available to support the certification. 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 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

On Friday, September 13, 1996, FCIC published a proposed rule in the **Federal Register** at 61 FR 48416–48420

to add to the Common Crop Insurance Regulations (7 CFR part 457), two new sections: 7 CFR 457.117, Forage Production Crop Insurance Provisions; and 457.127, Forage Production Winter Coverage Endorsement. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring forage production found at 7 CFR part 415 (Forage Production Crop Insurance Regulations). FCIC also amends 7 CFR part 415 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments, data, and opinions. A total of 19 comments were received from the crop insurance industry and FCIC. The comments received, and FCIC's responses, are as follows:

Comment: A representative of FCIC and the crop insurance industry questioned the definition of ''Air-dry forage'', which references eighteen percent moisture as the basis for converting forage to an air-dry equivalent. The commenters recommended that this adjustment should be based on thirteen percent moisture as specified in the current loss adjustment procedure.

Response: FCIC agrees with the comments and has amended the provisions accordingly.

Comment: A representative of FCIC recommended changing the definition of ''Forage'' to allow insurance coverage for non-grass forage species other than alfalfa and red clover (*e.g.*, birdsfoot trefoil).

Response: FCIC agrees with the comment and has amended the definition to allow insurance coverage for other species listed in the Actuarial Table.

Comment: The crop insurance industry recommended adding the words ''and quality'' after the words ''providing the quantity'' in the definition of ''Irrigated practice.''

Response: FCIC agrees water quality is an important issue. However, since no standards or procedures have been developed to measure water quality for insurance purposes, quality cannot be included in the definition. Therefore, no change has been made.

Comment: The crop insurance industry recommended that section 3 ''Insurance Guarantees, Coverage Levels, and Prices,'' be changed to read, ''* * * select only one price percentage * * *''. The commenter stated this change would shorten the provision because language regarding varieties having different maximum prices would no longer be necessary.

Response: The methods used to select price elections vary between insurance providers. While some require selection of a percentage, others require selection of a specific dollar amount. The suggested change will not work in all circumstances. Therefore, no change has been made.

Comment: A representative of FCIC and the crop insurance industry stated that section 6 ''Report of Acreage'' should not require separate acreage reports for acreage insured under the Forage Production Winter Coverage Endorsement and for all other insurable forage acreage. The commenter believes that only one acreage report should be required.

Response: Fall planted acreage is eligible for coverage under the Forage Production Winter Coverage Endorsement the first and subsequent crop years following year of establishment. Insurance attaches in the fall for forage acreage insured under the Forage Production Winter Coverage Endorsement and in the spring for all other forage acreage that is not eligible for coverage under the endorsement. Therefore, separate fall and spring acreage reports are necessary to timely determine the liability and premium when insurance attaches. Therefore, no change has been made.

Comment: The crop insurance industry raised concern with the provision contained in section 7(a)(2) that requires the forage crop be planted for harvest as livestock feed in order for coverage to attach. The commenters questioned the insurability of forage being used for a purpose other than livestock feed. For example, a new biomass plant utilizes a portion of the forage to burn for electrical energy production in addition to producing livestock feed. Producers may contract part of their forage to be burned and use the remainder of production for livestock feed. They questioned whether the acreage contracted to be burned would be considered insurable and how APH and loss adjustment procedure would be affected.

Response: Any forage planted for harvest other than for livestock feed is not insurable. No procedures or provisions have been developed to provide coverage for forage intended to be harvested as other than livestock feed. FCIC will consider this issue for future use. Therefore, no change has been made.

Comment: The crop insurance industry questioned the provisions contained in section 7(a)(3) ''Insured Crop'' regarding the insurability of fall seeded forage. The commenters stated that, in some areas, it is common for fall seeded forage to establish a better stand than forage seeded prior to July 1 of the same year. They asked if such cases could be insured by written agreement (following a favorable crop inspection) the next year (currently the ''year of establishment'' by definition) instead of having to wait until the following year.

Response: The forage production crop insurance program is designed to provide coverage the year following the year the forage stand is established. In general, forage planted after June 30 takes longer to establish an acceptable stand than forage planted prior to June 30. Currently there are no procedures in place to evaluate the quality or adequacy of the stand during the year of establishment to determine insurability of the stand. Therefore, no change has been made.

Comment: The crop insurance industry questioned section 7(b)(3) ''Insured Crop'', why the ability to insure an overage stand of forage by written agreement is eliminated. The commenter stated that many overage fields have the ability to produce in excess of the approved APH yield and that not all producers keep separate records of the overage stands, which will be a problem if the overage stands are no longer insurable. The commenter suggested providing an option to insure all forage, including overage acreage, with a premium surcharge or a reduced yield based on a factor multiplied by the average APH yield.

Response: Research indicates that overage forage stand density decreases with time. As stand density decreases forage production decreases significantly. The Special Provisions will specify at what age the forage stand is no longer eligible for insurance coverage. FCIC agrees that the concept of insuring overage stands with a premium surcharge or reduced yield should be studied to determine if premium surcharges or factors to reduce the APH yield can be developed. Therefore, no change has been made.

Comment: The crop insurance industry recommended that section 12(d) ''Written Agreements,'' should not state that written agreements are valid for only one year (perhaps refer to the date specified in the agreement instead). The commenter recommended that written agreements should be continuous, unless there are significant changes in the farming operation.

Response: Written agreements are intended to change policy terms or permit insurance in unusual situations where such changes will not increase risk. If such practices continue year to

year, they should be incorporated into the policy or Special Provisions. It is important to keep non-uniform exceptions to the minimum and to ensure that the insured is well aware of the specific terms of the policy. Therefore, no change has been made.

Comment: A representative of FCIC questioned the addition of the Forage Production Winter Coverage Endorsement, stating that in areas with little or no winter damage risk, it increases the complexity of the program by requiring further explanation to producers, separate rates, acreage reports and dates, which has no true benefit to producers. The commenter stated that Risk Management Agency should be putting considerable efforts into developing a program that truly meets producers needs (i.e. quality adjustment, etc.).

Response: The current regulations allow winter coverage as part of the basic policy, which affects the premium rates for all insureds even though not all insureds use this coverage. This endorsement will allow winter protection for only insureds who elect the winter coverage and only those electing the endorsement will pay premium for the winter coverage. FCIC agrees that the concept of developing a program which fits all producer needs, such as quality adjustment, etc., should be studied to determine if procedures for other program improvements can be developed. Therefore, no change has been made.

Comment: The crop insurance industry stated that in many states the acreage of forage is very small, resulting in small premiums and expensive administration costs. Producers who choose not to purchase the winter endorsement will have even smaller premiums, making the policy less attractive to deliver. The commenter suggested that FCIC consider offering a forage Group Risk Plan (GRP) program in all states and counties, which has been suggested by the crop insurance industry and FCIC simplification work groups.

Response: The GRP forage program is currently offered in a few selected states and counties. Expanding the GRP forage program to all states and counties is under consideration. However, no decision has been rendered at this time. If such expansion occurs, the forage production producer will have the option to be insured under the GRP plan or the current forage production crop provisions. Therefore, no change has been made.

Comment: The crop insurance industry stated that most forage production policyholders purchased the insurance because of the winter coverage. They recommended that insureds be allowed to exclude winter coverage in return for a reduced premium rate.

Response: The current regulations allow winter coverage as part of the basic policy, which affects the premium rates for all persons who insure forage production. Now, only those producers who elect the Forage Production Winter Coverage Endorsement will have to pay the premium for such coverage. Therefore, no change has been made.

Comment: The crop insurance industry expressed concern with the extra work and expense that would be required to have winter coverage begin in the fall. The commenter stated that inspections should be required in the spring because winter inspections are difficult if there is snow on the ground.

Response: Crop inspections for fall planted forage must be made in the fall if the winter coverage endorsement is elected to ensure that such acreage is insurable before insurance attaches. Therefore, no change has been made.

List of Subjects in 7 CFR Parts 415 and 457

Crop insurance, Forage production crop insurance regulations, Forage production.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 415 and 457 effective for the 1998 and succeeding crop years, to read as follows:

PART 415—FORAGE PRODUCTION CROP INSURANCE REGULATIONS

1. The authority citation for 7 CFR part 415 is revised to read as follows:

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

2. The subpart heading preceding § 415.1 is revised to read as follows:

Subpart—Regulations for the 1986 Through 1997 Crop Years

3. Section 415.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 415.7 The application and policy.

* * * * *

(d) The application for the 1986 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Forage Production Insurance Policy for the 1986 through 1997 crop years are as follows:

* * * * *

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

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

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

5. Sections 457.117 and 457.127 are added to read as follows:

§ 457.117 Forage production crop insurance regulations.

The Forage Production 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:

Forage Production Crop Insurance 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.

Adequate stand—A population of live forage plants that equals or exceeds the minimum required number of plants per square foot as shown in the Special Provisions.

Air-dry forage—Forage that has dried in windrows by natural means to less than 13 percent moisture before being put into stacks or bales.

Crop year—The period from the date insurance attaches until harvest is normally completed, which is designated by the calendar year in which the majority of the forage is normally harvested.

Cutting—Severance of the forage plant from the land for the purpose of livestock feed.

Days—Calendar days.

Fall planted—A forage crop planted after June 30.

Forage—Planted perennial alfalfa, perennial red clover, perennial grasses, or a mixture thereof, or other species as shown in the Actuarial Table.

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 forage from the windrow or field. Grazing will not be considered harvested.

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.

Production guarantee (per acre)—The number of tons determined by multiplying the approved APH yield per acre times the coverage level percentage you elect.

Spring planted—A forage crop planted before July 1.

Ton—Two thousand (2,000) pounds avoirdupois.

Written agreement—A written document that alters designated terms of this policy in accordance with section 12.

Year of establishment—The period between seeding and when the forage crop has developed an adequate stand. Insurance during the year of establishment may be available under the forage seeding policy. Insurance under this policy does not attach until after the year of establishment. The year of establishment is determined by the date of seeding. The year of establishment for spring planted forage is designated by the calendar year in which seeding occurred. The year of establishment for fall planted forage is designated by the calendar year after the year in which the crop was planted.

2. Unit Division.

Optional units are not available for forage production. See the definition of unit contained in section 1 (Definitions) of the Basic Provisions (§ 457.8).

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

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8):

(a) You may only select one price election for all the forage 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 forage 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 a specific type, you must also choose 100 percent of the maximum price election for all other types.

(b) You must report the total production harvested from insurable acreage for all cuttings for each unit by the production reporting date.

(c) Separate guarantees will be determined by forage type, as applicable.

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.

5. Cancellation and Termination Dates.

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are September 30.

6. Report of Acreage.

In addition to section 6 of the Basic Provisions (§ 457.8), you must submit separate acreage reports for acreage insured under the Forage Production Winter Coverage Endorsement and for all other insurable forage acreage.

7. Insured Crop .

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the forage in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That is planted for harvest as livestock feed; and

(3) That is grown after the year of establishment.

(b) In addition to the crop listed as not insured in section 8 (Insured Crop) of the Basic Provisions (§ 457.8), we will not insure any forage that:

(1) Does not have an adequate stand at the beginning of the insurance period;

(2) Is grown with a non-forage crop; or

(3) Exceeds the age limitations for forage stands contained in the Special Provisions.

8. Insurance Period.

In lieu of the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8):

(a) Insurance attaches on acreage with an adequate stand on the later of the date we accept your application or the applicable calendar dates listed below:

(1) For the first and subsequent calendar years following the year of establishment, for acreage not insured under the Forage Production Winter Coverage Endorsement for:

(i) California—February 1;

(ii) Colorado, Idaho, Nebraska, Nevada, Oregon, Utah, and Washington—April 15;

(iii) Iowa, Minnesota, Montana, New Hampshire, New York, North Dakota, Pennsylvania, Wisconsin, Wyoming, and all other states—May 22;

(2) The calendar date specified in the Forage Production Winter Coverage Endorsement for acreage insured under such endorsement.

(b) Insurance ends at the earliest of:

(1) Total destruction of the forage crop;

(2) Removal from the windrow or the field for each cutting;

(3) Final adjustment of a loss;

(4) The date grazing commences on the forage crop;

(5) Abandonment of the forage crop; or

(6) The following dates of the crop year:

(i) All states except California—October 15;

(ii) California—December 31.

(c) In order to obtain year-round coverage for a calendar year, you must purchase the Forage Production Winter Coverage Endorsement (§ 457.127).

9. 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 during 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 covered in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against damage that occurs after removal from the windrow.

10. Duties in the Event of Damage or Loss.

In addition to your duties contained in section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), if you discover any insured forage is damaged, or if you intend to claim an indemnity on any unit, you must give notice:

(a) Of probable loss at least 15 days before the beginning of any cutting or immediately if probable loss is discovered after cutting has begun; and

(b) At least 5 days before grazing of insured forage begins. Such notice must include the number of acres harvested and tons produced from each unit.

11. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide production records for any unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

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

(1) Multiplying the insured acreage for each type, by its respective production guarantee;

(2) Multiplying each result in section 11(b)(1) by the respective price election you selected;

(3) Totaling the results of each crop type in section 11(b)(2);

(4) Multiplying the total production to be counted of each type, if applicable, (see section 11(c)) by the respective price election you selected;

(5) Totaling the results of each crop type in section 11(b)(4);

(6) Subtracting the result in section 11(b)(5) from the result in section 11(b)(3); and

(7) Multiplying the result in section 11(b)(6) by your share.

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

(1) All appraised production as follows:

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

(A) That is abandoned;

(B) Put to another use without our consent;

(C) Damaged solely by uninsured causes; or

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

(ii) Production lost due to uninsured causes;

(iii) Unharvested production;

(iv) 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 when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached and:

(A) 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); or

(B) 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; and

(2) All harvested production from the insurable acreage.

(d) When forage is harvested as other than air-dry forage, the production to count will be adjusted to the equivalent of air-dry forage.

(e) Any harvested production from plants growing in the forage will be counted as forage on a weight basis.

(f) In addition to the provisions of section 15 (Production Included in Determining Indemnities) of the Basic Provisions (§ 457.8), we may determine the amount of production of any unharvested forage on the basis of our field appraisals conducted after the normal time for each cutting for the area.

12. 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 12(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us that will be in effect if the written agreement is not approved;

(c) If approved, 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 a 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.

* * * * *

§ 457.127 Forage Production Winter Coverage Endorsement.

The provisions of the Forage Production Winter Coverage Endorsement for the 1998 and succeeding crop years are as follows:

Department of Agriculture

Federal Crop Insurance Corporation

Forage Production Winter Coverage Endorsement

In return for payment of the additional premium designated in the actuarial table, the Common Crop Insurance Policy Basic Provisions (§ 457.8) and the Forage Production Crop Insurance Provisions (§ 457.117) are amended to incorporate the following terms and conditions:

(a) For this Endorsement to be effective, you must have the Common Crop Insurance Policy Basic Provisions (§ 457.8) and the Forage Production Crop Insurance Provisions (§ 457.117) in force and you must comply with all terms and conditions contained therein.

(b) This Endorsement is not available for forage crops insured under a Catastrophic Risk Protection Endorsement.

(c) You must elect this Endorsement on your application or on a form approved by us, for coverage under this Endorsement, on or before the sales closing date specified in the Special Provisions for the crop year in which you wish to insure your forage under this Endorsement.

(d) This Endorsement is available for the following acreage in all counties for which the actuarial table designates forage production premium rates:

(1) Fall planted acreage, for the first and subsequent crop years following the year of establishment; and

(2) Spring planted acreage, for the second and subsequent crop years following the year of establishment.

(e) Under this Endorsement, the insurance period will be as follows:

(1) Insurance will attach on acreage with an adequate stand on the later of the date we accept your application or the applicable calendar dates following the end of the insurance period for the previous crop year as listed below:

(i) For all states except California—October 16;

(ii) For California—January 1;

(2) Insurance will end on the earliest of:

(i) Total destruction of the forage crop;

(ii) Removal from the windrow or the field for each cutting;

(iii) Final adjustment of the loss;

(iv) Abandonment of the forage crop;

(v) The date grazing commences on the forage crop; or

(vi) The following dates of the crop year:

(A) All states except California—October 15;

(B) California—December 31.

(f) This is a continuous Endorsement and it will remain in effect for as long as your forage production policy remains in effect or you cancel this coverage in accordance with paragraph (g).

(g) This Endorsement may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding the crop year for which the cancellation of this Endorsement is to be effective.

Signed in Washington, D.C., on March 19, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–7655 Filed 3–25–97; 8:45 am]

BILLING CODE 3410–FA–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–41; Amendment 39–9972; AD 97–06–15]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company CF34 series turbofan engines, that reduces the allowable operating cyclic life limit for affected high pressure compressor (HPC) stage 1 rotor disks. This amendment is prompted by an updated stress and life analysis. The actions specified by this AD are intended to prevent HPC stage 1 rotor disk rupture, engine failure, and damage to the aircraft.

DATES: Effective May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to General Electric Company (GE) CF34 series turbofan engines was published in the **Federal Register** on December 18, 1995, (60 FR 65035). That action proposed to reduce the allowable operating cyclic life limit for affected high pressure compressor (HPC) stage 1 rotor disks.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 440 engines of the affected design in the worldwide fleet. The FAA estimates that 150 engines installed on aircraft of U.S. registry will be affected by this AD, and that it will take approximately zero additional work hours per engine to accomplish the required actions. Required parts will cost approximately $7,667 per engine, based on the estimated current part cost, prorated downward by a factor equal to the quotient of the difference between the original cyclic life limit (9,000 cycles) and the revised cyclic life limit (6,000 cycles) divided by the original cyclic life limit. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,150,000.

The regulations adopted herein 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 final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–06–15 General Electric Company: Amendment 39–9972. Docket 95–ANE–41.

Applicability: General Electric Company (GE) Models CF34–1A, –3A, and –3A2 turbofan engines, with high pressure compressor (HPC) stage 1 rotor disks, part number 6040T79G01, installed. These engines are installed on but not limited to Canadair Limited Model CL–600–2A12 and CL–600–2B16 aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 HPC stage 1 rotor disk rupture, engine failure, and damage to the aircraft, accomplish the following:

(a) Remove from service HPC stage 1 rotor disks prior to accumulating 6,000 cycles in service since new, and replace with a serviceable part.

(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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(c) This amendment becomes effective on May 27, 1997.

Issued in Burlington, Massachusetts, on March 14, 1997.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–7597 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 95–ANE–19; Amendment 39–9971; AD 97–06–14]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to General Electric Company CF34 series turbofan engines, that reduces the allowable operating cyclic life limit for affected fan disks. This amendment is prompted by an updated stress and life analysis. The actions specified by this AD are intended to prevent fan disk rupture, engine failure, and damage to the aircraft.

DATES: Effective May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to General Electric Company (GE) CF34 series turbofan engines was published in the **Federal Register** on March 25, 1996 (61 FR 12050). That action proposed to reduce the allowable operating cyclic life limit for affected fan disks.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

There are approximately 440 engines of the affected design in the worldwide fleet. The FAA estimates that 150 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately zero additional work hours per engine to accomplish the required actions. Required parts will cost approximately $106,320 per engine, based on the estimated current part cost, prorated downward by a factor equal to the quotient of the difference between the original cyclic life limit (38,280 cycles) and the revised cyclic life limit (9,000 cycles) divided by the original cyclic

life limit. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $15,950,000.

The regulations adopted herein 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 final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this action (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) 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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

97–06–14 General Electric Company: Amendment 39–9971. Docket 95–ANE–19.

Applicability: General Electric Company (GE) Model CF34–1A, –3A, and –3A2 turbofan engines, with fan disk part numbers (P/N's) 6020T62G04, 6020T62G05, 6078T00G01, or 5921T54G01 installed. These engines are installed on but not limited to Canadair Limited Model CL–600–2A12 and CL-600–2B16 aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 (d) 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 fan disk rupture, engine failure, and damage to the aircraft, accomplish the following:

(a) Remove from service fan disks, P/N's 6020T62G04, 6020T62G05, 6078T00G01, and 5921T54G01, prior to accumulating 9,000 cycles in service (CIS) since new, and replace with a serviceable part.

(b) For the purpose of this AD, a serviceable part is defined as a fan disk with less than 9,000 CIS.

(c) This AD defines a new life limit of 9,000 CIS for fan disks, P/N's 6020T62G04, 6020T62G05, 6078T00G01, and 5921T54G01.

(d) 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, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) 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 aircraft to a location where the requirements of this AD can be accomplished.

(f) This amendment becomes effective on May 27, 1997.

Issued in Burlington, Massachusetts, on March 11, 1997.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 97–7596 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–ASW–15]

Establishment of Class D Airspace; McKinney, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Class D airspace extending upward from the surface to and including 2,900 feet mean sea level (MSL) at McKinney, TX. An air traffic control tower has begun providing air traffic control services for pilots operating at McKinney Municipal Airport. This action is intended to provide adequate controlled airspace for aircraft operating at McKinney Municipal Airport, McKinney, TX.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On June 19, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class D airspace at McKinney, TX, was published in the **Federal Register** (61 FR 31063). A municipal contracted air traffic control tower has begun providing air traffic control services for pilots operating at McKinney Municipal Airport. The proposal was to establish adequate controlled airspace extending upward from the surface to and including 2,900 feet MSL within a 4-mile radius of the airport. The proposal was intended to provide controlled airspace at McKinney Municipal Airport.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is therefore adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class D airspace designations for airspace areas are published in Paragraph 5000 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 D airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes the Class D airspace located at McKinney Municipal Airport, McKinney, TX, to provide controlled airspace for aircraft operating with the services of the air traffic control tower.

The FAA has determined that this regulation only involves an established

body of technical regulations that need frequent and routine amendments 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. 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 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).

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

§ 71.1 [Amended]

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

Paragraph 5000: Class D airspace areas.

* * * * *

ASW TX D McKinney, TX [New]

McKinney, McKinney Municipal Airport, TX
(Lat. 33°10′50″N., long. 095°35′26″W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.0-mile radius of McKinney Municipal Airport. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Director.

* * * * *

Issued in Fort Worth, TX, in March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7668 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Docket No. 97–AWP–13]

Revision of Class D and E Airspace; Sacramento, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action will change several airspace legal descriptions to reflect the name change of the Sacramento International Airport. The 1996 name change of the Sacramento Metropolitan Airport to Sacramento International Airport has made this action necessary. The intended effect of this action is to replace all references to Sacramento Metropolitan Airport with Sacramento International Airport.

DATES: *Effective date:* 0901 UTC, July 17, 1997. *Comment date:* Comments for inclusion in the Rules Docket must be received on or before May 1, 1997.

ADDRESSES: Send comments on the direct final rule in triplicate to: Federal Aviation Administration, Attn: Manager, Operations Branch, AWP–530, Docket No. 97–AWP–13, Air Traffic Division, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The official docket may be examined in the Office of the Assistant Chief Counsel, Western Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business at the Office of the Manager, Operations Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: William Buck, Airspace Specialist, Operations Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6556.

SUPPLEMENTARY INFORMATION: This action will change several airspace legal descriptions to reflect the name change of the Sacramento International Airport. The 1996 name change of the Sacramento Metropolitan Airport to Sacramento International Airport has made this action necessary. The intended effect of this action is to replace all references to Sacramento Metropolitan Airport with Sacramento International Airport. Class D airspace areas are published in Paragraph 5000 and Class E airspace areas are published in Paragraph 6002 and Paragraph 6003 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 D and E airspace designation listed in this document would be published subsequently in this Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. This action changes several airspace legal descriptions to reflect the name change of the Sacramento International Airport. The intended effect of this action is to replace all references to Sacramento Metropolitan Airport with Sacramento International Airport. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this 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 under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the 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 that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–AWP–13.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein 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 final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) 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 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 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (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; E.O. 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 the Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AWP CA D Sacramento Executive Airport, CA

Sacramento Executive Airport, CA
(Lat. 38°30′45″ N, long. 121°29′37″ W)
Sacramento VORTAC
(Lat. 38°26′37″ N, long. 121°33′06″ W)
Sacramento McClellan AFB, CA
(Lat. 38°40′04″ N, long. 121°24′02″ W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 4.3-mile radius of Sacramento Executive Airport and within 1.8 miles each side of the Sacramento VORTAC 032° radial, extending from the 4.3-mile radius southwest to the VORTAC and that airspace northeast of the Sacramento Executive Airport, from the Sacramento VORTAC 022° radial clockwise to the Sacramento VORTAC 064° radial extending from the Sacramento Executive Airport 4.3-mile radius to the Sacramento Executive Airport 5.8-mile radius excluding the airspace within the Sacramento McClellan AFB, CA, and the Sacramento International Airport, CA, Class C airspace areas. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport Facility Directory.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport.

* * * * *

AWP CA E2 Sacramento Executive Airport, CA

Sacramento Executive Airport, CA
(Lat. 38°30′45″ N, long. 121°29′37″ W)
Sacramento VORTAC
(Lat. 38°26′37″ N, long. 121°33′06″ W)
Sacramento McClellan AFB, CA
(Lat. 38°40′04″ N, long. 121°24′02″ W)

Within a 4.3-mile radius of Sacramento Executive Airport and within 1.8 miles each side of the Sacramento VORTAC 032° radial, extending from the 4.3-mile radius southwest to the VORTAC and that airspace northeast of the Sacramento Executive Airport, from the Sacramento VORTAC 022° radial clockwise to the Sacramento VORTAC 064° radial extending from the Sacramento Executive Airport 4.3-mile radius to the Sacramento Executive Airport 5.8-mile radius excluding the airspace within the Sacramento McClellan AFB, CA, and the Sacramento International Airport, CA, Class C airspace areas. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6003 Class E airspace areas designated as an extention to a Class C surface area.

* * * * *

AWP CA E3 Sacramento International Airport, CA

Sacramento International Airport, CA
(Lat. 38°41′44″ N, long. 121°35′27″ W)

That airspace extending upward from the surface within 2.2 miles each side of the Runway 16R/34L localizer south course, extending from the 5-mile radius of Sacramento International Airport to 5.2 miles south of the airport and that airspace within 2.2 miles each side of the Runway 16L/34R localizer north course, extending from the airport to 5.2 miles north of the airport.

* * * * *

Issued in Los Angeles, California, on February 28, 1997.

Michael Lammes,

Acting Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 97–7456 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–09]

Revision of Class E Airspace; Pauls Valley, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Pauls Valley, OK. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 at Pauls Valley Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 35 at Pauls Valley Municipal Airport, Pauls Valley, OK.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On June 19, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Pauls Valley, OK, was published in the **Federal Register** (61 FR 31069). A GPS SIAP to RWY 35 developed for Pauls Valley Municipal Airport, Pauls Valley, OK, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the en route and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. However, the proposal was published with incorrect coordinates for the location of the Pauls Valley Municipal Airport. The correct coordinates for the airport are Lat. 34°42′40″N, Long. 097°13′24″W. Also, the proposal was published with incorrect coordinates for the location of the Pauls Valley Nondirectional Beacon (NDB). The correct coordinates for the NDB are Lat. 34°42′55″N, long. 097°13′45″W. The description of the Class E airspace in this rule has been revised to reflect this change. The FAA has determined that these are editorial changes and will not increase the scope of this rule. Except for these non-substantive, editorial changes, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Regulations (14 CFR part 71) amends the Class E airspace located at Pauls Valley Municipal Airport, Pauls Valley, OK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 35.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments 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. Since this is a routing matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points,* dated September 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.

* * * * *

ASW OK E5 Pauls Valley, OK [Revised]

Pauls Valley Municipal Airport, OK
(Lat. 34°42′40″N., long. 97°13′24″W.)
Pauls Valley NDB
(Lat. 34°42′55″N., long. 97°13′45″W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Pauls Valley Municipal; Airport and within 2.6 miles each side of the 169° bearing from the Pauls Valley NDB extending from the 6.6-mile radius to 7.6 miles south of the airport.

* * * * *

Issued in Forth Worth, TX, on March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7671 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–12]

Revision of Class E Airspace; Clinton, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Clinton, OK. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 at Clinton Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 35 at Clinton Municipal Airport, Clinton, OK.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On June 19, 1996, a proposal to amend part 71 of the Federal Aviation Administration (14 CFR part 71) to revise the Class E airspace at Clinton, OK, was published in the **Federal Register** (61 FR 31064). A GPS SIAP to RWY 35 developed for Clinton Municipal Airport, Clinton, OK, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Regulations (14 CFR part 71) amends the Class E airspace located at Clinton Municipal Airport, Clinton, OK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 35.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments 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. 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 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).

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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.59.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points,* dated September 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.

* * * * *

ASW OK E5 Clinton Municipal Airport, OK [Revised]

Clinton Municipal Airport, OK.
(Lat. 35°32′18″N., long. 98°55′58″W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Clinton Municipal Airport and within 4 miles each side of the 179° bearing from the Clinton Municipal Airport extending from the 6.5-mile radius to 15.8 miles south of the airport.

* * * * *

Issued in Fort Worth, TX, on March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7670 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–13]

Revision of Class E Airspace; Russellville, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Russellville, AR. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 25 at Russellville Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 25 at Russellville Municipal Airport, Russellville, AR.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On July 9, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Russellville, AR, was published in the **Federal Register** (61 FR 35991). A GPS SIAP to RWY 25 developed for Russellville Municipal Airport, Russellville, AR, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Regulations (14 CFR part 71) amends the Class E airspace located at Russellville Municipal Airport, Russellville, AR, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 25.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments 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. 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 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).

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points,* dated September 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.

* * * * *

ASW AR E5 Russellville, AR [Revised]

Russellville, Russellville Municipal Airport, AR
(Lat. 35°15′33″N., long. 93°05′38″W.)
Russellville NDB
(Lat. 35°15′26″N., long. 93°05′40″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Russellville Municipal Airport, and within 2.4 miles each side of the 184° bearing from the Russellville NDB extending from the 6.4-mile radius to 6.6 miles south of the airport, and within 4 miles each side of the 075° bearing from the airport extending from the 6.4-mile radius to 18 miles northeast of the airport, excluding that airspace which overlies the Morrilton, AR, class E airspace area.

* * * * *

Issued in Fort Worth, TX, on March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7669 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–06]

Establishment of Class E Airspace; Panhandle, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the Class E airspace extending upward from 700 feet above ground level (AGL) at Panhandle, TX. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 AT Panhandle-Carson County Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 35 at Panhandle-Carson County Airport, Panhandle, TX.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On June 19, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Class E airspace at Panhandle, TX, was published in the **Federal Register** (61 FR 31067). A GPS SIAP to RWY 35 developed for Panhandle-Carson County Airport, Panhandle, TX, requires the establishment of Class E airspace at this airport. The proposal was to establish the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Regulations (14 CFR part 71) establishes Class E airspace located at Panhandle-Carson County Airport, Panhandle, TX, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 35.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments 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. 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 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).

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points,* dated September 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.

* * * * *

ASW TX E5 Panhandle, TX [New]

Panhandle, Panhandle-Carson County Airport, TX
(Lat. 35°21′42″ N., long. 101°21′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Panhandle-Carson County Airport, excluding that airspace which overlies the Amarillo, TX Class E area.

* * * * *

Issued in Fort Worth, TX, on March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7674 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–07]

Revision of Class E Airspace; Ardmore, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from surface at Ardmore Municipal Airport,

Ardmore, OK. A revision to the Very High Frequency Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 04 at Ardmore Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the VOR SIAP to RWY 04 a Ardmore Municipal Airport, Ardmore, OK.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On June 19, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace at Ardmore Municipal Airport, Ardmore, OK, was published in the **Federal Register** (61 FR 31068). A revision to the VOR SIAP to RWY 04 for Ardmore Municipal Airport, Ardmore, OK, requires the revision of Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from the surface to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. However, the proposal was published with an incorrect coordinate for the location of the Ardmore Municipal Airport, Ardmore, OK. The correct coordinates for the airport should have been (Lat. 34°18′12″ N, long. 097°01′12″ W). The description of the Class E airspace in this rule has been revised to reflect this change. The FAA has determined that this is an editorial change and will not increase the scope of this rule. Except for non-substantive, editorial changes, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from surface are published in Paragraph 6004 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 72.2. 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 Regulations (14 CFR part 71) revises the Classs E airspace located at Ardmore Municipal Airport, Ardmore, OK, to provide controlled airspace extending upward from surface for aircraft executing the VOR SIAP to RWY 04.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments 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. Since this is routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

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

Paragraph 6004: Class E Airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

ASW OK E4 Ardmore, OK [Revised]

Ardmore, Ardmore Municipal Airport
(Lat. 34°18′12″ N., long. 097°01′12″ W.)
Ardmore VORTAC
(Lat. 34°12′42″ N., long. 097°10′06″ W.)

That airspace extending upward from the surface within 1.3 miles each side of the 056° radial of the Ardmore VORTAC extending from the 4.2-mile radius of the airport to 8.5 miles southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX, on March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7673 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 96–ASW–18]

Revision of Class E Airspace; Corsicana, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Corsicana, TX. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 14 at Corsicana Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 14 at Corsicana Municipal Airport, Corsicana, TX.

EFFECTIVE DATE: 0901 UTC, May 22, 1997.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On November 22, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Corsicana, TX, was published in the **Federal Register** (61 FR 59384). A GPS SIAP to RWY 14 developed for Corsicana Municipal Airport, Corsicana, TX, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR

operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. However, the proposal was published with incorrect coordinates for the location of the Corsicana Municipal Airport. The correct coordinates for the airport should have been (Lat. 32°01′39″ N, long. 096°23′53″ W). The description of the Class E airspace in this rule has been revised to reflect this change. The FAA has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Regulations (14 CFR part 71) amends the Class E airspace located at Corsicana, TX, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 14.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments 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. 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 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).

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points*, dated September 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.

* * * * *

ASW TX E5 Corsicana, TX. [Revised]

Corsicana, C. David Campbell Field-Corsicana Municipal Airport, TX.
(Lat. 32°01′39″N., long. 96°23′53″W.)
Corsicana RBN
(Lat. 32°01′39″N., long. 96°23′43″W.)
Powell RBN
(Lat. 32°03′51″N., long. 96°25′41″W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of C. David Campbell Field-Corsicana Municipal Airport and within 2.5 miles each side of the 155° bearing from the Corsicana RBN extending from the 6.5-mile radius to 7.4 miles southeast of the airport and within 2.4 miles each side of the 325° radial from the Powell RBN extending from the 6.5-mile radius to 9.7 miles northwest of the airport.

* * * * *

Issued in Fort Worth, TX, on March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7672 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 28838; Amdt. No. 1787]

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 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 interests 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 March 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. 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, 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**

Jacksonville, FL, Herlong, NDB–A, Orig
Tampa, FL, Tampa Intl, LOC RWY 36R, Orig
Newnan, GA, Newnan Coweta County, LOC RWY 32, Orig
Newnan, GA, Newnan Coweta County, NDB or GPS RWY 32, Amdt 3
Columbus, OH, Port Columbus Intl, ILS RWY, 10R, Amdt 7
Columbus, OH, Port Columbus Intl, ILS RWY 28L, Amdt 27
Hamilton, OH, Hamilton-Fairfield, LOC RWY 29, Orig
Hamilton, OH, Hamilton-Fairfield, NDB or GPS–A, Amdt 2
Hamilton, OH, Hamilton-Fairfield, GPS RWY 29, Amdt 1
Columbia, SC, Columbia Metropolitan, ILS RWY 5, Orig
Waukesha, WI, Waukesha County, LOC RWY 10, Amdt 5, CANCELLED
Waukesha, WI, Waukesha County, ILS RWY 10, Orig

*** * * Effective April 24, 1997**

Gary, IN, Gary Regional, VOR/DME or GPS RWY 2, Amdt 6
Portland, IN, Portland Muni, NDB or GPS RWY 9, Amdt 2
Portland, IN, Portland Muni, NDB or GPS RWY 27, Amdt 7
Wilmington, DE, New Castle County, VOR RWY 9, Amdt 6
Wilmington, DE, New Castle County, MLS RWY 6, Orig
Terre Haute, IN, Hulman Regional, VOR/DME RNAV or GPS RWY 31, Amdt 7
Fremont, MI, Fremont Muni, VOR or GPS–A Amdt 10A, CANCELLED
Spartanburg, SC, Spartanburg Downtown Memorial, LOC RWY 5, Amdt 2A, CANCELLED
Spartanburg, SC, Spartanburg Downtown Memorial, ILS RWY 5, Orig
Granbury, TX, Granbury Muni, VOR/DME RWY 14, Orig

*** * * Effective May 22, 1997**

Nuiqsut, AK, Nuiqsut, GPS RWY 4, Orig
Nuiqsut, AK, Nuiqsut, GPS RWY 22, Orig
Savoonga, AK, Savoonga, GPS RWY 5, Orig
Rifle, CO, Garfield County Regional, GPS RWY 26, Orig
Meriden, CT, Meriden Markham Muni, GPS RWY 36, Orig
Cocoa, FL, Merritt Island, GPS RWY 11, Orig
St. Augustine, FL, St. Augustine, GPS RWY 13, Orig
Adel, GA, Cook County, GPS RWY 5, Orig
Douglas, GA, Douglas Muni, GPS RWY 4, Orig
Douglas, GA, Douglas Muni, GPS RWY 22, Orig
Sandpoint, ID, Dave Wall Field, GPS–B, Orig
Caribou, ME, Caribou Muni, GPS RWY 19, Orig
Houlton, ME, Houlton Intl, GPS RWY 5, Orig
Presque Isle, Northern Maine Regional Arpt at Presque Isle, GPS RWY 1, Orig
Las Cruces, NM, Las Cruces Intl, GPS RWY 30, Orig

Canandaigua, NY, Canandaigua, GPS RWY 13, Orig
Johnstown, NY, Fulton County, NDB OR GPS RWY 10, Amdt 1
Johnstown, NY, Fulton County, NDB RWY 28, Amdt 1
Johnstown, NY, Fulton County, GPS RWY 28, Orig
Currituck, NC, Currituck County, GPS RWY 22, Orig
Carrington, ND, Carrington Muni, GPS RWY 31, Orig
Rolla, ND, Rolla Muni, GPS RWY 32, Orig
Clearfield, PA, Clearfield-Lawrence, GPS RWY 30, Orig
Pittsburg, PA, Pittsburg Intl, Converging ILS RWY 32, Amdt 2
Pittsburg, PA, Pittsburg Intl, ILS RWY 32, Amdt 9
Hilton Head Island, SC, Hilton Head, GPS RWY 21, Orig
Winnsboro, SC, Fairfield County, GPS RWY 4, Orig
Watertown, SD, Watertown Muni, LOC/DME BC RWY 17, Amdt 9
Watertown, SD, Watertown Muni, NDB or RWY 35, Amdt 8
Watertown, SD, Watertown Muni, VOR or TACAN or GPS RWY 17, Amdt 16
Watertown, SD, Watertown Muni, VOR or TACAN RWY 35, Amdt 11
Watertown, SD, Watertown Muni, ILS RWY 35, Amdt 10
Memphis, TN, General Dewitt Spain, GPS RWY 16, Orig
Baytown, TX, Baytown, VOR RWY 14, Amdt 1
Baytown, TX, Baytown, VOR RWY 32, Amdt 1
Baytown, TX, Baytown, GPS RWY 14, Orig
Baytown, TX, Baytown, GPS RWY 32, Orig
Hebbronville, TX, Jim Hogg County, GPS RWY 13, Orig
McAllen, TX, McAllen Miller Intl, VOR RWY 13, Amdt 15
McAllen, TX, McAllen Miller Intl, VOR RWY 31, Amdt 1
McAllen, TX, McAllen Miller Intl, LOC BC RWY 31, Amdt 9
McAllen, TX, McAllen Miller Intl, ILS RWY 13, Amdt 8
McAllen, TX, McAllen Miller Intl, GPS RWY 13, Orig
McAllen, TX, McAllen Miller Intl, GPS RWY 31, Orig
Plainview, TX, Hale County, VOR RWY 4, Amdt 9
Plainview, TX, Hale County, GPS RWY 4, Orig
Plainview, TX, Hale County, GPS RWY 22, Orig
Charlottesville, VA, Charlottesville-Albemarle, GPS RWY 21, Orig
Norfolk, VA, Norfolk Intl, GPS RWY 32, Amdt 1
Suffolk, VA, Suffolk Muni, GPS RWY 4, Orig
Suffolk, VA, Suffolk Muni, GPS RWY 7, Orig
Spokane, WA, Spokane Intl, GPS RWY 25, Orig
Spokane, WA, Spokane Intl, GPS RWY 3, Orig

[FR Doc. 97–7675 Filed 3–25–97; 8:45 am]
BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 28839; Amdt. No. 1788]

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 10591;
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, US 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 Aviation 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

This 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 require 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 March 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:

§§ 99.23, 97.25, 97.27, 97.29, 97.31, 97.33, 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
02/24/97 ...	OR	Portland	Portland Intl	7/1047	MLS Rwy 28L, Orig.
02/23/97 ...	FL	Sarasota/Bradenton	Sarasota/Bradenton Intl	7/1015	VOR or GPS Rwy 32 Amdt 8.
02/20/97 ...	IL	Peoria	Greater Peoria Rgnl	7/0980	Radar–1, Amdt 12.
02/23/97 ...	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	7/1018	ILS Rwy 29L, Amdt 41A.
02/23/97 ...	MN	Minneapolis	Minneapolis-St Paul Int (Wold-Chamberlain).	7/1018	ILS Rwy 29L, Amdt 41A.
02/20/97 ...	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	7/0977	ILS Rwy 11R, Amdt 5.
02/20/97 ...	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	7/0970	ILS Rwy 11L, Amdt 3A.
02/20/97 ...	TX	Tyler	Tyler Pounds Field	7/0984	VOR Rwy 31, Amdt 1.
02/20/97 ...	LA	New Iberia	Acadiana Rgnl	7/0994	VOR/DME Rwy 34, Amdt 1.
02/20/97 ...	NE	Hastings	Hastings Muni	7/0991	VOR OR GPS Rwy 32, Amdt 13A.
02/20/97 ...	NE	Hastings	Hastings Muni	7/0990	VOR Rwy 14, Amdt 16A.
02/20/97 ...	NE	Hastings	Hastings Muni	7/0998	GPS Rwy 14, Orig.
02/20/97 ...	NE	Hastings	Hastings Muni	7/0987	NDB Rwy 14, Amdt 12A.
01/07/97 ...	NE	Fremont	Fremont Muni	7/0116	VOR Rwy 13, Orig.
01/07/97 ...	NE	Fremont	Fremont Muni	7/0115	NDB OR GPS Rwy 13, Amdt 2.
02/26/97 ...	OK	Fort Sill	Henry Post AAF	7/1077	VOR Rwy 35, Amdt 13.
02/28/97 ...	CT	Oxford	Waterbury-Oxford	7/1117	ILS Rwy 36, Amdt 10.
02/28/97 ...	MN	Ortonville	Orton Muni-Martinson Field	7/114	NDB or GPS Rwy 34, Amdt 1.
03/03/97 ...	LA	New Iberia	Acadiana Rgnl	7/1136	NDB or GPS Rwy 34, Amdt 8.
02/28/97 ...	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	7/1121	ILS Rwy 4, Amdt 25.

[FR Doc. 97–7676 Filed 3–25–97; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 558

New Animal Drugs; 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 from TRINADA, Inc., to ALPHARMA INC.

EFFECTIVE DATE: March 26, 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: TRINADA, Inc. (a wholly owned subsidiary of A. L. Pharma, Inc.), One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024 has informed FDA that it has transferred ownership of, and all rights and interests in, approved NADA 91–668 (*Chlortetracycline*, *procaine penicillin*, and *sulfamethazine*) to ALPHARMA INC., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024. Accordingly, the agency is amending the regulations in 21 CFR 558.145 to reflect the change of sponsor and also amending the regulations in 21 CFR 510.600(c)(1) and (c)(2) by removing TRINADA, Inc., because the firm is no longer the sponsor of any approved NADA's.

List of Subjects

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, animal feeds.

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 558 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).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entry ''TRINADA, Inc.'', and in the table in paragraph (c)(2) by removing the entry ''058690''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.145 [Amended]

4. Section 558.145 *Chlortetracycline, procaine penicillin, and sulfamethazine* is amended in paragraph (a)(1) by removing the number ''058690'' and adding in its place ''046573''.

Dated: March 17, 1997.

Robert C. Livingston,

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

[FR Doc. 97–7548 Filed 3–25–97; 8:45 am]
BILLING CODE 4160–01–F

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Hygromycin B, Pyrantel Tartrate, and Tylosin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions reflecting approval of the two new animal drug applications (NADA's) held by Land O'Lakes, Inc., (one for use of tylosin and one for tylosin/sulfamethazine Type A medicated articles), and three NADA's held by ADM Animal Health and Nutrition Div. (one for use of pyrantel tartrate, one for hygromycin B, and one for tylosin/sulfamethazine Type A medicated articles). In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of these NADA's. The sponsors requested the withdrawal of approval of the NADA's.

EFFECTIVE DATE: April 2, 1997.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0159.

SUPPLEMENTARY INFORMATION: Land O'Lakes, Inc., Agricultural Services, 2827 Eighth Avenue South, Fort Dodge, IA 50501, is the sponsor of NADA's 42–489 tylosin (see 21 CFR 558.625(b)(53)) and 98–156 tylosin/sulfamethazine (see § 558.630(b)(3) (21 CFR 558.630(b)(3)). ADM Animal Health and Nutrition Div., P.O. Box 2508, Fort Wayne, IN 46801–2508, is the sponsor of NADA 118–874 pyrantel tartrate (see 21 CFR 558.485(a)(4)) (formerly held by Henwood Feed Additives, Inc.), NADA 127–825 hygromycin B (see 21 CFR 558.274(a)(4) and (c)(1)(i) and (c)(1)(ii)), and NADA 127–826 tylosin/sulfamethazine (see § 558.630(b)(10)) (both formerly held by Music City Supplement Co.). The sponsors requested withdrawal of approval of the NADA's. The animal drug regulations are amended to remove those portions which reflect approval of these NADA's.

Also, with the withdrawal of approval of these NADA's, Land O'Lakes and Music City Supplement Co. are no longer sponsors of approved NADA's. Therefore, 21 CFR 510.600(c)(1) and (c)(2) are amended to remove entries for these firms.

List of Subjects

21 CFR Part 510

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

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 558 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).

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entries for ''Land O'Lakes, Inc.,'' and ''Music City Supplement Co.'', and in paragraph (c)(2) by removing the entries for ''017519'' and ''034500''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.274 [Amended]

4. Section 558.274 *Hygromycin B* is amended in paragraphs (a)(4) and (c)(1)(i) and (c)(1)(ii) by removing the number ''017519,''.

§ 558.485 [Amended]

5. Section 558.485 *Pyrantel tartrate* is amended by removing and reserving paragraph (a)(4).

§ 558.625 [Amended]

6. Section 558.625 *Tylosin* is amended by removing and reserving paragraph (b)(53).

§ 558.630 [Amended]

7. Section 558.630 *Tylosin and sulfamethazine* is amended in paragraph (b)(3) by removing the number ''034500'' and in paragraph (b)(10) by removing the number ''017519,''.

Dated: March 13, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–7541 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Lufenuron Tablets

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Ciba-Geigy Animal Health Corp. The NADA provides for oral administration of lufenuron tablets to cats and kittens 6 weeks of age and older for the control of flea populations.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–0614.

SUPPLEMENTARY INFORMATION: Ciba-Geigy Animal Health Corp., P.O. Box 18300, Greensboro, NC 27419–8300, filed NADA 141–062, which provides for oral administration of Program® (Lufenuron) Cat Flavor Tablets for cats and kittens 6 weeks of age or older, for the control of flea populations. The drug is given orally, once a month, at a minimum of 13.6 milligrams (mg) of lufenuron per pound of body weight (30 mg/kilogram), in tablets containing 135 or 270 mg lufenuron each. Lufenuron has no deleterious effect on adult fleas, but it prevents most flea eggs from hatching or maturing into adults. The NADA is approved as of March 3, 1997, and the regulations are amended in 21 CFR 520.1288(a) and (d) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(ii)), this approval qualifies for 3 years of marketing exclusivity beginning March 3, 1997, because the NADA contains substantial evidence of effectiveness of the drug involved or any studies of animal safety, required for approval and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 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 part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. 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).

2. Section 520.1288 is amended by revising paragraphs (a), (d) (1), and (d) (3) to read as follows:

§ 520.1288 Lufenuron tablets.

(a) *Specifications*—(1) *Dogs.* Each tablet contains either 45, 90, 204.9, or 409.8 milligrams (mg) lufenuron.

(2) *Cats.* Each regular tablet contains either 90 or 204.9 mg lufenuron, each flavor tablet contains 135 or 270 mg lufenuron.

* * * * *

(d) *Conditions of use in cats*—(1) *Amount.* Minimum of 13.6 mg lufenuron per pound (lb) of body weight (30 mg per kilogram). Recommended 90 mg regular tablet for cats up to 6 lb of body weight, 204.9 mg regular tablet for 7 to 15 lb, 135 mg flavor tablet for up to 10 lb, 270 mg flavor tablet for 11 to 20 lb. Cats over 15 lb (regular tablet) or over 20 lb (flavor tablet) are provided the appropriate combination of tablets.

* * * * *

(3) *Limitations.* For oral use in cats or kittens 6 weeks of age or older, once a month, directly or broken and mixed with wet food. Administer in conjunction with a full meal to ensure adequate absorption. Treat all cats in the household to ensure maximum benefits. Because the drug has no affect on adult fleas, the concurrent use of insecticides that kill adults may be necessary depending on the severity of the infestation.

Dated: March 17, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–7549 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Ivermectin and Clorsulon

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Research Laboratories, Division of Merck & Co., Inc. The supplemental NADA provides for persistent control of gastrointestinal roundworms and lungworms following use of ivermectin and clorsulon injection for cattle.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Merck Research Laboratories, Division of Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065, is sponsor of NADA 140–833, which provides for the use of Ivomec® Plus Injection (1 perecent ivermectin and 10 percent clorsulon) for cattle for the treatment and control of gastrointestinal roundworm, lungworm, grub, lice, and mange mites. The supplement provides for control of infections of *Dictyocaulus viviparus* and *Ostertagia ostertagi* for 21 days after treatment, and *Haemonchus placei*, *Trichostrongylus axei*, *Cooperia punctata*, *C. oncophora*, and *Oesophagostomum radiatum* for 14 days after treatment. The supplement is approved as of February 24, 1997, and the regulations are amended in 21 CFR 522.1193(d)(2) to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this supplemental approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning February 24, 1997, because the supplement contains substantial evidence of effectiveness of the drug involved, any studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant. Exclusivity applies only to the additional indications.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

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 part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

2. Section 522.1193 is amended by adding a new sentence to the end of paragraph (d)(2) to read as follows:

§ 522.1193 Ivermectin and clorsulon injection.

* * * * *

(d) * * *

(2) * * * It is also used to control infections of *D. viviparus* and *O. ostertagi* for 21 days after treatment, and *H. placei*, *T. axei*, *C. punctata*, *C. oncophora*, and *O. radiatum* for 14 days after treatment.

* * * * *

Dated: March 17, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–7544 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Hydrochloride Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Boehringer Ingelheim Animal Health, Inc. The supplemental NADA provides for the subcutaneous use (in addition to the approved intravenous and intramuscular use) of 100 milligrams/milliliter (mg/mL) of oxytetracycline hydrochloride injection in cattle for the treatment of diseases caused by oxytetracycline susceptible organisms, for a 2-day withdrawal period following the subcutaneous use, and for a 13-day withdrawal period following the intramuscular and intravenous use.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: George K. Haibel, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1644.

SUPPLEMENTARY INFORMATION: Boehringer Ingelheim Animal Health, Inc., 2621 North Belt Hwy., St. Joseph, MO 64502, is the sponsor of NADA 97–452, formerly sponsored by Fermenta Animal Health Co. The firm has filed a supplement to NADA 97–452, which provides for subcutaneous use of 100 mg/mL of oxytetracycline hydrochloride injection in addition to the approved intravenous and intramuscular use in beef and nonlactating dairy cattle for the treatment of pneumonia and shipping fever associated with *Pasteurella* spp., *Haemophilus* spp., and *Klebsiella* spp., caused by organisms susceptible to oxytetracycline. In cattle, a 2-day withdrawal period is required following subcutaneous use, and a 13-day withdrawal period is required following intramuscular and intravenous use. The product is also approved for intramuscular and intravenous use in swine. The supplemental NADA is approved as of February 21, 1997, and the regulations are amended in 21 CFR 522.1662a(g)(3)(i)(*c*) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning February 21, 1997, because the supplemental application contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety, or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

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 part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

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

2. Section 522.1662a is amended by revising paragraph (g)(3)(i)(*c*) to read as follows:

§ 522.1662a Oxytetracycline hydrochloride injection.

* * * * *

(g) * * *

(3) * * *

(i) * * *

(*c*) *Limitations.* Administer by intramuscular, intravenous, or subcutaneous injection. In severe forms of the indicated diseases, administer 5 milligrams of oxytetracycline per pound of body weight per day. Continue treatment 24 to 48 hours following remission of disease symptoms, not to exceed a total of 4 consecutive days. If no improvement is noted within 48 hours, consult a veterinarian. Do not inject more than 10 milliliters per injection site intramuscularly in adult cattle; no more than 1 milliliter per site in calves weighing 100 pounds or less. Do not slaughter cattle for 13 days after intramuscular or intravenous treatment, or 2 days after subcutaneous treatment. Exceeding the highest recommended dosage or duration of treatment (not more than 4 consecutive days) may result in residues beyond the withdrawal period. A withdrawal period has not been established for use of this product in preruminating calves. Do not use in calves to be processed for veal.

* * * * *

Dated: March 14, 1997.

Robert C. Livingston,

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

[FR Doc. 97–7542 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Chlortetracycline; Technical Amendment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule, technical amendment.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations that provided for approval of five supplemental new animal drug applications (NADA's) filed by Hoffmann-LaRoche, Inc.; Pfizer, Inc.; ALPHARMA, Inc.; ADM Animal Health & Nutrition Div.; and PennField Oil Co. to reflect conclusions of the National Academy of Sciences/National Research Council (NAS/NRC) review of the use of chlortetracycline Type A articles to make certain Type C medicated feeds, and FDA's conclusions based on that review.

DATES: Effective March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 9, 1996 (61 FR 35949), FDA published a document reflecting approval of the NAS/NRC supplements for Hoffmann–LaRoche's NADA 48–761, Pfizer's NADA's 92–286 and 92–287, ALPHARMA's NADA 46–699, ADM Animal Health and Nutrition Div.'s NADA 48–480, and PennField Oil's NADA 138–935. The July 9, 1996, document failed to include certain amendments to the regulation including a warning against use of certain medicated articles in duck eggs for human food.

In addition, 21 CFR 558.128(c) is redesignated as paragraph (d) and new paragraph (c) is reserved for future use to provide for more uniformity, flexibility, and consistency in the regulations.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.128 [Amended]

2. Section 558.128 *Chlortetracycline* is amended by redesignating paragraph (c) as paragraph (d), by reserving new paragraph (c), and by amending newly redesignated paragraph (d) as follows:

a. In paragraph (d)(1)(vi), in the ''Limitations'' column in the second entry by adding a second sentence to read ''Do not feed to ducks producing eggs for human consumption.''

b. In paragraph (d)(1)(xii), in the ''Limitations'' column in the first entry by removing the word ''excluding'' in the second phrase and adding in its place the word ''including'', and in the first and third entries by adding a new first sentence to read ''Feed approximately 400 g/t, varying with body weight and feed consumption to provide 10 mg/lb per day.''

c. In paragraph (d)(1)(xvii), in the third column, in entry 1. by removing the phrase ''Cattle (under 700 lb)'' and adding in its place ''Beef cattle''.

Dated: March 13, 1997.

Robert C. Livingston,

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

[FR Doc. 97–7547 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health, Division of Eli Lilly and Co. The supplemental NADA provides for use of a 90.7 grams per pound (g/lb) (200 g/kilogram (kg)) monensin Type A medicated article for making Type B and C medicated cattle and goat feeds.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Russell G. Arnold, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1674.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285, filed supplemental NADA 95–735, which provides for using a 90.7 g/lb (200 g/kg) monensin Type A medicated article to make monensin Type B and C medicated cattle and goat feeds.

The supplemental NADA is approved as of February 6, 1997, and the regulations are amended in 21 CFR

558.355(b)(7) and (b)(14) to reflect the approval.

The supplemental approval is for a higher concentration of Type A article to make currently approved Type B and C feeds, and it does not affect the basis of approval of, or conditions of use in, the currently approved application. Therefore, no additional safety or effectiveness data were required for this approval, and a freedom of information summary is not required. A summary of the data and information submitted to support the previously approved application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food producing animals does not qualify for marketing exclusivity because the supplement does not contain substantial evidence of effectiveness of the drug involved, any studies of animal safety, or human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.355 [Amended]

2. Section 558.355 *Monensin* is amended in paragraph (b)(7) by removing the phrase ''and 80'' and adding in its place ''80, and 90.7'' and in paragraph (b)(14) by removing the phrase ''and 80'' and adding in its place '', 80, and 90.7''.

Dated: March 13, 1997.

Robert C. Livingston,

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

[FR Doc. 97–7546 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Melengestrol Acetate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of two supplemental new animal drug applications (NADA's) filed by Pharmacia & Upjohn Co. The supplemental NADA's provide for the use of dry and liquid melengestrol acetate (MGA) Type A medicated articles to manufacture certain Type B and Type C medicated feeds for heifers intended for breeding for suppression of estrus (heat).

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION: Pharmacia & Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199, filed supplemental NADA's 34–254 and 39–402 providing for use of dry and liquid MGA Type A medicated articles to manufacture certain Type B and Type C medicated feeds for heifers intended for breeding for suppression of estrus (heat). The supplements are approved as of February 18, 1997, and the regulations are amended in § 558.342 (21 CFR 558.342) by adding new paragraph (d)(7) to reflect the approvals.

In addition, certain mixing directions for liquid feeds are required for use of MGA liquid Type A articles to manufacture Type B medicated feeds. Those directions had not been codified previously in the MGA regulations. At this time, the regulations are amended to include those directions in new § 558.342(c) *Special considerations* and existing paragraph (c) is redesignated as paragraph (d).

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), these approvals qualify for 3 years of marketing exclusivity beginning February 18, 1997, because the supplements contain substantial evidence of effectiveness of the drugs involved, studies of animal safety or, in the case of food-producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplements and conducted or sponsored by the applicant. Exclusivity only applies to use in heifers intended for breeding for suppression of estrus.

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.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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 part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.342 is amended by redesignating paragraph (c) as paragraph (d) and by adding new paragraphs (c) and (d)(7) to read as follows:

§ 558.342 Melengestrol acetate.

* * * * *

(c) *Special considerations.* (1) Type B medicated feeds may be manufactured from melengestrol acetate liquid Type A articles or Type B medicated feeds which have a pH of 4.0 to 8.0 and bear appropriate mixing directions as follows:

(i) For liquid Type B feeds stored in recirculating tank systems: Recirculate immediately prior to use for no less than

10 minutes, moving not less than 1 percent of the tank contents per minute from the bottom of the tank to the top. Recirculate daily as described even when not used.

(ii) For liquid Type B feeds stored in mechanical, air, or other agitation type tank systems: Agitate immediately prior to use for not less than 10 minutes, creating a turbulence at the bottom of the tank that is visible at the top. Agitate daily as described even when not used.

(2) A positionally stable melengestrol acetate liquid Type B feed will not be subject to the requirements for mixing directions prescribed in paragraphs (c)(1) of this section provided it has a pH of 4.0 to 8.0 and contains a suspending agent(s) sufficient to maintain a viscosity of not less than 300 centipoises per second for 3 months.

(d) * * *

(7) *Amount.* 0.5 milligram per head per day.

(i) *Indications for use.* For suppression of estrus (heat).

(ii) *Limitation.* Heifers intended for breeding. Do not exceed 24 days of feeding. Administer 0.5 to 2.0 pounds per head per day of Type C feed containing 0.25 to 1.0 milligram of melengestrol acetate per pound to provide 0.5 milligram of melengestrol acetate per head per day. Melengestrol acetate as provided by No. 000009 in § 510.600(c) of this chapter.

Dated: March 13, 1997.

Robert C. Livingston,

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

[FR Doc. 97–7545 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Salinomycin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Hoffmann-LaRoche, Inc. The supplement provides for use of an approved salinomycin Type A medicated article to make Type C roaster and replacement chicken feeds used for prevention of certain forms of coccidiosis.

EFFECTIVE DATE: May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Melanie R. Berson, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1643.

SUPPLEMENTARY INFORMATION: Hoffmann-LaRoche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199, filed supplemental NADA 128–686 that provides for use of a 30-gram-per-pound salinomycin Type A article (as salinomycin sodium) to make Type C roaster and replacement (breeder and layer) chicken feeds containing 40 to 60 grams per ton salinomycin sodium activity for prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.* This supplement is approved as of February 3, 1997, and the regulations are amended in 21 CFR 558.550 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food-producing animals qualifies for 3 years of marketing exclusivity beginning February 3, 1997, because the supplement contains substantial evidence of the effectiveness of the drug involved, any studies of animal safety or, in the case of food producing animals, human food safety studies (other than bioequivalence or residue studies) required for approval of the supplement and conducted or sponsored by the applicant.

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.

This approval is for use of salinomycin Type A medicated articles to make Type C medicated feeds. Salinomycin is a category I drug as defined in 21 CFR 558.3(b)(1)(i). As provided in 21 CFR 558.4(b), an approved Form FDA 1900 is not required for making a Type C medicated feed as provided in the NADA. Under section 512(m) of the act, as amended by the Animal Drug Availability Act of 1996 (Pub. L. 104–250), medicated feed applications have been replaced by feed mill licensing.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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 part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Sec. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.550 is amended by redesignating paragraph (b)(3) as paragraph (b)(4) and by adding new paragraph (b) (3) to read as follows

§ 558.550 Salinomycin.

* * * * *

(b) * * *

(3) *Roaster and replacement (breeder and layer) chickens*: It is used as follows:

(i) *Amount per ton.* Salinomycin 40 to 60 grams.

(ii) *Indications for use.* For prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. maxima, E. brunetti,* and *E. mivati.*

(iii) *Limitations.* Feed continuously as sole ration. Do not feed to laying hens producing eggs for human consumption. Not approved for use with pellet binders. May be fatal if accidentally fed to horses or adult turkeys.

Dated: March 17, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–7543 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs For Use In Animal Feeds; Monensin

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect

approval of a supplemental new animal drug application (NADA) filed by Elanco Animal Health, Division of Eli Lilly and Co. The supplemental NADA provides for use of monensin Type A medicated articles to make a revised formulation of a free-choice Type C medicated feed for pastured cattle for increased rate of weight gain.

EFFECTIVE DATE: March 26, 1997.

ADDRESSES: Data and information filed to support previous approvals may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Russell G. Arnold, Center for Veterinary Medicine (HFV–142), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1674.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, Division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285, is the sponsor of NADA 95–735, which provides for use of a monensin Type A medicated article to make a monensin Type C medicated feed/free-choice mineral granule containing 1,620 grams monensin per ton to be fed at 50 to 200 milligrams per head per day free-choice to pasture cattle (slaughter, stocker, feeder, and dairy and beef replacement heifers) for increased rate of weight gain.

Elanco Animal Health, Division of Eli Lilly and Co. filed a supplemental NADA that provides for a revised formulation of the Type C medicated feed/free-choice granule to properly reflect the salt and mineral content of the product. The supplemental NADA is approved as of March 26, 1997, and the regulations are amended in 21 CFR 558.355(f)(3)(x)(*b*) to reflect the approval.

In addition, § 558.355(f)(3)(x)(*b*) is amended in the table to correct some editorial and typographical errors in the entry for ''Ground limestone (33% calcium)'' and in the entries for ''6–01–080'' and ''4–04–152,'' respectively.

Approval of this supplement does not require a freedom of information summary because the approval concerns a change in salt and mineral content of the product. This change does not affect the product's safety or effectiveness. Therefore, no additional data was required for this approval. Data and information filed to support previous approvals may be seen in the Dockets Management Branch (HFA–305) (address above) between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(iii) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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 part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.355 [Amended]

2. Section 558.355 *Monensin* is amended in the table in paragraph (f)(3)(x)(*b*), in the first column, in the entry for ''Ground limestone (33% calcium)'' by adding the phrase ''or calcium carbonate (38% calcium)'' and in the third column in the first and third entries by removing the numbers ''6–01–080'' and ''4–04–152'' and adding in their place the numbers ''6–01–082'' and ''4–04–695'', respectively.

Dated: March 13, 1997.

Robert C. Livingston,

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

[FR Doc. 97–7551 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Change of Scientific Nomenclature

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 scientific nomenclature from *Corynebacterium* to *Actinomyces (Corynebacterium).* This change of nomenclature is necessary due to the scientific reclassification of the organism.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Naba K. Das, Center for Veterinary Medicine (HFV–133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1659.

SUPPLEMENTARY INFORMATION: Elanco Animal Health, A Division of Eli Lilly & Co., 2001 West Main St., P.O. Box 708, Greenfield, IN 46140, has informed FDA that the scientific nomenclature for the bacterial organism *Corynebacterium pyogenes* has been changed to *Actinomyces (Corynebacterium) pyogenes.* This change of nomenclature is necessary due to scientific reclassification of the organism. The organism causes liver abscesses in cattle. Accordingly, the agency is amending the regulations in 21 CFR 558.355(f)(3)(ii)(*a*) and (f)(3)(ix)(*a*) and 558.625(f)(1)(i)(*b*) to reflect this change.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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 part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

§ 558.355 [Amended]

2. Section 558.355 *Monensin* is amended in paragraphs (f)(3)(ii)(*a*) and (f)(3)(ix)(*a*) by removing the word ''*Corynebacterium*'' and adding in its place the words ''*Actinomyces* (*Corynebacterium*)''.

§ 558.625 [Amended]

3. Section 558.625 *Tylosin* is amended in paragraph (f)(1)(i)(*b*) by removing the word ''*Corynebacterius*'' and adding in its place the words ''*Actinomyces* (*Corynebacterium*)''.

Dated: March 13, 1997.

Robert C. Livingston,

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

[FR Doc. 97–7603 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD–040–FOR]

Maryland Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Maryland regulatory program (hereinafter referred to as the ''Maryland program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Maryland proposed revisions and additions to its statutes pertaining to permit revocation, reinstatement, and reissuance. The amendment is intended to revise the Maryland program to be consistent with the corresponding Federal regulations and SMCRA.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: George Rieger, Program Manager, OSM, Appalachian Regional Coordinating Center, 3 Parkway Center, Pittsburgh, PA 15220. Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Maryland Program

On December 1, 1980, the Secretary of the Interior conditionally approved the Maryland program. Background information on the Maryland program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 1, 1980, **Federal Register** (45 FR 79449). Subsequent actions concerning conditions of approval and program amendments can be found at 30 CFR 920.12, 920.15, and 920.16.

II. Submission of the Proposed Amendment

By letter dated August 5, 1996, (Administrative Record No. MD–575.00) Maryland submitted a proposed amendment to its program pursuant to SMCRA at its own initiative. House Bill 1124, enacted on May 14, 1996, revises the provisions of Chapter 522 of the Annotated Code of Maryland (Code) that pertain to surface coal mining. By letter dated November 26, 1996, (Administrative Record No. MD–575.03), Maryland clarified certain provisions of the proposed amendment. Because the information was explanatory in nature and did not constitute a major revision of the original submission, OSM did not reopen the comment period.

OSM announced receipt of the proposed amendment in the August 28, 1996, **Federal Register** (61 FR 44258), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on September 27, 1996.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment. Revisions not specifically discussed below concern nonsubstantive wording changes and paragraph notations to reflect organizational changes resulting from this amendment.

Annotated Code of Maryland—Chapter 0522—Surface Coal Mining—Permit Revocation—Reinstatement

At section 15–514(a)(4), Maryland provides that if the Director revokes a permit and forfeits a bond, the operator of the permit forfeits: all rights and claims to the permit, all materials furnished with the permit application, and any subsequent amendments to the permit. The Director finds that the proposed revisions are not inconsistent with the general Federal requirements for permits at 30 CFR Part 773.

At new section 15–514.1, Maryland provides for the reinstatement and reissuance of revoked permits. At subsection (A), ''permit'' is defined to include all areas approved in the mining application. At subsection (B), a permit that has been revoked may be reinstated for the sole purpose of reissuing all or part of the permit to another qualified operator in accordance with subsection (C). At subsection (C), in order to qualify for a reissued permit, the operator shall: provide proof of the right to mine; enter into an agreement with the State to assume the duties and responsibilities of the permit and conduct mining operations in accordance with applicable requirements, regulations, and permit conditions; file the required performance bond; and provide any other required information to reissue the permit.

In its letter dated November 26, 1996, Maryland stated that its procedures for processing and reissuing a revoked permit will track the procedures for the transfer, sale, or assignment of permit rights specified in the Code of Maryland Administrative Regulations (COMAR) at 26.20.07.04. The applicant will be required to: submit an application for reissuance of a permit; comply with public notice requirements; and post a performance bond. Approval of the permit will be in accordance with the provisions of COMAR 26.20.07.04D.

The Director finds that the proposed revisions, when read with the corresponding regulations at COMAR 26.20.07.04, are not inconsistent with the general Federal provisions for the transfer, assignment, or sale of permits at 30 CFR 774.17.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. No comments were received and because no one requested an opportunity to speak at a public hearing, no hearing was held.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(I), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Maryland program. None were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Maryland proposed to make in this amendment pertains to air or water quality standards. Therefore, OSM did not request EPA's concurrence.

The Federal regulations at 30 CFR Part 920, codifying decisions concerning the Maryland program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

V. Director's Decision

Based on the above findings, the Director approves Maryland's proposed amendment as submitted on August 5, 1996, and supplemented with additional explanatory information on November 26, 1996.

The Federal regulations at 30 CFR Part 920, codifying decisions concerning the Maryland program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to

encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 Part CFR 920

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 920—MARYLAND

1. The authority citation for Part 920 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 920.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 920.15 Approval of Maryland regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * * *		
August 5, 1996	March 26, 1997	M.C.A. §§ 15–514(a)(4), 15–514.1.

[FR Doc. 97–7535 Filed 3–25–97; 8:45 am]
BILLING CODE 4310–05–M

30 CFR Part 935

[OH–236–FOR]

Ohio Abandoned Mine Land Reclamation Plan

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving, with certain exceptions, a proposed amendment to the Ohio abandoned mine land reclamation plan (hereinafter referred to as the ''Ohio plan'') under the Surface mining Control and Reclamation Act of 1977 (SMCRA). Ohio proposed revisions and additions to its plan pertaining to acid mine drainage set aside program, water quality improvement, project eligibility, and remining incentives. The amendment is intended to revise the Ohio plan to be consistent with SMCRA, as amended.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: George Rieger, Field Branch Chief, Appalachian Regional Coordinating Center, OSM, 3 Parkway Center, Pittsburgh, PA 15220, Telephone: (412) 937–2153.

SUPPLEMENTARY INFORMATION:

I. Background on the Ohio Plan

On August 10, 1982, the Secretary of the Interior approved the Ohio plan. Background information on the Ohio plan, including the Secretary's findings, the disposition of comments, and the approval of the plan can be found in the April 15, 1994, **Federal Register** (59 FR 17930). Subsequent actions concerning the conditions of approval and amendments to the plan can be found at 30 CFR 935.25.

II. Submission of the Proposed Amendment

By letter dated March 19, 1996, (Administrative Record No. OH–2163) Ohio submitted a proposed amendment to its plan pursuant to SMCRA at its

own initiative. Ohio proposed to amend the following subsections of Section 4—Abandoned Mined Land Evaluation Program: 4.1—Introduction, 4.5—Annual Work Plan, and 4.5.3—Project Selection.

OSM announced receipt of the proposed amendment in the April 17, 1996, **Federal Register** (61 FR 16731), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period closed on May 17, 1996.

During its review of the proposed amendment, OSM identified concerns relating to the use of abandoned mine land funds for the reclamation of previously mined areas by an active coal mine operator. OSM notified Ohio of these concerns by letter dated November 13,1 996 (Administrative Record No. OH–2163–11).

By letter dated December 6, 1996 (Administrative Record No. OH–2163–12), Ohio responded to OSM's concerns by submitting additional explanatory information and revisions to its proposed program amendment. Ohio revised the language on page 4–2 to read ''encourage reclamation in conjunction with active mining of abandoned areas causing acid mine drainage (AMD) within approved hydrologic units and in other areas causing a MD through the funding of AMD remediation projects and studies necessary to develop pollution abatement plans.'' At page 4–17, Ohio clarified that AMD funds are being used to collect and analyze data necessary to qualify watersheds as hydrologic units. At page 4–19, Ohio revised Stage 5 of the project selection process to provide for the reclamation of abandoned mine areas causing AMD in conjunction with active mining. Federal abandoned mine land funds may be used to fund reclamation of abandoned mine lands causing AMD under certain conditions.

By letter dated December 20, 1996 (Administrative Record No. OH–2163–13), Ohio submitted additional revisions. At page 4–2, Ohio deleted as one of its goals the reclamation in conjunction with active mining of abandoned areas causing AMD within approved hydrologic areas and other areas. At page 4–19, Ohio deleted the language identified as Stage 5 of the project selection process. The deletions are based on Ohio's understanding that such language is not necessary to fulfill its goals and objectives regarding the use of acid mine drainage set-aside funds for the restoration of watersheds impacted by acid mine drainage from abandoned coal mines. Sufficient flexibility exists within its program to manage the funds in a manner that will achieve its objectives.

Based on the additional explanatory information and revisions to the proposed program amendment submitted by Ohio, OSM reopened the public comment period in the January 23, 1997 **Federal Register** (62 FR 3491). The public comment period closed on February 7, 1997.

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 884.14 and 884.15, are the Director's findings concerning the proposed amendment.

Revisions not specifically discussed below concern nonsubstantive wording changes, or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

Abandoned Mined Land Evaluation Program

1. Section 4.1.G—Introduction

Ohio proposed to add subsection G to provide for the reclamation of areas causing acid-mine drainage (AMD) such that AMD problems are eliminated as a component of a high priority reclamation project; such that AMD areas causing a ''general welfare'' impact to the public will be eligible for abatement; and such that AMD areas impacting watersheds will be abated in accordance with AMD set-aside criteria contained in the Ohio Code (ORC) at section 1513.37(E).

The Director finds that the provisions of subsection G are not inconsistent with section 402(g)(6)(B) and 402(g)(7) of SMCRA which provide for the creation of an AMD abatement and treatment fund and from which amounts are expended by the State to implement acid mine drainage abatement and treatment plans.

2. Section 4.5—Annual Work Plan

Ohio proposed to delete the requirement that research and demonstration projects be submitted to OSM independent of work plan submissions using specific OSM procedures. In its submission letter dated March 19, 1996, Ohio stated projects of this type would be incorporated into the AMD program.

The Director finds that the proposed deletion does not render the Ohio program less effective than the Federal regulations so long as application for proposed implementation of research and demonstration projects is made to OSM prior to using funds for such projects.

3. Section 4.5.3—Project Selection

Ohio proposed to revise the project selection process to include AMD projects under certain conditions such as AMD set-aside, AMD associated with other high priority projects, and AMD associated with general welfare. Projects will be evaluated and approved based on an AMD abatement and treatment plan. The plan will provide for the comprehensive abatement of the causes and treatment of the effects of AMD within qualified hydrologic units affected by coal mining practices. The plan will identify the qualified hydrologic unit and the sources and effect of AMD within the unit. It will also identify projects and treatment and abatement measures, as well as cost and sources of funding. An analysis of the cost-effectiveness and environmental benefits of the treatment and abatement measures is also required. Ohio defined ''qualified hydrologic unit'' as a unit in which the water quality has been significantly affected by AMD from coal mining practices in a manner which adversely impacts biological resources and which contains lands and waters that meet certain, specified eligibility requirements.

Ohio proposed to fund AMD projects associated with ''general welfare'' according to specified guidelines. Ohio defined ''general welfare'' (as used in establishing the priority of AMD projects) as meaning an adverse impact, including an economic impact, on either a residential area, or community resulting from the mine drainage problem.

The Director finds that the project selection process as specified in section 4.5.3, State 4, is consistent with the plan content requirements at 30 CFR 876.13 (a)–(g) and the eligibility requirements found at 30 CFR 874.12. Further, the definition of ''qualified hydrologic unit'' is substantively identical to the Federal definition found at 30 CFR 870.5.

Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. Because no one requested an opportunity to speak at a public hearing, no hearing was held. Two public comments were received. One commenter stated that ongoing coordination with the Ohio Historical Society is necessary to address preservation concerns. The Director notes that all abandoned mine land projects, including those negotiated with adjacent mine operators, are reviewed by the State Historic

Protection Officer (SHPO). Further, a statement of concurrence that no significant cultural or historic properties will be adversely affected, signed by the SHPO, is included with the National Environmental Policy Act documents submitted prior to construction.

Another commenter had two concerns: (1) That the proposed revisions were unclear as whether Ohio's intention was to elevate the priority of AMD problems or to eliminate AMD problems as a component of high priority reclamation, and (2) that the issue of who assumes liability for remining operations is unclear. With respect to the first issue, the Director notes that the intent of the ''general welfare'' provision is to allow the use of Federal AML funds for AMD abatement projects that are not necessarily part of an approved hydrologic unit under the AMD set-aside program. This is accomplished by elevating the priority when the general welfare requirements are met. With respect to the second issue, The Director notes that the remining provisions were deleted in Ohio's December 20, 1996, revisions to the original amendment.

Federal Agency Comments

Pursuant to 884.14(a)(2) and 884.15(a), the Director solicited comments on the proposed amendment from various other Federal agencies with an actual or potential interest in the Ohio plan. The U.S. Department of the Army, Army Corps of Engineers, and the U.S. Department of Labor, Mine Safety and Health Administration, concurred without comment.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(ii), the Director solicited the written concurrence of the Administrator of the EPA with respect to those proposed plan amendment which relate to air or water quality standards promulgated under the authority of the Clean Air Act (42 U.S.C. 7401 *et seq.*) or the Clean Water Act (33 U.S.C. 1252 *et seq.*).

None of the revisions Ohio proposed to make in its amendment pertains to air or water quality standards. Nevertheless, OSM requested EPA's concurrence with the proposed amendment. EPA did not respond.

V. Director's Decision

Based on the above findings, the Director approves the proposed plan amendment as submitted by Ohio on March 19, 1996, and revised on December 6, 1996, and December 20, 1996.

The Federal regulations at 30 CFR Part 935, codifying decisions concerning the Ohio plan, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State plan amendment process and to encourage States to bring their plans into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866

This proposed rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State and Tribal abandoned mine land reclamation plans and revisions thereof since each such plan is drafted and promulgated by a specific State or Tribal, not by OSM. Decisions on proposed abandoned mine land reclamation plans and revisions thereof submitted by a State or Tribe are based on a determination of whether the submittal meets the requirements of Title IV of SMCRA (30 U.S.C. 1231–1243) and 30 CFR Parts 884 and 888.

National Environmental Policy Act

No environmental impact statement is required for this rule since agency decisions on proposed State and Tribal abandoned mine land reclamation plans and revisions thereof are categorically excluded from compliance with the National Environmental Policy Act (42 U.S.C. 4332) by the Manual of the Department of the Interior (516 DM 6, appendix 8, paragraph 8.4B(29)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions in the analyses for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 935

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 5, 1997.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 935.25 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 935.25 Approval of Ohio abandoned mine land reclamation plan amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/Description
* * * * * * *		
March 19, 1996	March 26, 1997	Revisions to the Ohio Abandoned Mine Land Reclamation Plan to provide for the reclamation of areas causing acid mine drainage AMD and to revise the project selection process.

[FR Doc. 97–7536 Filed 3–25–97; 8:45 am]
BILLING CODE 4310–05–M

30 CFR Part 943

[SPATS No. TX–017–FOR]

Texas Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is approving a proposed amendment to the Texas regulatory program (hereinafter referred to as the ''Texas program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Texas proposed revisions to and additions of rules pertaining to authority, responsibility and applicability; definitions; restrictions of financial interests of State employees; exemption for coal extraction incident to government-financed construction; exemption for coal extraction incidental to the extraction of other minerals; lands unsuitable for mining; coal exploration; geologic and hydrologic permit information; blasting plans; maps and plans; protection of the hydrologic balance; ponds, impoundments, banks, dams, and embankments; prime farmland; alluvial valley floors; public availability of permit information; approval and conditions of permits; transfer, assignment or sale of permit rights; bonding requirements; liability insurance; bond release; signs and markers; water quality standards; diversions; siltation structures; permanent and temporary impoundments; surface and ground water monitoring; stream buffer zones; use of explosives; coal mine waste; protection of fish and wildlife and related environmental values; backfilling and grading; revegetation; water discharge into underground mines; enforcement; suspension and revocation of permits; assessment of civil penalties; individual civil penalties; and blaster certification and training. Texas also proposed minor changes in wording, numbering, and punctuation of its rules. The amendment is intended to revise the Texas program to be consistent with the corresponding Federal regulations and SMCRA and to incorporate the additional flexibility afforded by the revised Federal regulations.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Ervin J. Barchenger, Acting Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548, Telephone: (918) 581–6430.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. Background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the February 27, 1980, **Federal Register** (45 FR 12998). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Proposed Amendment

By letter dated May 13, 1993 (Administrative Record No. TX–551), Texas submitted a proposed amendment to its program pursuant to SMCRA. Texas submitted the proposed amendment in response to May 20, 1985, June 9, 1987, October 20, 1988, February 7, 1990, and February 21, 1990, letters (Administrative Record Nos. TX–358, TX–388, TX–417, TX–472, and TX–476) that OSM sent to Texas in accordance with 30 CFR 732.17(c), in response to the required program amendments at 30 CFR 943.16 (k) through (q), and at its own initiative.

OSM announced receipt of the proposed amendment in the June 21, 1993, **Federal Register** (58 FR 33785), and in the same document opened the public comment period and provided an opportunity for a public hearing on the adequacy of the proposed amendment. The public comment period would have closed on July 21, 1993. However, by letter dated July 16, 1993, the Texas Mining and Reclamation Association requested a 30-day extension of time in which to review and provide comments on the proposed amendment. OSM announced receipt of the extension request and reopened the comment period in the August 16, 1993, **Federal Register** (58 FR 43308). The extended comment period ended August 20, 1993.

During its review of the amendment, OSM identified several concerns relating to the proposed amendment. OSM notified Texas of these concerns by letter dated July 25, 1994 (Administrative Record No. TX–578). OSM provided Texas with further clarification of its concerns by letters dated November 4, 1994, November 21, 1994, and January 18, 1995 (Administrative Record Nos. TX–581, TX–589, and TX–585).

By letter dated September 18, 1995 (Administrative Record No. TX–598), Texas responded to OSM's concerns by submitting a revised program amendment package. OSM reopened the public comment period in the October 25, 1995, **Federal Register** (60 FR 54620) and provided an opportunity for a public hearing on the adequacy of the revised amendment. The public comment period closed on November 9, 1995. By letter dated December 15, 1995 (Administrative Record No. TX–634), Texas submitted documents to clarify and supplement its September 18, 1995, revised amendment. By letter dated March 1, 1996 (Administrative Record No. TX–612), Texas provided information to supplement the revegetation success portion of its September 18, 1995, revised amendment.

By letter dated January 29, 1996 (Administrative Record No. TX–610), Texas withdrew portions of its September 18, 1995, revised amendment. Texas withdrew the roads and transportation system portion of the amendment because it had submitted a formal amendment on December 20, 1995, titled ''Transportation System, Utilities, and Support System,'' which superceded the changes in this amendment. During its review of the September 18, 1995, revised amendment and supplemental information, OSM

identified several concerns relating to the proposed amendment. OSM notified Texas of these concerns by letter dated June 18, 1996 (Administrative Record No. TX–614).

By letter dated July 31, 1996 (Administrative Record No. TX–621), Texas responded to OSM's concerns by submitting a revised program amendment package. Texas proposed to revise the Texas Coal Mining Regulations (TCMR) at: Subchapter A—General, parts 700, 701, 705, and 707; subchapter F—Lands Unsuitable for Mining, parts 760, 761, 762, and 764; subchapter G—Surface Coal Mining and Reclamation Operations Permits and Coal Exploration Procedures Systems, parts 770, 776, 779, 780, 783, 784, 785, 786, 787, and 788; subchapter J—Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations, parts 800, 806, and 807; subchapter K—Permanent Program Performance Standards, parts 805, 816, 817, and 823; subchapter L—Permanent Program Inspection and Enforcement Procedures, parts 843, 845, and 846; and subchapter M—Training, Examination, and Certification of Blasters, part 850. In addition, Texas withdrew the revegetation success guidelines from this amendment and indicated they would be submitted as a separate amendment at a later time. By letter dated September 12, 1996, (Administrative Record No. TX–635), Texas provided its Administrative Procedures Act to supplement its July 31, 1996 revised amendment.

OSM reopened the public comment period in the August 28, 1996, **Federal Register** (61 FR 44260). The public comment period closed on September 27, 1996.

During its review of the July 31, 1996, revised amendment, OSM identified concerns relating to a proposed change to the effective date of TCMR 762.076 regarding designating lands unsuitable for mining, a cross-reference in TCMR 780.148(c)(3) and 784.190(c)(3), proposed self-insurance provisions at TCMR 806.311(d), and revised administrative procedures at TCMR 787.222 and 787.223. OSM notified Texas of these concerns by letter dated December 2, 1996 (Administrative Record No. TX–630).

By letter dated December 31, 1996, (Administrative Record No. TX–631), Texas responded to OSM's concerns by submitting information to supplement and correct cross-reference errors in its July 31, 1996, revised amendment. In addition, Texas withdrew the proposed changes to TCMR 787.222 and 787.223 regarding administrative procedures, and indicated it would submit changes to these procedures in a separate amendment. By letter dated February 4, 1997 (Administrative Record No. TX–636), Texas submitted information to correct a cross-reference error in its December 31, 1996, submittal.

III. Director's Findings

After a thorough review, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, the Director finds that the proposed amendment, as submitted by Texas on May 13, 1993, and as revised and/or supplemented with explanatory information on September 18, 1995, December 15, 1995, March 1, 1996, July 31, 1996, September 12, 1996, December 31, 1996, and February 4, 1997, is no less stringent than SMCRA and no less effective than the corresponding Federal regulations.

A. Nonsubstantive Revisions to Texas' Regulations

Texas proposed nonsubstantive changes to make editorial corrections and recodify previously approved regulations because of new regulations. Revisions that are not discussed concern substantive wording changes that are not inconsistent with SMCRA or the Federal regulations. The Director approves these changes.

B. Substantive Revisions to Texas' Regulations That Are Substantially Identical to the Corresponding Federal Regulations

1. New and Revised Texas Regulations

Texas proposed the following new regulations and revisions to existing regulations that are substantive in nature and contain language that is substantially identical to the corresponding Federal regulations (listed in brackets):

TCMR 700.002 (b)(4), (b)(5), and (f), authority, responsibility, and applicability [30 CFR 700.11 (a)(4), (a)(5) and (d)];

TCMR 701.008 (5), (18), (19), (21), (26), (55), (67), (82), (84), (95), (102), and (107), definitions for affected area, coal mine waste, coal preparation, coal processing waste, cumulative impact area, other treatment facility, prime farmland, siltation structure, soil survey, topsoil, unwarranted failure to comply, and willful violation [30 CFR 701.5, 843.5];

TCMR 705.010 (a)(3) and (c), 705.011 (2), (3), (5), and (9), 705.013(a), 705.014, 705.015(a), and 705.016(a), restrictions of financial interests of state employees [30 CFR 705.4 (a)(3) and (d), 705.5, 705.11(a), 705.13, 705.15, and 705.17(a)];

TCMR 709.025, 709.026 (a)(1) and (b)–(e), 709.027(c)–(e), 709.028, 709.029(b)–(c), 709.030, 709.031(a), (b), and (d)–(f), 709.032, 709.033 (a), (b), (c)(1), and (d), 709.034, exemption for coal extraction incidental to the extraction of other minerals [30 CFR 702.1, 702.5(a)(1), 702.11(c)–(e), 702.12, 702.13(b)–(c), 702.14, 702.15(a), (b), and (d)–(f), 702.16, 702.17 (a), (b), (c)(1), and (d), and 702.18];

TCMR 760.069, areas designated unsuitable for mining by Congress [30 CFR 761.1];

TCMR 760.070 (6), (7), (9), and (11), definitions of public building, public park, publicly-owned park, and significant recreational, timber, economic, or other values incompatible with surface coal mining operations [30 CFR 761.5];

TCMR 761.071 (b), (c), and (e), and 761.072 (b)(1), (b)(2), (c), (d), (d) (1)–(4), (e) (1)–(2), (e)(3) (A)–(B), (f)(2), (g), and (h), areas where mining is prohibited or limited [30 CFR 761.11 and 761.12];

TCMR 762.074 (4) and (5), definitions of renewable resource lands and substantial legal and financial commitments in a surface coal mining operation [30 CFR 762.5];

TCMR 762.075(a), 762.075(b), and 762.077, designating lands unsuitable for surface coal mining operations [30 CFR 762.11(a), 762.11(b), and 762.14];

TCMR 764.079 (a), (b), (b)(1), (b)(1) (A)–(B), (b)(1) (D)–(F), (b)(2), (c), (c)(1), (c)(1) (A)–(B), (c)(1) (D)–(E), and (c)(2), 764.080 (a) (4)–(7), (b)(1), (b)(3), (c), and (d), 764.081 (a) and (b)(2), 764.082 (b) and (c), 764.084(a), and 764.085(b), process for designating lands unsuitable for surface coal mining operations [30 CFR 764.13, 764.15, 764.17, 764.19 (b) and (c), 764.23(a), and 764.25(b)];

TCMR 776.111(a)(3)(E), application requirements for coal exploration of more than 250 tons [30 CFR 772.12(b)(10)];

TCMR 779.126(d) and 783.172(d), surface and underground mine permit requirements—description of hydrology and geology [30 CFR 780.21(a) and 784.14(a)];

TCMR 779.128 (a), (a) (3)–(4), and (b), and 783.174 (a), (a) (3)–(4), and (b), surface and underground mine permit requirements—ground water information [30 CFR 780.21(b)(1) and 784.14(b)(1)];

TCMR 779.129, .129 (a), (b), (b)(1), and (b)(3), and 783.175, .175 (a), (b), (b)(1), and (b)(3), surface and underground mine permit requirements—surface water information [30 CFR 780.21(b)(2) and 784.14(b)(2)];

TCMR 780.141 (g) and (h), surface mine permit requirements—blasting plans [30 CFR 780.13(a)];

TCMR 780.142(b)(11), surface mine permit requirements—maps and plans [30 CFR 780.14(b)(11)];

TCMR 780.142(d) and 784.197(d), surface and underground permit requirements—support facilities [30 CFR 780.38 and 784.30];

TCMR 780.146(b), 780.146(c), 780.146(d)(1)–(4), 780.146(e), 784.188(b), 784.188(c), and 784.188(e), protection of the hydrologic balance [30 CFR 780.21(i), 780.21(j), 780.21(f), 780.21(g), 784.14(h), 784.14(i), and 784.14(f)];

TCMR 785.201(b)(1), (b)(1)(B), (b) (2)–(4), (c) (1)–(2), and (d)(2), prime farmland permit application requirements [30 CFR 785.17 (c)–(e)];

TCMR 785.202(b) (1)(i), (2), and (3) (i)–(iv), application requirements—alluvial valley floors [30 CFR 785.19(d)(2)(i)];

TCMR 786.210, public availability of applications [30 CFR 773.13(d)];

TCMR 786.216 (c) and (e), criteria for permit approval or denial [30 CFR 773.15(c) (5) and (11)];

TCMR 786.220(d), conditions of permits [30 CFR 773.17(g)];

TCMR 800.301(b)(2), requirements to file a bond [30 CFR 800.11(b)(4)];

TCMR 807.312 (a)–(c), bond release procedures [30 CFR 800.40 (a) and (b)];

TCMR 807.313(a)(2), criteria and schedule for bond release [30 CFR 800.40(c)(2)];

TCMR 815.327(a), performance standards for coal exploration [30 CFR 815.15(a)];

TCMR 815.328, performance standards for coal exploration [30 CFR 772.14];

TCMR 816.340 and 817.510, water quality standards and effluent limitations [30 CFR 816.42 and 817.42];

TCMR 816.341 (a) (1)–(3), (b), and (c), and 817.511 (a) (1)–(3), (b), and (c), hydrologic balance: diversions [30 CFR 816.43 (a) (1)–(3), (b), and (c), and 817.43 (a) (1)–(3), (b), and (c)];

TCMR 816.344(a), (b), (d), and (e), and 817.514(a), (b), (d), and (e), hydrologic balance: siltation structures [30 CFR 816.46(a), (b), (d), and (e), and 817.46(a), (b), (d), and (e)];

TCMR 816.347(a)(1)–(2), (a)(4)–(10), (a)(12)–(13), (b), and (c)(1), and 817.517(a)(1)–(2), (a)(4)–(10), (a)(12)–(13), (b), and (c)(1), performance standards—permanent and temporary impoundments [30 CFR 816.49(a)(1)–(2), (a)(4)–(10), (a)(12)–(13), (b), and (c)(1), and 817.49(a)(1)–(2), (a)(4)–(10), (a)(12)–(13), (b), and (c)(1)];

TCMR 816.348, hydrologic balance: ground water protection [30 CFR 816.41(b)];

TCMR 816.349, hydrologic balance: surface water protection [30 CFR 816.41(d)];

TCMR 816.350(a) and (b), and 817.519(a)(1), (a)(2), (a)(4), (b)(1), (b)(2), and (b)(4), hydrologic balance: surface and ground water monitoring [30 CFR 816.41(c) and (e), and 817.41(c)(1), (c)(2), (c)(4), (e)(1), (e)(2), and (e)(4)];

TCMR 816.355 and 817.524, hydrologic balance: stream buffer zones [30 CFR 816.57 and 817.57];

TCMR 816.357(a) and (c), and 817.526(b) and (c), use of explosives [30 CFR 816.61(a) and (c), and 817.61(b) and (c)];

TCMR 816.358(a)–(d) and 817.527(a)–(d), use of explosives-preblasting surveys [30 CFR 816.62(a)–(e) and 817.62(a)–(e)];

TCMR 816.362(d), 817.530, and.530(c), (d), (e), (g), (j), (s)(1)–(5), and (t), use of explosives—records of blasting operations [30 CFR 816.68(d), 817.68, and 817.68(d), (e), (j), (o)(1)–(5), and (p)];

TCMR 816.376(a), (b), and (c), and 817.543(a), (b), and (c), general requirements for coal mine waste dams and embankments [30 CFR 816.84, 816.84(a) and (b)(1), 817.84, and 817.84(a) and (b)(1)];

TCMR 816.377 and 817.544, coal mine waste dams and embankments site preparation [30 CFR 816.84 and 817.84];

TCMR 816.378(a) and (c), and 817.545(a) and (c), design and construction of coal mine waste dams and embankments [30 CFR 816.84(b)(1) and (f), and 817.84(b)(1) and (f)];

TCMR 816.380(e)(10) and 817.547(e)(10), protection of fish, wildlife and related environmental values [30 CFR 816.97(h) and 817.97(h)];

TCMR 816.385(b)(3) and 817.552(b)(3), backfilling and grading requirements [30 CFR 816.83(c)(2) and 817.83(c)(2)];

TCMR 816.390 and 817.555, revegetation: general requirements [30 CFR 816.111 and 817.111];

TCMR 817.509(a), hydrologic balance requirements [30 CFR 817.41(a)];

TCMR 817.535(c), general requirements for coal mine waste banks [30 CFR 816.81(c)(1)];

TCMR 823.620(a), prime farmland applicability [30 CFR 823.11(a) and (c)];

TCMR 823.621(a)–(b) and 823.622(a)–(c), prime farmland soil removal and stockpiling [30 CFR 823.12];

TCMR 823.624(a)–(b) and (d)–(f), prime farmland soil replacement [30 CFR 823.14];

TCMR 823.625, prime farmland revegetation and restoration of soil productivity [30 CFR 823.15];

TCMR 843.681(c) and (f)–(j), notice of violation abatement period extensions [30 CFR 843.12];

TCMR 843.682(a)(1), suspension or revocation of permits [30 CFR 843.13(a)(1)];

TCMR 845.695(b)(1), procedures for assessment of civil penalties [30 CFR 845.17(b)(1)];

TCMR 846.002 and 846.003, individual civil penalties assessed and amount [30 CFR 846.12 and 14].

Because the above proposed revisions are identical in meaning to the corresponding Federal regulations, shown in brackets, the Director finds that Texas' proposed regulations are no less effective than the Federal regulations.

2. Deletion of Existing Texas Regulations

Texas proposed to delete the following regulations because of OSM's repeal of the Federal counterpart regulations (shown in brackets) or because of the reasons stated:

TCMR 770.101, definitions [definitions are moved, revised and adopted at TCMR 701.008];

TCMR 740.146(b) and (c), and 784.188(b) and (c), protection of the hydrologic balance [30 CFR 780.21(b) and (c), 48 FR 43985, September 26, 1983];

TCMR 785.201(b)(3), (5), (6), and (8), prime farmland application requirements [30 CFR 785.17(b)(3), (5), (6), and (8), 48 FR 47722, September 29, 1983];

TCMR 816.340 and 817.510, water quality standards and effluent limitations [30 CFR 816.42 and 817.42, 48 FR 44051, September 26, 1983];

TCMR 816.341, 816.342, 817.511, and 817.512, diversions [30 CFR 816.43, 816.44, 817.43, and 817.44, 48 FR 43991, September 26, 1983];

TCMR 816.344 and 817.515, sedimentation ponds [30 CFR 816.46 and 817.46, 48 FR 44051, September 26, 1983];

TCMR 816.347 and 817.517, permanent and temporary impoundments [30 CFR 816.49 and 817.49, 48 FR 44004, September 26, 1983];

TCMR 816.348 and 816.349, ground water protection and protection of ground water recharge capacity [30 CFR 816.50 and 816.51, 48 FR 43992, September 26, 1983];

TCMR 816.350 and 817.519, surface and ground water monitoring [30 CFR 816.52 and 817.52, 48 FR 43992, September 26, 1983];

TCMR 816.355 and 817.524, stream buffer zones [30 CFR 816.57 and 817.57, 48 FR 30327, June 30, 1983];

TCMR 816.390, 816.395, 816.396, 817.555, 817.560, and 817.561, revegetation: general requirements,

standards for success, and tree and shrub stocking for forest land [30 CFR 816,111, 816.116, 816.117, 817.111, 817.116, and 817.117, 48 FR 40160, September 2, 1983];

TCMR 817.528 (a), (c), and (d)–(1), surface blasting requirements [30 CFR 817.65, 48 FR 9810, March 8, 1983];

TCMR 817.529, seismograph measurements [30 CFR 817.67, 48 FR 9810, March 8, 1983];

TCMR 817.538(c)(3), coal processing waste banks construction requirements [30 CFR 817.85, 48 FR 44030, September 26, 1983];

TCMR 823.620(c), prime farmland special requirements [30 CFR 823.11(c), 48 FR 21463, May 12, 1983];

TCMR 823.623, prime farmland alternative to separate soil horizon removal and stockpiling [No Federal counterpart, its removal does not effect the State program].

Because the above proposed deletions are consistent with OSM's repeal of the Federal counterpart regulations or are proposed to be removed for other appropriate reasons, the Director finds that the proposed deletions will not render the Texas regulations less effective than the Federal regulations.

C. New Regulations and Revisions to Existing Texas' Regulations That Are Substantive in Nature

1. TCMR 700.003 (1) and (3), Definitions of Act and APA

At TCMR 700.003(1), Texas defines ''Act'' to mean the Texas Surface Coal Mining Control and Reclamation Act. The State proposed to revise its definition by deleting the word ''control'' to reflect the actual title of the State surface coal mining and reclamation act as it is stated in the Texas statute. Texas also proposed to add a reference to the code citation. The proposed definition states: ''Act'' means the ''Texas Surface Coal Mining and Reclamation Act'' (TEX. NAT. RES. CODE Ch. 134).

Texas proposed to revise the definition of ''APTRA'' at TCMR 700.003(3) to ''APA'' and to add a reference to the code citation of the APA. The APA is the successor code to the APTRA for the State's administrative procedures act. The proposed definition states: ''APA'' means the ''Administrative Procedure Act'' (Chapter 2001, TEX. GOV'T CODE). The Federal regulations do not contain a counterpart definition.

The Director finds the proposed changes do not make the State's definitions of ''Act'' or ''APA'' inconsistent with any requirement of SMCRA or with the Federal regulations. The Director approves the proposed changes to the Texas regulations.

2. TCMR 701.008(25), Definition of Cropland

Texas proposed to revise its definition of cropland by adding the phrase ''but does not include quick growing cover crops grown primarily for erosion control'' to the end of the existing definition. The corresponding Federal definition does not include the proposed State language. Texas proposed the change to make it clear that the definition of cropland is to identify lands used for the production of crops. It should not include lands that are not used for the production of crops, but where a cover crop is planted for erosion control practices. The Director finds that the proposed revision to the definition of cropland is not inconsistent with any requirement of SMCRA or the Federal regulations. The Director is approving the proposed definition.

3. TCMR 701.008, Definitions of Administratively Complete Application, Applicant, Application, Complete and Accurate Application, Principal Shareholder, and Property To be Mined

OSM required Texas, at 30 CFR 943.16(k) to submit an amendment that includes definitions for complete application, applicant, application, principal shareholder, and property to be mined. Instead of submitting a definition of complete application, Texas submitted proposed definitions of administratively complete application and complete and accurate application. Because the Federal regulations do not contain a definition for complete application, Texas is not required to include this specific definition in its program. Texas also submitted proposed definitions of applicant, application, principal shareholder, and property to be mined. The proposed State definitions are the same as the counterpart Federal definitions at 30 CFR 701.5. The Director finds the proposed definitions at TCMR 701.008(4) administratively complete application, (9) applicant, (10) application, (24) complete and accurate application, (68) principal shareholder, and (70) property to be mined are no less effective than the corresponding Federal regulations at 30 CFR 701.5 and approves them. In addition, the Director is removing the required amendment at 30 CFR 943.16(k).

4. TCMR 701.008(34), Definition of Experimental Practice

Texas proposed to add at TCMR 701.008(34) a definition for ''experimental practices.'' The proposed definition is that experimental practice means the use of alternative surface coal mining and reclamation operation practices for experimental or research purposes. The Federal regulations do not contain a counterpart definition. However, the original Federal permanent program regulations published on March 13, 1979 (44 FR 15371) contained a definition for experimental practices. In 1983, OSM determined this definition was not needed and revised its regulations at 30 CFR 785.13(c) to delete the definition (48 FR 9478, March 4, 1983). Texas' proposed definition of experimental practice is the same as the previous Federal definition. The proposed Texas definition of experimental practice at TCMR 701.008(34) is not inconsistent with any requirement of SMCRA or the Federal regulations. The Director is approving the proposed definition.

5. TCMR 701.008 (69) and (76), Definitions of Professional Specialist and Registered Professional Engineer

Texas proposed to add a definition for professional specialist at TCMR 701.008(69) and a definition of registered professional engineer at TCMR 701.008(76). The proposed definition of professional specialist means a person whose training, experience, and professional certification or licensing are acceptable to the Commission for the limited purpose of performing certain specified duties under this Chapter. Texas proposed to use the term at TCMR 816.347(a)(11) and 817.517(a)(11) in the following context ''* * * a qualified registered professional engineer or other qualified professional specialist under the direction of a professional engineer * * *''.

The proposed definition of registered professional engineer means a person who is duly licensed by the Texas State Board of Registration of Professional Engineers to engage in the practice of engineering in this state. Texas proposed to use the term throughout its regulations regarding review and certification of engineering designs.

The Federal regulations do not contain corresponding definitions. However, the Federal regulations use the terms in the same manner as proposed by Texas. The Director finds the proposed Texas definitions of professional specialist at TCMR 701.008(69) and registered professional engineer at TCMR 701.008(76) are not inconsistent with any requirement of SMCRA or the Federal regulations. Therefore, the Director is approving the proposed definitions.

6. TCMR 707.022, Exemption for Coal Extraction Incident to Government-Financed Highway or Other Construction—Information to be Maintained on Site

The Federal regulation at 30 CFR 707.12 requires that if coal extraction incidental to government financed construction extracts more than 250 tons or affects more than two acres, certain requirements must be met for maintaining information on site. At TCMR 707.022, Texas proposed to delete the reference to ''or effects more than two acres'' from its regulations. Texas made this change to its regulations in 1988; however, OSM has not approved it as an amendment to the Texas program. Texas indicated that it made this change as part of its removal of the two-acre exemption requirements from its program. OSM did not revise this regulation when it removed the two acre exemption provisions from its regulations.

The effect of the regulation in question is limited. It addresses when documents must be maintained on site; it does not address or have any effect on whether coal extraction incidental to government-financed construction is allowable. Although the Federal regulation contains two limits, tonnage and acreage, the tonnage limit as it applies in Texas is so restrictive that it renders the acreage limit superfluous. The only coal mined in Texas is lignite, which averages 1,750 tons per acre-foot in weight according to DOE Coal Data. This means that removal of just two inches of coal from one acre would result in 290 tons removed, exceeding the 250 ton limit. The possibility of coal removal incidental to government financed construction affecting more than two acres without the removal of more than 250 tons is extremely remote. Additionally, Texas has not used this provision of its program since its approval in 1980. It deleted the two acre provision from its regulations over eight years ago and it has not presented a problem in the field. Therefore, the Director finds that the proposed Texas regulation revision at TCMR 707.022 is no less effective than the corresponding Federal regulation at 30 CFR 707.12 and is no less stringent than SMCRA, and approves the regulation.

7. TCMR 709.026(a)(2), Definition of Cumulative Measurement Period

Texas Proposed to define the cumulative measurement period as it applies to an exemption for coal extraction incidental to the extraction of other minerals. The proposed definition of cumulative measurement period at TCMR 709.026(a)(2) is substantively identical to the counterpart Federal definition at 30 CFR 702.5(a)(2), except that Texas proposed to insert the effective date of TCMR Part 709 of its regulations for the end date of the cumulative measurement period, and an anniversary date that is one day prior to the effective date. The Federal definition contains an end date of April 1, 1990, which is the effective date of the Federal regulation, and an anniversary date of March 31. OSM intended for primacy States to base the end date of the cumulative measurement period on the effective date of the counterpart provisions of the State's regulatory program (54 FR 52094, December 20, 1989). OSM stated that its regulations ''were not intended [to] retroactively bring under this Act [SMCRA] activities that occurred prior to the effective date of this rule or the effective date of the counter part provisions of the State regulatory programs.'' The Director finds the proposed Texas definition of cumulative measurement period at TCMR 709.026(a)(2) is no less effective than the corresponding Federal definition at 30 CFR 702.5(a)(2), and approves it.

8. TCMR 709.027 (a) and (b), Application Requirements and Procedures for an Exemption for Coal Extraction Incidental to the Extraction of Other Minerals

Texas proposed to use the effective date of TCMR Part 709 at TCMR 709.027(a) to establish who must file an application for an exemption for incidental coal extraction and at TCMR 709.027(b) to establish a date for when existing operations must file an application. The Federal requirements at 30 CFR 702.11 (a) and (b) use the effective date of the Federal regulations. For the same reasons as discussed in Finding III.C.7. for the definition of ''cumulative measurement period,'' the use of the State's effective date is also appropriate for these subsections.

In addition, at TCMR 709.027(b), Texas proposed to specify what constitutes an administratively complete application for an incidental mining exemption application. The Federal requirements do not contain a determination of when an application for an incidental mining exemption is administratively complete. The Federal definition of administratively complete application at 30 CFR 701.5 is specific to permit applications and coal exploration applications; it does not include incidental mining exemption applications. However, the addition of this requirement in the Texas program is not inconsistent with any requirement of SMCRA or the Federal regulations. The Director finds that Texas' proposed regulations at TCMR 709.027 (a) and (b) are no less effective than the corresponding Federal requirements, and approves them.

9. TCMR 709.027(F) and 709.033(c) (2) and (3), Administrative Review of Determinations for an Exemption and Revocation of an Exemption for Coal Extraction Incidental to the Extraction of Other Minerals

The Federal regulations at 30 CFR 702.11(f) and 702.17(c) (2) and (3) state that any adversely affected person may request administrative review in accordance with 30 CFR 4.1280 or the corresponding State procedures when a State is the regulatory authority, and that a petition for administrative review shall not suspend the determination for an exemption or the effect of a decision on the revocation of an exemption Texas proposed at 709.027(f) and 709.033(c)(2), that an adversely affected person may request administrative review of determinations and decisions in accordance with Section 787.222. TCMR 787.222 contains the corresponding State procedures in the Texas program. The Director finds that Texas' proposed regulations at TCMR 709.027(f) and 709.033(c)(2) are no less effective than the corresponding Federal requirements and approves them.

Texas did not propose corresponding regulations to the Federal regulations at 30 CFR 702.11(f)(2) and 702.17(c)(3), which state that a petition for administrative review filed under 43 CFR 4.1280 or under corresponding State procedures shall not suspend the effect of either a determination under 702.11(e) or a decision whether to revoke an exemption. As stated in the preamble to the final Federal rule (54 FR 52114, December 20, 1989), this provision was added to the Federal rule in order to clarify the effect of the decision on revocation. Therefore, because the intent of the Federal regulations was only to clarify other regulations, the Director finds that Texas' omission of corresponding requirements to 30 CFR 702.11(f)(2) and 702.17(c)(3) does not render its program less stringent with SMCRA or less effective than the Federal regulations.

10. TCMR 709.029(a), Public Availability of Information for an Exemption for Coal Extraction Incidental to the Extraction of Other Minerals

The Federal regulation at 30 CFR 702.13(a) states that all information submitted under 30 CFR Part 702 shall be available for public inspection and

copying at the local offices of the regulatory authority. Texas proposed at TCMR 709.029(a) that all information submitted to the Commission under Part 709 shall be available for public inspection and copying at the Division's central and local offices closest to the mining operation. The Director finds that Texas' inclusion of the central office, in addition to the local offices, does not render its proposed regulation at TCMR 709.029(a) less effective than the counterpart Federal requirement at 30 CFR 702.13(a) and approves it.

11. TCMR 760.070(5), Definition of Owner of Record or Ownership Interest of Record

Texas proposed to add a definition of owner of record or ownership interest of record at TCMR 760.070(5). The proposed definition states that owner of record or ownership interest of record means the owner and address as shown in the tax records of the Texas Assessor-Collector of Taxes for the county where the property is located. Texas uses these terms throughout TCMR Subchapter F—Lands Unsuitable for Mining. The Federal regulations do not contain a corresponding definition. However, the Federal regulations use the term in the same manner as Texas. The Director finds the proposed Texas definition of owner of record or ownership interest of record at TCMR 760.070(5) is not inconsistent with any requirement of SMCRA or the Federal regulations. Therefore, the Director is approving the proposed definition.

12. TCMR 761.072(f)(1), Agency Notice of Adverse Affects on Protected Parks and Places

Texas proposed to revise TCMR 761.072(f)(1) to be substantially identical to the corresponding Federal requirements at 30 CFR 761.12(f)(1), with one exception. The Federal regulations includes a provision which states that ''[t]he regulatory authority, upon request by the appropriate agency, may grant an extension to the 30-day period of an additional 30 days.'' The Federal regulation provides that granting a 30-day extension for agencies to comment is discretionary to the regulatory authority. The proposed Texas regulation does not include provisions to grant a 30 day extension. By omitting this option, Texas has determined on a programmatic basis that it will not grant extensions. The Director finds this determination is not inconsistent with SMCRA or the Federal regulations and the proposed Texas regulation at TCMR 761.072(f)(1) is no less effective than the corresponding Federal requirement at 30 CFR 761.12(f)(1). The Director approves the regulation revisions.

13. TCMR 762.076(a), Lands Exempt From Designation as Unsuitable for Surface Coal Mining Operations

The Federal regulations at 30 CFR 762.13 identify lands exempt from designation as unsuitable for surface coal mining operations by stating ''The requirements of this part do not apply to—(a) Lands upon which surface coal mining operations were being conducted on the date of enactment of the Act''. In a previous State rulemaking, Texas revised its requirements at TCMR 7652.076(a) by adding ''on the date of enactment of the Act'' and deleting ''August 3, 1977''. The Federal regulations at 30 CFR 700.5 define ''Act'' as SMCRA, which has an effective date of August 3, 1977. The Texas regulations at TCMR 700.003(1) defines ''Act'' to mean the Texas Surface Coal Mining and Reclamation Act, which has an effective date of May 9, 1979. The result of the Texas rule revision was to extend the time frame from August 3, 1977, to May 9, 1979, for which lands being affected by mining are programmatically exempt from designation as unsuitable. In response to an issue letter, Texas proposed to revise its regulations to reinsert the August 3, 1977, date. This proposed change restores the Texas regulations at TCMR 762.076(a) back to that which OSM had previously approved. Therefore, the proposed change is the same as previously approved in the Texas program and no action is needed by the Director.

14. TCMR 764.079 (b)(1)(C) and (c)(1)(C), 764.080 (a)(1) and (b)(2), and 764.081(b)(1)(C), Process for Designating Lands as Unsuitable for Surface Coal Mining Operations

(a) *TCMR 764.079 (b)(1)(C) and (c)(1)(C), Requirements for Complete Petition.* Texas proposed to add new requirements at TCMR 764.079(b)(1)(C) to what is required for complete petitions for designation of lands unsuitable, and at TCMR 764.079(c)(1)(C) for complete petitions to terminate a designation. The proposed requirements state that complete petitions shall include the names and mailing addresses of persons with an ownership interest of record in the petitioned area. The Federal regulations do not have requirements that correspond to the proposed State regulations. The Federal regulations at 30 CFR 764.13 (b)(2) and (c)(2) allow that the regulatory authority may request that the petitioner provide other supplementary information that is readily available. The name and mailing address of each person with an ownership interest of record in the petition area is information that is available to the petitioners. The Director finds the proposed State requirements at TCMR 764.079(b)(1)(C) and 764.079(c)(1)(C) are not inconsistent with any requirements of SMCRA or the Federal regulations and approves them.

(b) *Notification Requirements of Completeness Decision.* At TCMR 764.080(a)(1), Texas proposed revisions to its regulations that, with one exception, are substantially the same as the corresponding Federal requirements at 30 CFR 764.15(a)(1). The Federal regulations provide that within 30 days of receipt of a petition, the regulatory authority shall notify the petitioner by certified mail whether or not the petition is complete. Texas proposed to provide this notification within 60 days. As discussed in Finding III.C.14(c), Texas proposed an option, not contained in the Federal regulations, to provide an opportunity for a hearing and period of written comments on the completeness decision. To accommodate the additional time needed for a hearing and period of written comments on completeness, Texas added 30 days to the schedule for a completeness determination. The Director finds the proposed regulation at TCMR 764.080(a)(1) is no less effective than the corresponding Federal regulation at 30 CFR 764.15(a)(1) and approves it.

(c) *Hearing and Period of Written Comment for Completeness Determination.* Texas proposed to add a new requirement at TCMR 764.080(b)(2) that allows the Commission to provide a hearing or a period of written comments on completeness of petitions. The proposed requirements identifies who the Commission shall inform of the opportunity of a hearing or period of written comments, how the different entities will be notified, and where a notice will published. The Federal regulations do not have a requirement that corresponds to the proposed State regulation. The proposed State provision will provide greater opportunity for interested agencies, interveners, persons with ownership interest in the petition area, and the public to participate in the petition process and to make their views known to the Commission. The Director finds the proposed Texas regulation at TCMR 764.080(b)(2) is not inconsistent with any requirement of SMCRA or the Federal regulations and approves it.

(d) *Notice of a Hearing for a Complete Petition.* The Federal regulations at 30 CFR 764.17(b)(1)(iii) require that proper

notice of a hearing for a complete petition to designate lands unsuitable for mining to persons with an ownership interest of record shall comply with applicable State law. AT TCMR 764.081(b)(1)(C), Texas proposed that proper notice shall be accomplished by placing a postage paid notice, addressed as shown in the public record, in the U.S. Mail. The use of the U.S. Mail is a reasonable method for providing notice of a hearing. The Director finds the proposed regulation at TCMR 764.081(b)(1)(C) is no less effective than the corresponding Federal regulation at 30 CFR 764.17(b)(1)(iii) and approves it.

15. TCMR 779.127 and 783.173, Geology Description

Texas proposed to revise TCMR 779.127 and 783.173 to specify in greater detail the geologic information that must be submitted in a permit application. In addition, OSM placed a required amendment on the Texas program at 57 FR 37447 (August 19, 1992) which states that: ''Texas shall submit to OSM a proposed amendment for the geologic description requirements at TCMR 779.127 (a) and (b) to require that the geologic description must be based, in part, on analysis of samples of geologic materials collected from the proposed permit area.'' Texas proposed at TCMR 779.127(b) to specifically require that ''[t]he geologic description shall include analysis of samples * * * from the permit area.'' With one exception, proposed TCMR 779.127 and 783.173 are substantially identical to corresponding Federal regulations at 30 CFR 780.22 (b) and (c), and 784.22 (b) and (c).

The exception is that Texas' proposed TCMR 779.127(a) does not include the information sources listed by the Federal regulations at 30 CFR 780.22(b)(1) (i) through (iii). However, lack of these information sources does not relieve applicants from providing, or prevent Texas from requiring, a complete and adequate description of the geology of the permit and adjacent areas as specified at proposed TCMR 779.127(a). Therefore, the Director finds that the omission of these information sources does not render the proposed regulations at TCMR 779.127 and 783.173 less effective than the Federal regulations at 30 CFR 780.22 (b) and (c), and 784.22 (b) and (c). The Director approves the proposed regulations. In addition, the Director is removing the required amendment at 30 CFR 943.16(l).

16. TCMR 780.142(c) and 784.197(c), Surface and Underground Mine Permit Requirements—Operation Plan: Maps and Plans

OSM placed a required amendment on the Texas program at 57 FR 37447 (August 19, 1992) which states that: ''Texas shall submit to OSM a proposed amendment for the permit operation maps and plans requirements at TCMR 779.14[2](c) to require that qualified registered professional engineers (not professional geologist) prepare and certify cross sections, maps, and plans for sedimentation ponds, water impoundments; coal processing waste banks, dams, and embankments; excess spoil fills; durable rock fills; and coal mine waste disposal facilities.'' Texas proposed to revise TCMR 780.142(c) to address this required amendment. Texas proposed similar changes to the underground mining requirements at 784.197(c). The proposed revisions to the Texas regulations are substantially the same as the counterpart Federal requirements. Also, Texas does not propose a cross-reference counterpart to 30 CFR 816.74(c)—disposal of excess spoil on existing benches, because Texas does not have a State counterpart to this Federal requirement. This omission was previously approved as part of the Texas program. The Director finds that proposed Texas regulations at TCMR 780.142(c) and 784.197(c) are no less effective than the corresponding Federal requirements at 30 CFR 780.14(c) and 784.23(c) and approves them. In addition, the Director is removing the required amendment at 30 CFR 943.16(m).

17. TCMR 780.142(c) and 784.197(c), TCMR 780.148(a)(3)(i) and 784.190(a)(3)(i), TCMR 816.344(b)(3) and 817.514(b)(3), and TCMR 816.347 (a)(3), (a)(11), and (c)(2), and 817.517 (a)(3), (a)(11), and (c)(2), Land Surveyor Maps and Plans Preparation, Inspections and Certifications

The Federal regulations at 30 CFR 780.14(c) and 784.23(c) allow qualified, registered, professional land surveyors to prepare and certify maps and plans; however, Texas does not propose to adopt provisions at TCMR 780.142(c) and 784.197(c) to allow land surveyors to prepare and certify maps and plans. Texas, at TCMR 780.148(a)(3)(i) and 784.190(a)(3)(i), proposed to delete provisions that allow land surveyors to prepare and certify plans prepared under TCMR 780.148(a)(3) and 784.190(a)(3). The Federal regulations at 30 CFR 816.46(b)(3) and 817.46(b)(3) allow qualified land surveyors to certify siltation structures; however, Texas does not propose to adopt provisions that allow land surveyors to certify siltation structures at TCMR 816.344(b)(3) and 817.514(b)(3). The Federal regulations at 30 CFR 816.49 (a)(3), (a)(11), and (c)(2), and 817.49 (a)(3), (a)(11), and (c)(2) allow a qualified registered professional land surveyor to inspect and certify certain permanent and temporary impoundments. Texas does not propose to adopt provisions that allow land surveyors to certify designs at TCMR 816.347(a)(3) and 817.517(a)(3), to conduct inspections of impoundments under TCMR 816.347(a)(11) and 817.517(a)(11), or to certify designs at TCMR 816.347(c)(2) and 817.517(c)(2). At 57 FR 37450 (August 19, 1992), OSM previously approved Texas' omission of land surveyors from other sections of the Texas program. The Director finds that Texas' proposed changes to remove previously adopted provisions and to omit other provisions that allow land surveyors to prepare and certify certain plans does not render the Texas regulations less effective than the corresponding Federal regulations. Therefore, the Director approves these regulations.

18. TCMR 780.146 (a) and (d), and 784.188 (a) and (d), Hydrologic Information

(a) *TCMR 780.146(a) and 784.188(a), Hydrologic Reclamation Plan.* Texas proposed to revise its hydrologic reclamation plan requirements at TCMR 780.146(a) and TCMR 784.188(a). Except for the requirements at TCMR 780.146(a) (1) and (3), and 784.188(a) (1), (3), and (9), the proposed regulations contain language that is substantially the same as the corresponding Federal requirements for hydrologic reclamation plan at 30 CFR 780.21(h) and 30 CFR 784.14(g). Texas proposed to add language to TCMR 780.146(a)(1) and 784.188(a)(1) to ensure that the hydrologic reclamation plan include alternative sources of water where the protection of the quality cannot be ensured. These proposed requirements and the existing requirements at TCMR 780.146(a)(3) and 784.188(a)(3), which require that the hydrologic reclamation plan include alternative sources of water where the protection of the quantity cannot be ensured, supplement Texas' permit application requirements for alternative water supply information at TCMR 779.130 and 783.176. At TCMR 780.146(a)(3) and 784.188(a) (3) and (9), Texas proposed nonsubstantive wording changes that are not inconsistent with SMCRA or the Federal regulations. The Director finds the proposed regulations

at TCMR 780.146(a) and 784.188(a) are no less effective than the corresponding Federal requirements and approves them.

(b) *TCMR 784.188(d) (1)–(4), Determination of Probable Hydrologic Consequences—Underground Mining.* Texas proposed to delete its existing requirements for the determination of probable hydrologic consequences (PHC) from TCMR 784.188(c) and replace them with more detailed PHC requirements at proposed TCMR 784.188(d). With one exception, the proposed PHC determination requirements at proposed 784.188(d) (1)–(4) are substantially the same as the corresponding Federal requirements at 30 CFR 784.14(e). The Federal regulations at 30 CFR 784.14(e)(3)(iv) require that PHC determinations include findings on whether underground mining activities conducted after October 24, 1992, may result in contamination, diminution or interruption of a well or spring in existence at the time the permit application is submitted and used for domestic, drinking, or residential purposes within the permit or adjacent areas. At proposed TCMR 784.188(d)(3)(C), Texas is adding a requirement that the PHC must include a finding on whether the proposed operation may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit or adjacent areas which is used for domestic, agricultural, or other legitimate use. Proposed TCMR 784.188(d)(3)(c) requires a PHC determination if any legitimate use of water may be affected, whereas the Federal requirement for underground mining is limited to requiring the PHC to address impacts to domestic, drinking or residential uses. In addition, the Federal regulation effective date of October 22, 1992, for this requirement does not have any actual impact in Texas. On May 30, 1995, OSM confirmed with Texas that no underground mines have operated in Texas after October 24, 1992, and there is no underground mining activity proposed in the State (60 FR 38490, July 27, 1995). Therefore, the Director finds that Texas' proposed regulations at TCMR 784.188(d) (1)–(4) are no less effective than the corresponding Federal requirements at 30 CFR 784.14(e) and approves them.

(c) *TCMR 780.146(d)(5) and 784.188(d)(5), Supplemental Hydrologic Information.* The Federal requirements at 30 CFR 780.21(b)(3) and 784.14(b)(3) contain requirements for supplemental information that must be submitted if the PHC projects or other conditions indicate that adverse hydrologic impacts may occur. The proposed Texas regulations at TCMR 780.146(d)(5) and 784.188(d)(5) contain language that is substantially identical to the Federal regulations. In addition, the proposed State regulations also include a requirement for information to be provided on alternative water supplies if such impacts are anticipated. This additional requirement supplements the existing State requirements for alternative water supply information at TCMR 779.130 and 783.176 and is not inconsistent with SMCRA or the Federal regulations. The Director finds that Texas' proposed regulations at TCMR 780.146(d)(5) and 784.188(d)(5) are no less effective that the corresponding Federal regulations and approves them.

(d) *Alternative Water Supply Information.* The Federal regulation at 30 CFR 780.21(e) contains requirements for alternative water supply information to be submitted in the permit application if the PHC indicates that the proposed mining operation may impact a surface or underground source of water within the permit or adjacent areas that is used for a legitimate purpose. The Texas counterpart to the Federal requirement is at TCMR 779.130. OSM informed Texas, in a letter sent under 30 CFR 732.17(c), that it should change its alternative water supply requirements to be no less effective that the Federal regulation at 30 CFR 780.21(e). As discussed in Findings III.C.18(a) and III.C.18(c), Texas proposed revised and new regulations at TCMR 780.146(a) and (d)(5), respectively, that supplement its existing requirements for alternative water supply information. The Director finds that Texas' requirements for alternative water supply information at TCMR 779.130 as supplemented with its requirements at TCMR 780.146(a) and (d)(5) are no less effective than the Federal requirements at 30 CFR 780.21(e).

19. TCMR 780.148(c)(3) and 784.190(c)(3), Surface and Underground Requirements—Reclamation Plan: Permanent and Temporary Impoundments

The Federal regulations at 30 CFR 780.25(c)(3) and 784.16(c)(3) provide that for ponds not meeting the requirements of subsections (c)(2), the regulatory authority may establish engineering design standards that ensure stability comparable to the 1.3 minimum static safety factor in lieu of engineering tests to establish compliance with the performance standards. Texas chose to not propose engineering design standards. However, at TCMR 780.148(c)(3) and 784.190(c)(3), Texas proposed to establish a minimum static safety factor of 1.3 for ponds that do not meet the requirements of 816.347(a)(4)(i) and 817.517(a)(4)(i). Although Texas cross-references its performance standards instead of the permitting requirements as in the Federal regulations, the effect of the cross-reference is the same. The Director finds that the proposed Texas regulations at TCMR 780.148(c)(3) and 784.190(c)(3) are no less effective than the corresponding Federal requirements at 30 CFR 780.25(c)(3) and 784.16(c)(3), and approves them.

20. TCMR 806.311(d), Terms and Conditions for Liability Insurance

The Federal regulations at 30 CFR 800.60(d) contain provisions for self-insurance in lieu of a certificate for a public liability insurance policy. The regulations require that to be self-insured, an applicant must satisfy the applicable State self-insurance requirements approved as part of the regulatory program and the requirements of this Section. Texas proposed to add a provision to its regulations at TCMR 806.311(d) regarding self-insurance that states ''[t]he Commission may, upon request of an applicant that is self-bonded or determined to be eligible for self-bonding under Section 309(j)(2), consider such applicant to meet the self-insurance requirements of this Paragraph.'' Texas regulation TCMR 806.309(j)(2) contains the self-bonding requirements for business and governmental entities. These requirements are substantially similar to the Federal requirements at 30 CFR 800.23(b), except for the alternative financial eligibility criteria of the Texas program found at TCMR 806.309(j)(2)(C)(iv) differ from the Federal requirements, and were approved as part of the Texas program on December 13, 1995 (60 FR 63922). Texas provided information to demonstrate it has authority to implement a self-insurance program for surface coal mining and reclamation operations. It submitted a letter from the Texas Department of Insurance that states: ''* * * there are no provisions in the Texas Insurance Code pertaining to self-insurance for general liability coverage * * * [t]his does not mean that other state agencies could not have their own rules or regulations concerning self-insurance in lieu of purchasing an insurance policy.'' Texas stated that it derives its authority to set self-insurance requirements for coal mine operators from its Surface Coal

Mining and Reclamation Act, TEX. NAT. RES. CODE §§ 134.052, which provides: ''(a) [a] permit application must be submitted in a manner satisfactory to the Commission and must contain: * * * (19) * * * evidence satisfactory to the commission that the applicant should be allowed to be self-insured * * *.'' The Texas requirements for self-bonding will ensure that an applicant which seeks to self-insure will possess sufficient financial capacity and solvency to adequately compensate a person who has personal injury or property damage as a result of the surface coal mining and reclamation operations to the minimum limits for certificated liability coverage under TCMR 806.311(a). The Director finds that the existing requirements of Texas' Surface Coal Mining and Reclamation Act, TEX. NAT. RES. CODE § 134.052(a)(19), together with existing TCMR 806.309(j)(2) and proposed TCMR 806.311(d) are no less effective than the Federal regulations at 30 CFR 800.60(d). Therefore, the Director approves TCMR 806.311(d).

21. TCMR 816.34(a)(4), Diversion Design Specifications

At TCMR 816.341(a)(4) (i)-(v) and 817.511(a)(4) (i)-(v), Texas proposed specific design criteria for diversions. The Federal regulations at 30 CFR 816.43(a) (4) and 817.43(a) (e) provide discretion for regulatory authorities to specify design criteria for diversions to meet the requirements of these sections. The proposed State design specifications address stabilization of diversion banks and channels, erosion protection for transition and critical areas, energy dissipators, handling of excess excavated material, and handling of topsoil. The Director finds the proposed State regulations are not inconsistent with any requirement of SMCR or the Federal regulations and is approving them.

22. TCMR 816.344(c) and 817.514(c), Siltation Structures

At TCMR 816.344(c) (1)–(2) and 817.514(c) (1)–(2), Texas proposed to add regulations that, with two exceptions, are substantially the same as the Federal regulations at 30 CFR 816.46 (c) and 817.46 (c). The proposed regulations at TCMR 816.344(c)(1)(iii)(A) and 817.514(c)(1)(iii)(A) state that sedimentation ponds shall be designed to provide adequate sediment storage volume, which is identical tot he corresponding Federal requirements. The State regulations contain an additional provision in that they establish a minimum sediment storage volume and describe how the sediment volume shall be determined. The proposed regulations at TCMR 816.344(c)(1)(c)(iii)(B) and 816.514(c)(1)(iii)(B) state that sedimentation ponds shall be designed to provide adequate detention time, which also is identical to the corresponding Federal requirements. The State regulations contain an additional provision in that they establish a minimum detention time of 10 hours unless chemical treatment is used. The Director finds these additional requirements are not inconsistent with any requirement of SMCRA or the Federal regulations. In addition, the Director finds that the proposed regulations at TCMR 816.344(c) (1)–(2) and 817.514(c) (1)–(2) are no less effective that the corresponding Federal requirements and is approving these regulations.

23. TCMR 817.519 (a)(3) and (b)(3), Hydrologic Balance: Ground Water Monitoring

At its underground mining performance standards at TCMR 817.519 (a)(3) and (b)(3), Texas proposed new regulations that, with one exception, are substantially the same as the Federal regulations at 30 CFR 817.41 (c)(3) and (e)(3). At TCMR 817.519 (a)(3)(1) and (b)(3)(i), Texas proposed to add the phrase ''and the water rights of other users have been protected or replaces.'' The corresponding Federal regulations do not contain this requirement. Texas proposed to place the same requirements on underground mining as it does for surface mining operations for ground water and surface monitoring. This includes ensuring that the water rights of users have been protected or replaced before allowing any modifications to the monitoring plans. The Director finds that the proposed regulations at TCMR 817.519 (a)(3) and (b)(3) are not inconsistent with any requirement of SMCRA or the Federal regulations, and approves them.

24. TCMR 816.357(d) and 817.526(d), Use of Explosives: General Requirements

At TCMR 816.357(d) and 817.526(d), Texas proposed new regulations that are substantially the same as the corresponding Federal regulations at 30 CFR 816.61(d) and 817.61(d), with two exceptions. Subsections (d)(1)(A) and (d)(1)(B) of the proposed regulations require that blast designs be submitted if blasting operations are within 1,000 feet of specific buildings or 500 feet of specific structures. At TCMR 816.357(d)(1)(A) and 817.526(d)(1)(A), Texas proposed to add ''hospital'' and ''nursing facilities'' to the list of buildings identified in the Federal regulations. In addition, at TCMR 816.357(d)(1)(B) and 817.526(d)(1)(B), Texas proposed to add ''disposal wells, petroleum or gas storage facilities'' and ''fluid-transmission pipelines, gas or oil-collection lines, or water and sewage lines'' to the list of structures identified in the Federal regulations. Texas proposed to add the buildings and structures identified in these regulations to be consistent with its existing requirements at TCMR 816.360(a)(2) and 817.528(a)(2). The Director finds that the proposed Texas regulations at TCMR 816.357(d) and 817.526(d) are not inconsistent with any requirement of SMCRA and are no less effective than the Federal regulations at 30 CFR 816.61(d) and 817.61(d). Therefore, the Director approves them.

25. TCMR 816.330(f), 816.360, 817.500(f), and 817.528, Use of Explosives

(a) *TCMR 816.330(f) and 817.500(f), Blasting Signs.* Texas proposed to revise its blasting sign regulations for surface and underground mining to reference sections 816.360 and 817.528, respectively, to determine when blasting signs are required. These proposed regulations are similar to 30 CFR 816.666(a) and 817.66(a), which state, in part, that blasting signs shall meet the specifications of 30 CFR 816.11. The Director finds the proposed State regulations at TCMR 816.330(f) and 817.500(f) are no less effective than the comparable Federal regulations at 30 CFR 816.66(a) and 817.66(a) and approves them.

(b) *TCMR 816.360, Control of Adverse Effects.* OSM placed required amendments 30 CFR 943.16(n) (1)–(5) on the Texas program at 57 FR 37447 (August 19, 1992) which require that Texas require operators to submit blast designs for all blasting operations within 1000 feet of buildings listed in TCMR 816.360(a)(2)(A) and within 500 feet of the facilities listed in TCMR 816.360(a)(2)(B), add ''public buildings'' and ''community or institutional buildings'' to the list of protected buildings at TCMR 816.360(a)(2)(A), add ''active and abandoned underground mines'' to the list of facilities in TCMR 816.360(a)(2)(B), correct citation errors in TCMR 816.360(h), and correct a codification error and citation errors at proposed TCMR 816.360(i). Texas proposed to make changes to TCMR 816.360 (a)(2), (a)(2)(A), (a)(2)(B), (h)(1), (h)(2), (h)(3), and (i) that satisfy the required amendments. Texas also proposed to make changes to TCMR

816.360 to correct a citation error at Section .360(f)(1)(A) that is the result of recodifying Section .360(i), and to correct other citation errors at (g)(2), (h)(2)(A) and (h)(3)(A) and (B). The Director finds that proposed TCMR 816.360 is not less effective than the corresponding Federal regulations at 30 CFR 816.61 and 816.67 and approves it. In addition, the Director, is removing the required amendments at 30 CFR 943.16(n)(1)–(5).

(c) *TCMR 817.528, Control of Adverse Effects.* Texas proposed to substantially revise its underground mining regulations for use of explosives—control of adverse effects at TCMR 817.528. The Director finds that proposed TCMR 817.528 includes all the requirements of, and is no less effective than the corresponding Federal regulations at 30 CFR 817.61, 817.66, and 817.67. The Director approves these regulations.

26. TCMR 816.376(d) and 817.543(d), Coal Mine Waste Dams and Embankments

Texas proposed to add new regulations at TCMR 816.376(d) and 817.543(d) that, with one exception, are substantially the same as the corresponding Federal regulations at 30 CFR 816.84(b)(2) and 817.84(b)(2). The Federal regulations require that each impounding structure constructed of coal mine waste or intended to impound coal mine waste that meets the criteria of 30 CFR 77.216(a) shall have adequate spillway capacity to safely pass, adequate storage capacity to safely contain, or a combination of storage capacity and spillway capacity to safely control, the probable maximum precipitation of a 6-hour precipitation event, or greater event as specified by the regulatory authority. Texas' proposed regulations at TCMR 816.376(d) and 817.543(d) require that all impoundments meeting the specified criteria to have a combination of principal and emergency spillways able to safely pass the probable maximum precipitation of a 6-hour or greater precipitation event. The Director finds that the proposed provisions which require that each impounding structure constructed of coal mine waste or intended to impound coal mine waste that meet the criteria of 30 CFR 77.216(a) to have a combination of principal and emergency spillways able to safely pass the probable maximum precipitation of a 6-hour or greater precipitation event do not render proposed TCMR 816.376(d) and 817.543(d) less effective than the corresponding Federal requirements at 30 CFR 816.84(b)(2) and 817.84(b)(2). Therefore, the Director approves the regulations.

27. TCMR 816.395 and 817.560, Revegetation Standards for Success

Texas proposed new requirements at TCMR 816.395 (a)–(c) and 817.560 (a)–(c). Except at TCMR 816.395(b)(1), 816.395(c)(4) and 817.560(c)(4), Texas' proposed requirements at TCMR 816.395 and 817.560 are substantially identical to the Federal requirements for revegetation success at 30 CFR 816.116 and 817.116. At proposed TCMR 816.395(b)(1), Texas proposed to add the postmining land use of ''undeveloped land'' to the list of land uses where ground cover and production of living plants shall be at least equal to that of a reference area or such other success standard approved by Texas. There is no Federal counterpart to the Texas proposal for a success standard for undeveloped land. However, since undeveloped land is a recognized land use category by both the Federal and Texas regulations, its use in proposed TCMR 816.395(b)(1) is not inconsistent with any requirement of SMCRA or the Federal regulations.

At TCMR 816.395(c)(4) and 817.560(c)(4) Texas proposed new regulations regarding normal husbandry practices. The corresponding Federal requirements at 30 CFR 816.116(c)(4) and 817.116(c)(4) include the requirement that discontinuance of the practices after the liability period expires will not reduce the probability of revegetation success. Texas has not included the part of the requirement regarding ''after the liability period expires''. As proposed, Texas may only approve normal husbandry practices where discontinuance at any time, not only after the liability period expires, will not reduce the probability of revegetation success. The omission of the phrase ''after the liability period expires'' in the Texas regulations does not render them less effective than the Federal requirements. The Director finds the proposed Texas regulations at TCMR 816.395 and 817.560 are no less effective than the corresponding Federal requirements at 30 CFR 816.116 and 817.116 and approves them.

28. TCMR 817.522(f), Discharge of Water Into an Underground Mine

OSM placed a required amendment on the Texas program at 57 FR 37447 (August 19, 1992) which requires that Texas submit an amendment to the requirements at TCMR 817.522(f) to replace the term ''surface mining activities'' with ''underground mining activities.'' Texas proposed to revise TCMR 817.522(f) to address this requirement. The proposed Texas regulation at TCMR 817.522(f) is essentially identical to the corresponding Federal requirement at 30 CFR 817.41(h)(i). The Director finds that Texas' proposed regulation at TCMR 817.522(f) is no less effective than the corresponding Federal requirement at 30 CFR 817.41(h)(1)(i) and approves it. In addition, the Director is removing the required amendment at 30 CFR 943.16(o).

29. TCMR Part 846, Individual Civil Penalties

(a) *TCMR 846.001, Definitions.* Texas proposed to adopt definitions of ''knowingly'' at subsection .001(1), ''violation, failure, or refusal'' at subsection .001(2), and ''willfully'' at subsection .001(3). The proposed Texas definitions of ''knowingly'' and ''willfully'' are substantially the same as the definitions in the Federal regulations at 30 CFR 846.5. The proposed definition of ''violation, failure, or refusal'' uses different language than the corresponding Federal definition at 30 CFR 846.5, but the meaning is substantially the same. The Federal definition includes ''any order issued under section 521 of the Act, or any order incorporated in a final decision issued by the Secretary under the Act * * *''. The proposed Texas definition includes ''any order issued by the Commission, including, but not limited to, * * *'' The Texas definition then contains a list of orders that is substantially identical to those included under section 521 of SMCRA. The list includes notice of violation, failure-to-abate cessation order, imminent harm cessation order, order to show cause why a permit should not be suspended or revoked, and order in connection with a civil action for relief. Additionally, the Federal definition goes on to include an exception for ''an order incorporated in a decision issued under section 518(b) or section 703 of [SMCRA].'' Texas proposed to except ''an order incorporated in a decision issued under Section 134.175 of the Act,'' which is the Texas counterpart to SMCRA section 518(b). Texas did not propose a counterpart to the Federal exception for orders issued under SMCRA section 703 because the Texas program does not include a corresponding requirement to that SMCRA section. The Director finds that Texas' proposed definitions at TCMR 846.001 are no less effective than the corresponding Federal regulations at 30 CFR 846.5 and approves them.

(b) *TCMR 846.004, Procedure for Assessment of Individual Civil Penalty.* Texas proposed to add regulations for

procedures for assessment of individual civil penalty. With one exception, the proposed State regulations are substantially the same as the corresponding Federal requirements at 30 CFR 846.17. Texas' proposed section 846.004(c) provides, in part, that for the purposes of section 846.004: ''service shall be performed on the individual to be assessed an individual civil penalty by certified mail, or by any alternative means consistent with the rules governing service of a summons and complaint under Tex. R. Civ. P. 21a.'' The Federal regulation dealing with service on an individual to be assessed an individual civil penalty is at 30 CFR 846.17(c). It is essentially identical to the State requirement, except it refers to Rule 4 of the Federal Rules of Civil Procedure rather than Tex. R. Civ. P. 21a. Although Rule 4 differs somewhat from Tex. R. Civ. P. 21a, the differences do not present a problem since Rule 4 allows service on an individual, with certain exceptions not relevant to this requirement, to be effected pursuant to State law. The Director finds that Texas' proposed regulations at TCMR 846.004 are no less effective than the corresponding Federal regulations at 30 CFR 846.17 and approves them.

(c) *TCMR 846.005, Payment of Penalty.* Texas proposed to add requirements for payment of an individual civil penalty. With one exception, the proposed State regulations at TCMR 846.005 are substantially the same as the corresponding Federal requirements at 30 CFR 846.18. The Federal regulation at 846.18(b) states that a penalty shall be due under the circumstances outlined ''upon issuance of a final administrative order affirming, increasing, or decreasing the proposed penalty.'' Proposed TCMR 846.005(b) states ''the penalty shall be due upon issuance of the final order * * *'', it does not specify a ''final administrative order.'' Under the proposed Texas provision, payment is not due until a final order, which may be a judicial order, is issued. However, the Texas regulation at TCMR 845.697, under which the hearing is requested, requires that an amount equal to the proposed penalty be paid into escrow as part of the request. The Federal provisions do not require an escrow payment as part of the request for a hearing, a penalty is not paid until a final administrative order is issued. The fact that the penalty amount is in an escrow account instead of in the State's treasury if a judicial appeal is filed does not render this requirement less effective than the Federal requirements. The Director finds that Texas' proposed regulations at TCMR 846.005 are no less effective than the corresponding Federal regulations at 30 CFR 846.18 and approves them.

30. *TCMR Part 850, Training, Examination, and Certification of Blasters*

(a) *TCMR 850.703 and 850.706, Training, Examination.* In response to a required program amendment at 30 CFR 943.16(p), Texas proposed at TCMR 850.703(b)(1)(A) and 850.706(a) to add the terms ''storage'' and ''transportation'' to the list of topics related to explosives that the blaster certification course and examination must cover. The Director finds that revised TCMR 850.703(b)(1)(A) and 850.706(a) are no less effective than the corresponding Federal regulations at 30 CFR 850.13(a)(1) and 850.14(a)(1). Therefore, the revised regulations are approved, and the required amendment at 30 CFR 943.16(p) is removed.

(b) TCMR 850.704, Training Courses. In response to a required program amendment at 30 CFR 943.16(a), Texas proposed at TCMR 850.704(b) to add a sentence that would require that blaster certification training courses ''* * * must provide and require completion of the subjects listed in paragraph (a) of this section.'' The Director finds that revised TCMR 850.704(b) is no less effective than the corresponding Federal regulation at 30 CFR 850.13(b). Therefore, the revised regulation is approved, and the required amendment at 30 CFR 943.16(a) is removed.

IV. Summary and Disposition of Comments

Public Comments

The Director solicited public comments and provided an opportunity for a public hearing on the proposed amendment. The Texas Parks and Wildlife Department (Administrative Record No. TX–559), Texas Water Commission (Administrative Record No. TX–560), Texas Mining and Reclamation Association (Administrative Record No. TX–568), Walnut Creek Mining Company (Administrative Record No. TX–570), TU Services (Administrative Record Nos. TX–569 and TX–607), and Texas Department of Health (Administrative Record No. TX–604) commented on the proposed amendment. No one requested an opportunity to speak at a public hearing, therefore, no hearing was held.

Following is a summary of the substantive comments received on the proposed amendment. Comments identifying errors of a purely typographical or editorial nature, and comments voicing general support to the proposed amendment but devoid of any specific statements are not discussed.

One commenter suggested that Texas revise TCMR 761.071 (c) and (f), and 786.216(e) to add ''publicly owned wildlife management areas or scientific areas'' after ''publicly owned park.'' The commenter justified the recommended change by stating the regulations, which address where mining is prohibited or limited, should include other major types of publicly owned areas. Texas' proposed regulations at TCMR 761.071(c) and (f), and 786.216(e) are substantially identical to the Federal regulations at 30 CFR 761.11 (c) and (f), and 30 CFR 773.15(c)(11), and, therefore, are not inconsistent with the Federal requirements. The appropriateness of the Federal rule is not at issue in this rulemaking.

One commenter responded that proposed TCMR 780.142(d), in following the Federal regulations, requires that ''* * * plans and drawings for each support structure to be constructed, used, or maintained in the proposed permit area * * * be sufficient to demonstrate compliance with Section 816.422 for each facility.'' The commenter stated that it wished to underscore that Section .422 limits the evaluation of such facilities to certain specific and limited determinations, and that such evaluations should be possible with project layout plans together with baseline information, and should not require detailed architectural drawings such as those used in construction. As acknowledged by the commenter, proposed TCMR 780.142(d) is substantially identical to the Federal regulations at 30 CFR 780.38, and, therefore, is not inconsistent with the Federal requirements. In addition, TCMR 816.422 is not proposed to be revised by Texas in this amendment. In acting on State program amendments, the Director only addresses those sections of a State's law and regulations where revisions are proposed by a State.

A commenter expressed a concern with proposed TCMR 780.146(c)(2) that, based on the wording ''seasonal quality and quantity, and usage'' in Texas' May 20, 1993 submittal of the amendment, the regulation could be applied to existing wells which includes landowner wells that are often outside the permit area and outside the applicant's area of control.

This section of the Texas regulations address the requirements for the probable hydrologic consequences (PHC). Texas proposed in its July 31, 1996, revised submittal of the amendment to completely modify its

regulations at 780.146. The wording the commenter expressed concerns with is removed. Texas' proposed regulations at TCMR 780.146(d) (1)–(4), which address the PHC requirements in the revised regulations, are substantially identical to the Federal regulations at 30 CFR 780.21(f), and, therefore, are not inconsistent with the Federal requirements.

One commenter expressed the belief that, although proposed 786.210(a)(3) [redesignated as .210(c)(3) in the July 31, 1996, revised amendment] parallels the Federal regulation in that archaeological information made confidential includes only public and Indian land, it would be appropriate to keep confidential the specific locations of all such sites, whether on public, Indian or private lands. As acknowledged by the commenter, proposed TCMR 786.210(a)(3) [redesignated .210(c)(3)] is substantially identical to the Federal regulations at 30 CFR 773.13(d)(3)(iii), and, therefore, is not inconsistent with the Federal requirements.

One commenter questioned the intent of the proposed change at TCMR 786.220(d) from ''permittee'' to ''operator,'' regarding who is responsible for paying AML fees. The commenter recommended that the Texas proposed rule be amended to read ''permittee or operator'' to provide flexibility needed by permittees and operators in the State. As acknowledged by the commenter, proposed TCMR 786.220(d) is substantially identical to the Federal regulations at 30 CFR 773.17(g), and, therefore, is not inconsistent with the Federal requirements.

Another commenter, in responding to Texas' May 20, 1993, submittal, suggested that Texas revise TCMR 816.342 Hydrologic Balance: Steam Channel Diversion to be similar to OSM rules, by adding a new part (c) that requires permanent diversions or reclaimed stream channels to be designed and constructed to restore or approximate the pre-mining characteristics of the original stream channel including the natural riparian vegetation to promote the recovery and the enhancement of the aquatic and stream corridor habitat. In its July 31, 1996, submittal of a revised amendment, Texas proposed to remove all of its requirements at TCMR 816.341 and .342, and to replace them with a new regulations at TCMR 816.341 Hydrologic Balance: Diversions, that are similar to, and no less effective than the Federal regulations at 30 CFR 816.43. The language recommended by the commenter is contained in revised TCMR 816.341(a)(3).

A commenter requested that the proposed language at TCMR 816.344(a) be revised by taking the language from the Federal regulations at 30 CFR 816.46 (a)(1)–(a)(2)(ii) and replacing the proposed Texas language to better define areas that are not considered disturbed areas. In its July 31, 1996, revised amendment, Texas proposed to remove all of its requirements at TCMR 816.344 and to replace them with new regulations that are similar to and no less effective than the Federal regulations at 30 CFR 816.46. The language recommended by the commenter is contained in revised TCMR 816.344(a).

One commenter responded to proposed revisions to TCMR 816.355(c) by stating the expansion of the required notification (for pre-blast surveys) to include the area ½ mile from the permit boundary rather than the current Texas requirement of ½ mile from the blasting area unnecessarily penalizes Texas mining which is characterized by large permit areas compared to mines in other parts of the United States. The commenter went on to state that the reason for the regulation is safety, and safety is based on distance from the event—not from the permit boundary. Texas' proposed regulation at TCMR 816.355(c) is substantially identical to the Federal regulations at 30 CFR 816.62(a), and, therefore, is not inconsistent with the Federal requirements. The appropriations of the Federal rule is not at issue in this rulemaking.

Another commenter suggested that the language of TCMR 816.395(a) does not allow for demonstrations or the development of technical procedures that may be more representative of the revegetated areas and existing physical conditions of the areas. The comment contained specific recommended changes. This section contains general revegetation success requirements; it does not prohibit development of technical procedures that may be more representative of the revegetated area as suggested by the commenter. Proposed TCMR 816.395 is substantially identical to the Federal regulations at 30 CFR 816.116(a), and, therefore, is not inconsistent with the Federal requirements.

Two commenters expressed concerns with proposed TCMR 816.395(b)(3)(i). One commenter believes the requirement for approval by other agencies will create overlapping jurisdiction and will make the regulatory process less efficient and certain, and that dual agency authority may cloud the technical issues and result in the removal of flexibility to use sound agronomic practices based on site specific conditions. The commenter requested that the ''approval by'' the State agencies responsible for the administration of forestry and wildlife programs be removed from the language. The second commenter stated that consultation with these agencies is adequate to provide the regulatory authority with the information required to make an informed decision on adequacy of the proposed revegetation (stocking) plans; and this is further supported by the high level of expertise maintained by the regulatory authority's technical staff. This commenter added that providing authority to approval to part of the application effectively places certain aspects of a revegetation into a group which has little knowledge of SMCRA and the surface mining and reclamation industry, and that it is entirely possible that revegetation plans would become research tools for these outside agencies and eventually interfere with postmine land uses in agriculture regions. Texas' proposed regulation at TCMR 816.395(b)(3)(i) is substantially identical to the Federal regulation at 30 CFR 816.116(b)(3)(i), and, therefore, is not inconsistent with the Federal requirements. Additionally, the appropriateness of the Federal rule is not at issue in this rulemaking.

One commenter expressed a concern that proposed 816.395(b)(3)(ii) is subject to improper interpretation. The commenter indicated that if the interpretation results in trees having to be in place for two years prior to initiating the 5-year period of extended responsibility, significant delays will occur in placing land into the 5-year period; and this will delay the return of land to landowners, increase the operator's cost of revegetation and maintenance of reclaimed lands, and extend the financial commitments for the operator's bonds. The commenter added that the two year requirement serves no practical purpose since the regulations require that 80% of the trees have to have been in place for 60% of the minimum responsibility period; and then recommended a change to eliminate the problems with interpretation. Texas' proposed regulation at TCMR 816.395(b)(3)(ii) is substantially identical to the Federal regulation at 30 CFR 816.116(b)(3)(ii), and, therefore, is not inconsistent with the Federal requirements. In addition, the commenter's concern is misplaced in that TCMR 816.395(b) addresses standards for success, which is the success of the vegetation for bond

release; it does not address the establishment of vegetation standard that must be met to initiate the extended responsibility period.

Comments were submitted regarding several proposed regulation changes that were subsequently withdrawn from the amendment by Texas. Specifically, two commenters responded to the May 20, 1993, submittal of the amendment with comments regarding TCMR 701.008(71), definition of road; TCMR 780.154 (a), (a)(5), and (a)(6), transportation facilities application requirements; TCMR 816.395—Appendix A, Revegetation Success Standards and Statistically Valid Sampling Techniques; and TCMR 816.401, .412(b), and .419(a), roads performance standards. On January 29, 1996, Texas withdrew the proposed regulation changes regarding roads and transportation from this amendment (Administrative Record No. TX–610). Texas submitted a separate amendment that dealt specifically with roads and transportation requirements (Administrative Record No. TX–610), which the Director approved in the April 8, 1996, **Federal Register** (61 FR 15380). On July 31, 1996, Texas withdrew its proposed guidance document on revegetation success standards and sampling techniques, and committed to resubmit a separate amendment dealing with this specific topic (Administrative Record No. TX–621).

Several commenters responded with comments regarding regulations that were not proposed to be revised in this amendment. Comments were submitted regarding TCMR 701.008(44) (b), (c), and (h), definitions of pastureland, grazingland, and fish and wildlife habitat; TCMR 779.136(i) and 784.182(i), surface and underground mine-general map requirements; TCMR 790.151(a) and 784.191(a) surface and underground mine-protection of public parks and historic places; TCMR 780.144(a) and 784.195(a), surface and underground mine-fish and wildlife plan; TCMR 780.148(a), surface mine-ponds, impoundments, banks, dams, and embankments; TCMR 800.301 (b) and (b)(1)(B), incremental bonding; TCMR 816.334(f) and 817.505(f), surface and underground mine-general topsoil performance standards; TCMR 816.363(g) and 817.531(g), surface and underground mine-general excess spoil performance standards; TCMR 816.380 (a), (b), (d), (e)(4), (e)(5), (e)(8), and 817.547 (a), (b), (d), (e)(4), (e)(5), (e)(8), surface and underground mine-fish and wildlife performance standards; and TCMR 816.384(a) (3) and (4), surface mine-general backfilling and grading performance standards. In acting on State program amendments, the Director only addresses those sections of a State's law and regulations where revisions are proposed by a State. All comments received by OSM on this amendment, regardless of whether they addressed regulations proposed to be revised, have been sent to Texas.

Federal Agency Comments

Pursuant to 30 CFR 732.17(h)(11)(i), the Director solicited comments on the proposed amendment from various Federal agencies with an actual or potential interest in the Texas program. Comments were requested regarding Texas' original May 13, 1993 submittal, and its September 18, 1995, and July 31, 1996, revised submittals of the proposed amendment.

The National Park Service (NPS) responded on June 14, 1993, that it is pleased to note the TCMR 761.072(b)(2) will require that the NPS be notified of requests for determinations of valid existing rights within NPS boundaries. The NPS also recommended that the regulation be further amended to include notifying the NPS when determinations of valid existing rights would occur in the vicinity of NPS units (i.e., when NPS units are in the proposed mine's area of environmental impact). (Administrative Record No. TX–554). Texas' proposed regulation at TCMR 761.072(b)(2) is substantially identical to the Federal regulations at 30 CFR 761.12(b)(2), and, therefore is not inconsistent with the Federal requirements. The appropriateness of the Federal rule is not at issue in this rulemaking.

The Bureau of Mines responded on June 21, 1993, that it had no comments (Administrative Record No. TX–557).

The Soil Conservation Service (Natural Resources Conservation Service) responded on June 22, 1993, and October 17, 1995, that it did not have any negative comments or suggestions for improvement regarding the proposed rule changes (Administrative Record Nos. TX–555 and TX–602).

The Fish and Wildlife Service (FWS) responded on June 28, 1993, with three specific comments and two concerns, in addition to providing support to the Texas Parks and Wildlife Department's comments (Administrative Record No. TX–558). The FWS commented that additional wording should be added to the proposed amendment at TCMR 816.342 regarding reclamation of permanent diversions and restored stream channels in order to be compatible with 30 CFR 816.43(a)(3) of the Federal regulations. Texas revised its proposed amendment at TCMR 816.341 and 816.342 to be essentially identical to the Federal requirements at 30 CFR 816.43(a)(3).

The FWS commented that subparts (e)(4) and (e)(5) of TCMR 816.380 should be modified to comply with the sequential mitigation requirement identified in its counterpart federal rule at 30 CFR 816.97(e)(4)(f). The FWS' third comment was a recommendation that Texas revise its underground permit requirements at TCMR 817.547 to be similar to its surface mining requirements at 816.380 for consistency. One concern noted by the FWS addressed what it contends are restrictive requirements in TCMR 816.334 and 816.363 dealing with topsoil removal and spoil disposal. The FWS' second concern is its stated frustration with the apparent disregard of the fish and wildlife values inherent in land use categories such as grazingland, forest land, and undeveloped land, and the lack of mitigation of these resource values during the reclamation phase of a mine project. It also states that a clear and significant long-term impact to wildlife habitat has occurred, but technically there has been no land use change. The FWS recommends that what it considers a loophole in the land use regulations needs to be addressed in future amendments. Texas does not propose any changes in this amendment to the previously approved requirements at TCMR 816.380 (e)(4), (e)(5), 817.547, or the land use definitions. In acting on State program amendments, the Director only addresses those sections of a State's law and regulations where revisions are proposed by a State. All comments received by OSM on this amendment, regardless of whether they addressed regulations proposed to be revised, have been sent to Texas.

The U.S. Army Corps of Engineers, Engineering Division (COE) responded on July 12, 1993, October 10, 1995, and August 28, 1996 (Administrative Record Nos. TX–561, TX–599, and TX–627). In its July 12, 1993, and August 28, 1996, responses the COE indicated that it had no comments, and that it found the changes to be satisfactory, respectively. The COE recommended in its October 10, 1995, response that dams and water control structures be added to the list of facilities in TCMR 816.360(a)(2)(A) and 817.528(a)(2)(A) [the COE comments incorrectly cited 81.526] where blasting will not be conducted within 1,000 feet. The COE stated that while these facilities are designed with factors of safety, the designs generally do not consider blasting in close proximity to the structure. As discussed at Finding

III.C.25(b), Texas' proposed regulations at TCMR 816.360(a)(2)(A) and 817.526(a)(2)(A) contain the same requirements as and are no less effective than the Federal regulations at 30 CFR 761.12(b)(2). Additionally, the appropriateness of the Federal rule is not at issue in this rulemaking.

The Bureau of Land Management (BLM) responded on October 13, 1995, with seven comments (Administrative Record No. TX–601). The BLM expressed a concern that by deleting the text in TCMR 700.002(b)(4) regarding coal exploration, the recovery of royalty for coal removed by exploration may be forgone. Although Texas proposed to remove the reference to coal exploration from 700.002(b)(4), it is adding a specific and more detailed reference to coal exploration activities on Federal lands at 700.002(b)(5). The net effect is no change in the requirements of 700.002(b) regarding coal exploration activities.

The BLM suggests that TCMR 709.030(a)(2) needs to state that coal recovered as specified is still subject to royalty, and such removal should be subject to administrative approval or denial. Section 709.030 addresses exemptions for coal extraction incidental to the extraction of other minerals. SMCRA and the Texas program do not contain any authority to address royalty issues. Proposed TCMR 709.27 (e) and (f), and 709.033(c) contain requirements for approval or denial of requested exemptions, and for administrative review of those decisions.

At TCMR 705.010(a)(3), the BLM suggests that ''* * * which may include legal measures * * *'' be added to replace ''* * * by initiating appropriate legal action * * *'', which is language proposed to be deleted. At TCMR 761.072(b)(2), the BLM recommends that any Government agencies with jurisdiction over said lands and any Government agencies with adjacent land that may be impacted by such determinations should be notified of requests for valid existing rights. At TCMR 779.126(d), the BLM recommends that, after citing ''* * * the 15th edition of *Standard Methods for the Examination of Water and Wastewater*' * * *'' Texas may wish to add ''* * * or its successor editions * * *'' Lastly, at TCMR 816.348(b), the BLM recommends that this requirement should cross reference to 817.510 where groundwater degradation limits should be discussed. The regulations at TCMR 705.010(a)(3), 761.072(b)(2), 779.126(d), and 816.348(b), as proposed by Texas, are substantially identical to the counterpart Federal requirements at 30 CFR 705.4(a)(3), 761.12(b)(2), 780.21(a), and 816.41(b), and, therefore, are not inconsistent with the Federal requirements.

Environmental Protection Agency (EPA)

None of the revisions that Texas proposed to make in this amendment pertain to revising its air or water quality standards. Therefore, OSM did not request EPA's concurrence.

Pursuant to 732.17(h)(11)(i), OSM solicited comments on the proposed amendment from EPA (Administrative Record Nos. TX–551.03, TX–598.01, and TX–623). EPA responded on October 19, 1995, with two comments (Administrative Record No. TX–603). It recommended that the surface water information requirements at TCMR 779.129(a) and 783.175(a) include ''Basin names, Segment Nos. and uses in accordance with Texas Surface Water Quality Standards, 30 TAC Sections 307.2–307.10., (latest edition).'' In its July 31, 1996, revised amendment, Texas changed its proposed regulations at 779.129(a) and 783.175(a) to be substantially identical to the corresponding Federal regulations at 30 CFR 780.21(b)(2) and 784.14(b)(2). The proposed Texas regulations require that the surface water information include ''* * * the name, location ownership and description of all surface water bodies such as streams, lakes, ponds, impoundments, and springs * * * and information on surface water quantity and quality sufficient to demonstrate seasonal variation and water usage.'' EPA's second comment consisted of a suggestion that ''[TCMR] 817.510 should be more correctly retitled only as Effluent Limitations and Conditions.''

Texas' title for this section of Hydrologic Balance: Water Quality Standards and Effluent Limitations is the same title used in the corresponding Federal regulation at 30 CFR 817.42. Also, the proposed Texas regulation at TCMR 817.510 supports the section title in requiring that water discharges ''* * * shall be made in compliance with all applicable State and Federal water quality laws and regulations and with the effluent limitations for coal mining * * *''

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Pursuant to 30 CFR 732.17(h)(4), OSM is required to solicit comments on proposed amendments which may have an effect on historic properties from the SHPO and ACHP. OSM solicited comments on the proposed amendment from the SHPO and ACHP (Administrative Record Nos. TX–551.02, TX–598.01, and TX–624). The SHPO responded on June 9, 1993, October 9, 1995, and August 16, 1996 (Administrative Record Nos. TX–553, TX–600, and TX–626). In its letters dated June 9, 1993, and August 16, 1996, it concurred with the proposal and stated that the project would have no effect on National Register-eligible or listed properties or State Archaeological Landmarks. In its October 9, 1995, letter, it requested clarification of whether mining activities exempted under the provisions of TCMR 709.030–709.034, the exemption for coal extraction incidental to the extraction of other minerals, would be considered by OSM to be undertakings under Section 106 of the National Historic Preservation Act (NHPA). Because there is no SMCRA jurisdiction on sites which the activities are exempted, neither OSM or the ACHP consider these exempted activities to be Federal undertakings pursuant to the NHPA.

V. Director's Decision

Based on the above findings, the Director approves the proposed amendment as submitted by Texas on May 13, 1993, and as revised and/or supplemented with explanatory information on September 18, 1995, December 15, 1995, March 1, 1996, July 31, 1996, September 12, 1996, December 31, 1996, and February 4, 1997.

The Federal regulations at 30 CFR Part 943, codifying decisions concerning the Texas program, are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In the oversight of the Texas program, the Director will recognize only the statutes, regulations and other materials approved by OSM, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Texas of only such provisions.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 27, 1997.

Brent Wahlquist,

Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 943—TEXAS

1. The authority citation for Part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 943.15 Approval of regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	* *	* * * *
May 13, 1993	March 16, 1997	TCMR 700.002(b)(4), (5), (f); .003(1), (3); 701.008(4), (5), (9), (10, (18), (19), 21), (24), (25), (26), (34), (41), (55), (67), (68), (69), (70), (76), (82), (84), (95), (102), (107); 705.010(a)(3), (c); .011(2), (3), (5), (9); .013(a); .014; .015(a); .016(a); 707.022; 709.025; .026; .027; .028; .029; .030; .031; .032; .033, .034; 760.069; .070(5), (6), (7), (9), (11); 761.071 (a) through (e); .072 (a) through (h); .073; 762.074(3), (4), (5); .075(a), (b); .076(a); .077; 764.078; .079(a), (b), (c); .080(a)(1), (2), (4) through (7), (b), (c), (d); .081(a), (b); .082(a)(3), (b), (c), (d); .083(a), (b); .084(a), (b); .085(b); 770.101; 776.111(a)(e)(E); 779.126(d); .127(a), (b), (c); .128(a), (3), (4), (b); .129, (a), (b), (1), (3); 780.141(g), (h); .142(b)(11), (c), (d), .146 (a) through (e); .148(a)(3)(i), (c)(1), (2), (3); 783.172(d); .173 (a) through (e); .174(a), (3), (4), (b); .175, (a), (b), (1), (3); 784.188 (a) through (f); .190 (a)(3)(i), (c)(1), (2), (3); .197(c), (d); 785.201(b), (c), (d)(2); .202(b)(1)(i), (2), (3); 786.210 (a) through (e); .216(c), (e); .220(d); 800.301(b)(2); .311(d); 807.312(a), (b), (c); .313(a)(2); 815.327(a); .328(a), (b); 816.330(f); .340; .341; .342; .344; .347; .348; .349; .350; .355; .357(a), (c), (d); .358 (a) through (d); .360(a)(2), (A), (B), (f)(1)(A), (g)(2), (h)(1), (2), (3), (i); .362(d); .376 (a) through (d), .377, .378(a), (c); .380(e)(10); .385(b)(3); .390; .395; .396; 817.500(f); .509(a); .510; .511; .512; .514; .517; .519; .522(f); .524; .526(b), (c), (d); .527 (a) through (d); .528 (a) through (i); .529; .530, (c), (d), (e), (g), (j), (s), (t); .535(c); .538(c)(3); .543 (a) through (d); .544; .545(a), (c); .547(e)(10); .552(b)(3); .555; .560; .561; 823.620(a), (b), (c); .621(a)(1), (2), (3), (b); .622(a), (b), (c); .623; .624 (a) through (g); .625(a), (b); 843.681(c), (f) through (j); .682(a)(1); .695(b)(1); 846.001; .002; .003; .004; .005; 850.703(b)(1)(A); .704(b); .706(a).

§ 943.16 [Amended]

3. Section 943.16 is amended by removing paragraphs (k), (l), (m), (n), (o), (p), and (q).

[FR Doc. 97–7533 Filed 3–25–97; 8:45 am]
BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–165–01–9633a; FRL–5709–8]

Approval and Promulgation of Air Quality Implementation Plans, Tennessee; Approval of Revisions to Knox County Regulations for Violations and General Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the permit requirements, definitions, and administrative requirements for the Knoxville/Knox County portion of the Tennessee State Implementation Plan (SIP). On March 4, 1996, the State submitted revisions to the Knoxville/Knox County portion of the Tennessee SIP on behalf of Knoxville/Knox County. These were revisions to the enforcement authority requirements in the Knoxville/Knox County portion of the SIP. At this time, EPA is acting on the SIP revisions submitted on March 4, 1996 and is approving all of the submitted revisions.

DATES: This final rule is effective May 27, 1997 unless adverse or critical comments are received by April 25, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments on this action should be addressed to Karen C. Borel, at the Environmental Protection Agency, Region 4 Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Copies of documents relative to 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. Reference file TN165–01–9633. The Region 4 office may have additional background documents not available at the other 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 Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. [contact Karen Borel, 404/562–9029].

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531. Knox County Department of Air Pollution Control, City-County Building, Suite 339, 400 West Main Street, Knoxville, Tennessee, 37902.

FOR FURTHER INFORMATION CONTACT: Karen C. Borel at (404) 562–9029.

SUPPLEMENTARY INFORMATION: The State of Tennessee submitted revisions to the Knoxville/Knox County portion of the Tennessee SIP to EPA on March 4, 1996. EPA found this submittal to be complete on April 17, 1996. These revisions to the Knox County portion of the SIP establish consistent regulatory authority between the title V Permit Program for major sources and the SIP for minor sources.

A. SIP Revisions

The Knoxville/Knox County Air Pollution Control Board officially adopted the proposed amendments to the Knox County Air Pollution Control Regulations affecting Sections 30.1.D, 30.1.F, and 30.1.G, *Violations*. These regulatory revisions to their Section 30 make changes which are required to establish consistent regulatory authority between the SIP (minor sources) and title V (major sources). These revisions are the remainder of their plan to bring the SIP into accordance with title I requirements and to support their title V program. EPA is approving the following revisions to Section 30, *Violations/General*.

Section 30.1.D

The following statement is added to this section:

> These penalties shall be recoverable in a maximum amount of $25,000 per day per violation as provided by State Law.

Section 30.1.F

The following statement is added to the end of this section:

> Such actions may be taken by the Director without the necessity of a prior revocation of any permit.''

Section 30.1.G

The following statement is added to the end of this section:

> The Director has the authority to restrain or enjoin immediately and effectively any person, by order or by suit in court, from engaging in any activity in violation of a permit or the Knox County Air Pollution Control Regulations that is presenting an imminent and substantial endangerment to the public health or welfare, or the environment.

Final Action

EPA is fully approving the submitted revisions to the Knoxville/Knox County portion of the Tennessee State Implementation Plan (SIP).

The Agency has reviewed this request for revision of the Federally-approved State implementation plan for conformance with the provisions of the 1990 amendments enacted on November 15, 1990.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective on May 27, 1997 unless, by April 25, 1997 adverse or critical comments are received.

If the 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 the proposed rule. The 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 on May 27, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to any state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements

A. Executive Order 12866

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.

B. 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 economic impact on a substantial number of small entities. Small entities include small business, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval 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 Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Act 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 (1976); 42 U.S.C. 7410(a)(2) and 7410(k)(3).

C. Unfunded Mandates

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 prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as 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).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, 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 May 27, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. [See section 307(b)(2) of the Act, 42 U.S.C. 7607 (b)(2).]

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: January 15, 1997.

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)(149) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(149) On March 4, 1996, the State submitted revisions to the Knoxville/Knox County portion of the Tennessee SIP on behalf of Knoxville/Knox County. These were revisions to the enforcement authority requirements in the Knoxville/Knox County regulations. These revisions incorporate changes to Knoxville's Section 30.1 which are required in the Clean Air Act as amended in 1990 and 40 CFR part 51, subpart I.

(i) Incorporation by reference.

(A) Knox County Air Pollution Control Regulations, Sections 30.1.D, 30.1.F, and 30.1.G, adopted on January 10, 1996.

(ii) Other material. None.

[FR Doc. 97–7694 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[CT27–1–7200a; A–1–FRL–5667–4]

Clean Air Act Approval and Promulgation of State Implementation Plans; Connecticut: PM10 Prevention of Significant Deterioration Increments; and Approval of a Second 1-Year Extension of PM10 Attainment Date for New Haven

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is fully approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut, which replaces the total suspended particulate (TSP) prevention of significant (PSD) increments with increments for PM10 (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers). EPA is also fully approving Connecticut's request for a second 1-year extension of the attainment date for the New Haven PM10 nonattainment area, based on monitored air quality data for the national ambient air quality standard for PM10 during the years 1993–95. These actions are being taken under the Clean Air Act.

DATES: This action is effective on May 27, 1997, unless adverse or critical comments are received by April 25, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection, EPA-Region 1, JFK Federal Building (CAA), Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection by appointment during normal business hours at the following locations: Office of Ecosystem

Protection, EPA-Region 1, One Congress Street, 11th Floor, Boston, MA 02203; Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106; and Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jeff Butensky at (617) 565–3583 or butensky.jeff@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

PM10 PSD Increments

Section 107(d) of the 1977 Amendments to the Clean Air Act authorized each State to submit to the Administrator a list identifying those areas which (1) do not meet a national ambient air quality standard (NAAQS) (nonattainment areas), (2) cannot be classified on the basis of available ambient data (unclassifiable areas), and (3) have ambient air quality levels better than the NAAQS (attainment areas). In 1978, the EPA published the original list of all area designations pursuant to section 107(d)(2) (commonly referred to as ''Section 107 areas''), including those designations for total suspended particulates (TSP), in 40 CFR Part 81.

One of the purposes stated in the Act for the Section 107 areas is for implementation of the statutory requirements for PSD. The PSD provisions of Part C of the Act generally apply in all Section 107 areas that are designated attainment or unclassifiable [40 CFR 52.21(i)(3)]. Under the PSD program, the air quality in an attainment or unclassifiable area is not allowed to deteriorate beyond prescribed maximum allowable increases in pollutant concentrations (i.e., increments).

EPA revised the primary and secondary NAAQS for particulate matter on July 1, 1987 (52 FR 24634), eliminating TSP as the indicator for the NAAQS and replacing it with the PM10 indicator. However, EPA did not delete the Section 107 areas for TSP listed in 40 CFR Part 81 at that time because there were no increments for PM10 promulgated at that time.[1] States were required to continue implementing the TSP increments in order to prevent significant deterioration of particulate matter air quality until the PM10 increments replaced the TSP increments.

EPA promulgated PSD increments for PM10 on June 3, 1993. (See 58 FR 31622–31638.) EPA promulgated revisions to the Federal PSD permitting regulations in 40 CFR 52.21, as well as the PSD permitting requirements that State programs must meet in order to be approved into the SIP in 40 CFR 51.166. EPA or States with delegated State programs were required to begin implementation of the increments by June 3, 1994. The implementation date for States with SIP-approved PSD permitting programs (including Connecticut) would be the date on which EPA approves each revised State PSD program containing the PM10 increments. In accordance with 40 CFR 51.166(a)(6)(i), each State with SIP-approved PSD programs was required to adopt the PM10 increment requirements within nine months of the effective date (or by March 3, 1995).

The PM10 PSD increments were set at the following levels: 4 $\mu g/m^3$ (annual arithmetic mean) and 24 $\mu g/m^3$ (24-hour maximum) for Class I areas, 17 $\mu g/m^3$ (annual arithmetic mean) and 30 $\mu g/m^3$ (24-hour maximum) for Class II areas, and 34 $\mu g/m^3$ (annual arithmetic mean) and 60 $\mu g/m^3$ (24-hour maximum) for Class III areas. There are no Class I or III areas in Connecticut.

The implementation of the PM10 increments will utilize the existing baseline dates and areas for particulate matter. As such, particulate matter increments, measured as PM10, already consumed since the original baseline dates established for TSP will continue to be accounted for, but all future calculations of the amount of increments consumed will be based on PM10 emissions beginning on the implementation date of the PM10 increments (that is, today, the date of EPA approval for Connecticut). For further information regarding the PM10 increments, see the June 3, 1993 **Federal Register**.

The requirements in 40 CFR 51.166 regarding prevention of significant deterioration consist of three elements. First, the State must conduct an increment consumption analysis for new major sources and modifications. Second, the State must review the potential increment consumption from minor point, area, and mobile source. Finally, the State must commit to a State implementation plan revision upon identification of any increment violation. As discussed below, these requirements have been fulfilled by the State of Connecticut.

Clean Air Act Nonattainment Requirements: EPA Actions Concerning Designation and Classification

On the date of enactment of the Clean Air Act Amendments of 1990 ('the Act'), PM10 areas meeting the qualifications of § 107(d)(4)(B) of the Act were designated nonattainment by operation of law. [See generally, 42 U.S.C. § 7407(d)(4)(B).] These areas included all former Group I areas and any other areas violating the PM10 standards prior to January 1, 1989. On October 31, 1990 (55 FR 45799), EPA redefined a Group I area for Connecticut as the City of New Haven; the remainder of the state was designated as Group III. Subsequently, after enactment of the Act on November 15, 1990, New Haven was designated moderate nonattainment for PM10 in 56 FR 11101 (March 15, 1991). All other areas not designated nonattainment at enactment were designated unclassifiable.

States containing areas which were designated as moderate nonattainment by operation of law under § 107(d)(4)(B) were required to develop and submit SIPs to provide for the attainment of the PM10 NAAQS. Under section 189(a)(2), those SIP revisions were to be submitted within 1 year of enactment of the Act (November 15, 1991). The SIP revisions were to provide for implementation of reasonable available control measures/technology (RACM/RACT) by December 10, 1993 and attainment of the PM10 NAAQS by December 31, 1994.

Reclassification as Serious Nonattainment

EPA has the responsibility, under sections 179(c) and 188(b)(2) of the Act, of determining within 6 months after December 31, 1994 whether initial moderate PM10 nonattainment areas have attained the NAAQS. Section 179(c)(1) of the Act provides that these determinations are to be based upon an area's ''air quality as of the attainment date,'' and section 188(b)(2) is consistent with this requirement. EPA will make the determinations of whether an area's air quality is meeting the PM10 NAAQS based upon air quality data gathered at monitoring sites in the nonattainment area and entered into the Aerometric Information Retrieval System (AIRS). This data will be reviewed to determine the area's air quality status in accordance with EPA guidance at 40 CFR Part 50, Appendix K.

According to Appendix K, attainment of the annual PM10 standard is achieved when the annual arithmetic mean PM10 concentration is equal to or less than 50 $\mu g/m^3$. Attainment of the

[1] The EPA did not promulgate new PM10 increments simultaneously with the promulgation of the PM10 NAAQS. Under § 166(b) of the Act, EPA is authorized to promulgate new increments ''not more than 2 years after the date of promulgation of * * * standards.'' Consequently, EPA temporarily retained the TSP increments, as well as the Section 107 areas for TSP.

24-hour standard is determined by calculating the expected number of exceedences of the 150 μg/m^3 limit per year. The 24-hour standard is attained when the expected number of exceedences is 1.0 or less. A total of 3 consecutive years of clean air quality data is generally necessary to show attainment of the 24-hour and annual standards for PM10. A complete year of air quality data, as referred to in 40 CFR Part 50, Appendix K, is comprised of all 4 calendar quarters with each quarter containing data from at least 75 percent of the scheduled sampling days.

Under § 188(b)(2) a moderate area shall be reclassified as serious by operation of law after the statutory attainment date if the Administrator determines that the area has failed to attain the NAAQS. Under section 188(b)(2)(B) of the Act, the EPA must publish a notice in the **Federal Register** identifying those areas which failed to attain the standard and must be reclassified as serious by operation of law.

Application for a 1-year Extension of the Attainment Date

If the State does not have the necessary number of consecutive clean years of data to show attainment of the NAAQS, a State may apply for an extension of the attainment date. Pursuant to § 188(d) of the Act, a State may apply for and EPA may grant a 1-year extension of the attainment date if the State has: (1) Complied with the requirements and commitments pertaining to the applicable implementation plan for the area, and (2) the area has measured no more than 1 exceedence of the 24-hour PM10 standard in the year preceding the extension year, and the annual mean concentration of PM10 in the area for such year is less than or equal to the standard. In addition, as discussed below, the EPA will consider the state's PM planning progress for the area. If the State does not have the requisite number of years of clean air quality data to show attainment and does not apply or does not qualify for an attainment date extension, the area will be reclassified as serious by operation of law. Connecticut applied for and was granted a 1-year extension of the attainment date for New Haven, effective November 11, 1995. (See 60 FR 47097, September 11, 1995.)

If an extension is granted, at the end of the extension year, EPA will again determine whether the area has attained the PM10 NAAQS. If the State still does not have 3 consecutive years of clean air quality data, it may apply for a second 1-year extension of the attainment date. In order to qualify for the second 1-year extension of the attainment date, the State must satisfy the same requirements listed above for the first extension. In addition, EPA will consider the State's PM10 planning progress for the area in a manner similar to its evaluation of the first extension request. However, EPA may grant no more than two 1-year extensions of the attainment date to a single nonattainment area. [See Section 188(d) of the Act.]

Section 188(d) of the Act provides that the Administrator ''may'' extend the attainment date for areas that meet the minimum requirements specified above. The provision does not dictate or compel that EPA grant extensions to such areas. In exercising this discretionary authority for PM10 nonattainment areas, EPA will examine the air quality planning progress made in the moderate area. EPA will be disinclined to grant an attainment date extension unless a State has, in substantial part, addressed its moderate PM10 planning obligations for the area. In order to determine whether the State has substantially met these planning requirements the EPA will review the States application for the attainment date extension to determine whether the State has: (1) Adopted and substantially implemented control measures submitted to address the requirement for implementing RACM/RACT in the moderate nonattainment area; and (2) that reasonable further progress is being met for the area. RFP for PM10 nonattainment areas is determined to be linear emissions reductions made on an annual basis which will provide progress toward the eventual attainment of the NAAQS in the area.

Summary of Connecticut's PM10 PSD Increment SIP Revision

In this section, EPA is acting on revisions to the PSD permitting program for the State of Connecticut. Specifically, Connecticut DEP is amending Subsection 22a–174–3(k) to replace the TSP increments with the federal increments for PM10. All other regulations and requirements necessary for full implementation of the PSD program for PM10 are already in place.

In accordance with the requirements in 40 CFR 51.66, Connecticut DEP is also committing to implementation of the following program elements for the protection of the particulate matter increments: increment consumption analyses for new major sources and major modifications; reviews of potential increment consumption from minor point, area, and mobile sources; and a SIP revision upon identification of an increment violation. The major source baseline date (January 6, 1975) and the minor source baseline date (established in Connecticut on June 7, 1988), both for particulate matter measured as TSP, will remain the same for PM10. All of Connecticut, except the City of New Haven, is currently considered a Class II attainment area. New Haven is currently classified as nonattainment for PM10. The PSD program for particulate matter does not apply to the City of New Haven until that area is reclassified to attainment. Meanwhile, new major sources or major modifications proposing to locate in the City of New Haven will be required to comply with the nonattainment provisions of Subsection 22a–174–3(l) of the Regulations of Connecticut State Agencies.

Procedural Background Regarding the PM10 PSD Increment SIP Revision

The Act requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to EPA. Section 110(a)(2) of the Act provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the Act similarly provides that each revision to an implementation plan submitted by a State under the Act must be adopted by such State after reasonable notice and public hearing.

EPA also must determine whether a submittal is complete and therefore warrants further EPA review and action. [See Section 110(k)(1) and 57 13565, April 16, 1992.] The EPA's completeness criteria for SIP submittals are set out at 40 CFR Part 51, Appendix V. The EPA attempts to make completeness determinations within 60 days of receiving a submission. However, a submittal is deemed complete by operation of law under Section 110(k)(a)(B) if a completeness determination is not made by EPA within six months after receipt of the submission.

The State of Connecticut held a public hearing on August 23, 1994 to entertain public comment on the PSD SIP revision. On January 13, 1995, the Commissioner of the Connecticut Department of Environmental Protection (the Governor's designee) submitted revisions to Subsection 22a–174–3(k) of the Regulations of Connecticut Agencies to incorporate the federal PM10 PSD increments into the SIP and insure that all elements for the federal PSD program for particulate matter are adopted.

EPA reviewed to Connecticut DEP's SIP revision to determine completeness

shortly after their submittal, in accordance with the completeness criteria referenced above. In a letter dated March 28, 1995, EPA-Region 1 informed the Connecticut Governor's designee that the submittal was determined complete and explained how the review and approval process would proceed.

Summary of Connecticut's Extension Request

On March 22, 1996, the Connecticut Department of Environmental Protection (Connecticut DEP) submitted a request for second 1-year extension of the attainment date for the New Haven initial moderate PM10 nonattainment area.

EPA's Air Quality Strategies and Standards Division (AQSSD) has prepared a guidance titled ''Criteria for Granting 1-Year Nonattainment Area Attainment Dates, Making Attainment Determinations, and Reporting on Quantitative Milestones'' (November 14, 1994 memorandum from AQSSD Director Sally Shaver) which outlines how to assess the adequacy of requests for a 1-year extension of the attainment date. The rationale for EPA's approval action are detailed in the Technical Support Document (TSD), dated May 10, 1996. In summary, Connecticut has fulfilled the specific elements of the Clean Air Act and that guidance as follows:

Upon application by any state, EPA may extend for one additional year if the State fulfilled two requirements under section 188 (d) of the Clean Air Act. First, a state must have complied with all requirements and commitments pertaining to the area in the applicable implementation plan. Secondly, no more than one exceedance of the 24 hour standard can occur in the area in the year proceeding the extension year, and the annual mean concentration of PM10 in the area for such year must be less than or equal to the standard level. Connecticut has fulfilled these two basic requirements.

Connecticut is implementing the EPA-approved PM_{10} SIP. Connecticut's PM_{10} attainment plan and contingency measures were approved by EPA on September 11, 1995 (60 FR 47076). Connecticut's PM_{10} attainment plan demonstrated that the implementation of RACM was sufficient to attain and maintain the PM_{10} NAAQS. Furthermore, Connecticut has demonstrated that RACT/RACM, embodied in 7 consent orders, have been adopted and submitted in the form of a SIP revision and are being implemented for New Haven. New Haven has monitored no more than 1 exceedence during 1995, the year preceding the extension year.[2] Connecticut's extension request states that indeed the area recorded no exceedences of the PM10 NAAQS in 1995, and is complying with the applicable state implementation plan. Furthermore, real emissions reductions have been achieved.[3]

In addition to meeting the two statutory requirements, Connecticut has made the planning progress required by EPA guidance. Connecticut has demonstrated that RACT/RACM, embodied in 7 consent orders, have been adopted and submitted in the form of a SIP revision and are being implemented for New Haven. Furthermore, real emissions reductions have been achieved.

For further details regarding Connecticut's extension request and how it meets EPA's requirements, the reader should refer to the TSD dated May 10, 1996, on file at EPA's Region I office (contact listed above).

II. Final Action

EPA is approving the SIP revision regarding PM_{10} PSD permitting and the second 1-year extension of the PM_{10} attainment date for New Haven, as submitted by the State of Connecticut.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 27, 1997 unless, by April 25, 1997, adverse or critical comments are received.

If the 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 be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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 May 27, 1997.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

III. Administrative Requirements

A. Executive Order 12866

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.

B. 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 sections 110 and 301, 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 the Federal SIP approval 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

[2] Section 189(c) requires that Part D SIPs include quantitative milestones to document RFP towards attainment. Every 3 years until EPA redesignates an area to attainment, States must report on whether milestones have been met. Connecticut's SIP commits CT DEP to submit quantitative milestone and RFP reports to EPA every 3 years. For initial moderate PM_{10} nonattainment areas, the emissions reductions made between SIP submittal and the attainment date will satisfy the first quantitative milestone. (See General Preamble 57 FR 13539.) Since EPA believes it is reasonable to key the first milestone to the SIP revision containing control measures which will result in emission reductions and since the PM_{10} attainment date was less than 3 years from the actual submittal date of CT DEP's SIP revision, CT DEP submitted—and EPA is accepting—the emissions reductions associated with the New Haven PM_{10} Attainment Plan SIP revision (approved by EPA effective November 11, 1995) as meeting RFP and the first quantitative milestone for New Haven. (See TSD dated May 10, 1996.)

[3] A review of the PM_{10} air quality data for New Haven shows air quality monitors for this area monitored 4 exceedences of the 24-hour PM_{10} NAAQS during the 3-year period from 1993 to 1995. All exceedences occurred in 1993 at the Yankee Gas monitor site (AIRS Site ID 09–009–0021). The area did not have any exceedences of the PM_{10} NAAQS in 1995.

Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as 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).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 5, 1996.

John P. DeVillars,

Regional Administrator, EPA—Region 1.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(70) to read as follows:

§ 52.370 Identification of plan.

* * * * *

(c) * * *

(70) Revision to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on January 13, 1995.

(i) Incorporation by reference.

(A) Letter from the Connecticut Department of Environmental Protection dated January 13, 1995 submitting a revision to the Connecticut State Implementation Plan.

(B) Amended Regulation of Connecticut State Agencies: amended Subsection 22a–174–3(k) ''Abatement of air pollution—New Source Review'' (effective December 2, 1994).

(ii) Additional materials.

(A) Nonregulatory portions of the submittal.

3. Section 52.372 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.372 Extensions.

* * * * *

(b) The Administrator hereby extends until December 31, 1996, the attainment date for particulate matter for the New Haven PM10 nonattainment area, as requested by the State of Connecticut on March 22, 1996 and based on monitored air quality data for the national ambient air quality standard for PM10 during the years 1993–95.

4. In § 52.374 the table is revised to read as follows:

§ 52. 374 Attainment dates for national standards.

* * * * *

Air quality control region and nonattainment area	Pollutant					
	SO_2		PM10	NO_X	CO	O_3
	Primary	Secondary				
AQCR 41: Eastern Connecticut Intrastate						
Middlesex County (part)	a	b	a	a	a	e
All portions except cities and towns in Hartford Area						
New London County	a	b	a	a	a	e
Tolland County (part)	a	b	a	a	a	e
All portions except cities and towns in Hartford Area						
Windham County	a	b	a	a	a	e

Air quality control region and nonattainment area	Pollutant					
	SO_2		PM10	NO_X	CO	O_3
	Primary	Secondary				
AQCR 42: Hartford-New Haven-Springfield Interstate Hartford-New Britain-Middletown Area						
Hartford County (part) See 40 CFR 81.307	a	b	a	a	d	e
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	d	e
Middlesex County (part) See 40 CFR 81.307	a	b	a	a	d	e
Tolland County (part) See 40 CFR 81.307	a	b	a	a	d	e
New Haven-Meriden-Waterbury Area						
Fairfield County (part) See 40 CFR 81.307	a	b	a	a	d	e
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	d	e
New Haven County						
All portions except City of New Haven	a	b	a	a	d	e
City of New Haven	a	b	g	a	d	e
AQCR 43: New York-New Jersey-Connecticut Interstate New York-N. New Jersey-Long Island Area						
Fairfield County (part) See 40 CFR 81.307	a	b	a	a	d	f
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	d	f
AQCR 44: Northwestern Connecticut Interstate						
Hartford County (part)	a	b	a	a	a	e
Hartford Township						
Litchfield County (part) See 40 CFR 81.307	a	b	a	a	a	e
All portions except cities and towns in Hartford, New Haven, and New York Areas						

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. November 15, 1995.
d. December 31, 1995.
e. November 15, 1999.
f. November 15, 2007.
g. December 31, 1996 (two 1-year extensions granted).

[FR Doc. 97–7688 Filed 3–25–97; 8:45 am]
BILLING CODE 6560–50–P

40 CFR Part 52

[NM 22–1–7103a; FRL–5709–6]

Approval and Promulgation of Implementation Plan for New Mexico: General Conformity Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action approves a revision to the New Mexico State Implementation Plan (SIP) that contains regulations for implementing and enforcing the general conformity rules which the EPA promulgated on November 30, 1993. Specifically, the general conformity rules enable the New Mexico Environment Department to review conformity of all Federal actions (See 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans) with the control strategy SIPs submitted for the nonattainment and maintenance areas within the State except for actions within the boundaries of Bernalillo County. This approval action is intended to streamline the conformity process and allow direct consultation among agencies at the local levels. The Federal actions by the Federal Highway Administration and Federal Transit Administration (under Title 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act. The EPA will act on the New Mexico transportation conformity SIP under a separate action.

The EPA is approving this SIP revision under sections 110(k) and 176 of the Clean Air Act (the Act). The rationale for the approval and other information are provided in this document.

DATES: This action is effective on May 27, 1997, unless adverse or critical comments concerning this action are submitted and postmarked by April 25, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Copies of the State general conformity SIP and other relevant information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, telephone: (214) 665–7214.

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Air Quality Bureau, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, NM 87502, telephone: (505) 827–0042.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E., Air Planning Section (6PDL), Multimedia Planning and Permitting Division , Environmental Protection Agency, Region 6, 1445 Ross

Avenue, Dallas, TX 75202, telephone (214) 665–7247.

SUPPLEMENTARY INFORMATION:

I. Background

Conformity is defined in section 176(c) of the Clean Air Act, as amended in 1990, as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the National Ambient Air Quality Standards and achieving expeditious attainment of such standards, and that such activities will not: (1) cause or contribute to any new violation of any standard in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area.

The Act requires EPA to promulgate criteria and procedures for determining conformity of all other Federal actions in the nonattainment or maintenance areas (actions other than those under Title 23 U.S.C. or the Federal Transit Act) to a SIP. The criteria and procedures developed for this purpose are called ''general conformity'' rules. The rules pertaining to actions under Title 23 U.S.C. or the Federal Transit Act were published in a separate **Federal Register** notice on November 24, 1993. *See* 58 FR 62188. The EPA published the final general conformity rules on November 30, 1993 (58 FR 63214), and codified them at 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans. The general conformity rules require the States and local air quality agencies (where applicable) to adopt and submit a general conformity SIP revision to the EPA not later than November 30, 1994.

II. Evaluation of State's Submission

In response to the **Federal Register** Action of November 30, 1993, the Governor of New Mexico submitted a SIP revision which included the general conformity rules adopted by the New Mexico Environment Department. The State general conformity rule is applicable to all nonattainment and maintenance areas in the State outside the boundaries of Bernalillo County. Bernalillo County is a ''class A'' county as defined by the State statute and authorized by the New Mexico Air Quality Control Act to establish its own regulatory requirements for air pollution control within the County. The EPA approved the Albuquerque/Bernalillo County general conformity SIP revision under a separate **Federal Register** action on September 13, 1996 (61 FR 48407). The following paragraphs present the results of EPA's review and evaluation of the State's general conformity SIP revision.

On November 17, 1994, the Governor of New Mexico submitted a SIP revision in compliance with 40 CFR part 51, subpart W that contains the general conformity rules. The SIP revision was adopted by the New Mexico Environmental Improvement Board on November 10, 1994, after appropriate public participation and interagency consultation. The EPA could not approve this submittal.

Subsequently, the Governor of New Mexico submitted a completely revised SIP revision on July 18, 1996, which removed any inconsistencies and also included a complete recodified set of general conformity regulations. The revised and recodified SIP revision was adopted by the New Mexico Environmental Board on June 14, 1996. Since this 1996 action negates the earlier submittal, the EPA's action today is based on evaluation of the revised SIP submitted on July 18, 1996. The revised SIP revision adopts the Federal general conformity rules verbatim with the exception of limited changes and additional definitions, where necessary, to create consistency with the local processes, procedures, and area specific terms or names. These minor modifications and additional clarifications do not in any way alter the effect, implementation and enforcement of the Federal conformity requirements in the State outside the boundaries of Bernalillo County. The EPA has determined that the State's general conformity rule, as submitted by the Governor on July 18, 1996, meets the Federal requirements and therefore, EPA is approving this SIP revision.

III. Final Action

The EPA is approving a revision to the State of New Mexico SIP which contains general conformity regulations as submitted by the Governor of New Mexico on July 18, 1996. The State general conformity rule is applicable to all nonattainment and maintenance areas in the State outside the boundaries of Bernalillo County. The EPA has evaluated this SIP revision and has determined that the State has fully adopted the provisions of the Federal general conformity rules in accordance with 40 CFR part 51, subpart W. The appropriate public participation and comprehensive interagency consultations have been undertaken during development and adoption of these rules by the State Environment Department at the local level.

The EPA is publishing this final approval action without advanced notice of proposal because the EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is simultaneously proposing to approve this SIP revision should adverse or critical comments be filed. This action will be effective May 27,1997, unless adverse or critical comments concerning this action are submitted and postmarked by April 25, 1997.

If the 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 concerning this action will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The 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 on this action, the public is advised that this action will be effective May 27, 1997.

Nothing in this action shall be construed as permitting, allowing, or establishing a precedent for any future request for a revision to any SIP. Each request for revision to 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. Executive Order 12866

This action has been classified as a Table Three 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 Ms. Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

B. Regulatory Flexibility

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. See 5 U.S.C. 603 and 604. Alternatively, the EPA may certify that the rule will not have a significant impact on a substantial number of small entities. See 46 FR 8709. Small entities include small businesses, small not-for-profit

enterprises, and governmental entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on small entities. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA from basing 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. section 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves preexisting requirements under State or local law, and imposes no new. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the 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 the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

E. Petition for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 1997. Filing a petition for reconsideration of this final rule by the Regional Administrator 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, or postpone the effectiveness of this rule. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, General conformity, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: March 4, 1997.

Jerry Clifford,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart GG—New Mexico

2. Section 52.1620 is amended by adding paragraph (c)(65) to read as follows:

§ 52.1620 Identification of plan.

* * * * *

(c) * * *

(65) A revision to the New Mexico State Implementation Plan: New Mexico Administrative Code Title 20 Chapter 2 Part 98 ''Conformity of General Federal Actions to the State Implementation Plan'', as adopted on June 14, 1996, by the New Mexico Environmental Board, and filed with the State Records Center on June 19, 1996, was submitted by the Governor on July 18, 1996.

(i) Incorporation by reference.

(A) New Mexico Administrative Code Title 20 Chapter 2 Part 98 ''Conformity of General Federal Actions to the State Implementation Plan'', as adopted on June 14, 1996, filed with the State Records Center on June 19, 1996, and effective on August 2, 1996.

[FR Doc. 97–7692 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173, and 178

[Docket No. HM–181H; Amdt. Nos. 172–150, 173–255, 178–117]

RIN 2137–AC80

Performance-Oriented Packaging Standards; Final Transitional Provisions; Revisions and Response to Petitions for Reconsideration

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule; editorial revisions and response to petitions for reconsideration.

SUMMARY: On September 26, 1996, RSPA published a final rule which amended the Hazardous Materials Regulations to incorporate a number of changes based on rulemaking petitions from industry, RSPA initiatives and comments received at public meetings, to the classification of certain hazardous materials which are poisonous by inhalation and to provisions for the manufacture, use, and reuse of hazardous materials packagings. The intended effect of the September 26, 1996 rule is to improve safety, reduce compliance costs to offerors and transporters of hazardous materials, make the regulations easier to use and correct errors. This final rule corrects errors in the September 26, 1996 final rule and responds to petitions for reconsideration. This final rule also publishes two letters denying petitions for reconsideration of a provision in the September 26, 1996 final rule.

DATES: The amendments in this final rule are effective March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Joan McIntyre, telephone (202) 366-8553, Office of Hazardous Materials Standards, Research and Special Programs Administration, Washington DC, 20590–0001.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 1990, RSPA published a final rule [Docket HM–181; 55 FR 52402], which comprehensively revised the HMR with respect to hazard communication, classification, and

packaging requirements based on the United Nations (UN) Recommendations on the Transport of Dangerous Goods (UN Recommendations). A document responding to petitions for reconsideration and containing editorial and substantive revisions to the final rule was published on December 20, 1991 [56 FR 66124]. On October 1, 1992, under Dockets HM–181 and HM–189, RSPA issued editorial and technical corrections to the regulations published in 1991. On September 24, 1993, RSPA issued a final rule under Docket HM–181F [58 FR 50224] which made changes to the HMR based on agency initiative and petitions for rulemaking received since the December 20, 1991 response to petitions for reconsideration. That final rule primarily revised requirements with a mandatory compliance date of October 1, 1993, as provided in the transitional provisions in § 171.14(b)(4).

RSPA published a notice of proposed rulemaking (NPRM) on June 26, 1996, under Docket HM–181H [61 FR 33216] to address most remaining issues associated with the implementation of Docket HM–181 provisions and certain other issues arising from a final rule issued December 29, 1994, under Docket HM–215A [59 FR 67390]. These issues were raised through petitions for rulemaking and agency initiative.

In the September 26, 1996 final rule, RSPA adopted changes to numerous requirements with a compliance date of October 1, 1996. These changes amended provisions concerning hazard classification, the maintenance and use of performance packaging, intermediate bulk containers (IBC), portable tanks, and regulated medical waste.

Following publication of the final rule, RSPA received several petitions for reconsideration, as well as other correspondence identifying errors or requesting clarification. This document incorporates editorial and technical revisions RSPA has determined are necessary to correct or clarify the final rule.

Because the amendments adopted herein clarify and correct certain provisions of the September 26, 1996 final rule, and impose no new regulatory burden on any person, notice and public procedure are unnecessary. For these same reasons, these amendments are being made effective without the usual 30-day delay following publication.

II. Summary of Regulatory Changes Made by Section

Listed below is a section-by-section summary of the changes.

Part 172

Section 172.101. Newly added paragraph (c)(10)(iii) is revised for consistency with newly revised paragraph (c)(12)(iii).

Section 172.101; the Hazardous Materials Table (HMT). In the Docket HM–181H NPRM, a packaging exception was proposed for ''Magnesium powder *or* Magnesium alloys, powder'' in Packing Groups II and III. However, the final rule did not indicate this exception was limited to Packing Groups II and III and it could be inferred that a packaging exception is authorized for Magnesium powder in Packing Group I. This final rule clarifies that no packaging exception is authorized for this material in PG I by revising Column (8A) of the HMT to read ''None''.

Part 173

Section 173.28. The footnote to the minimum thickness table in paragraph (b)(4) is revised to clarify that drums having a minimum thickness of 0.82 mm body and 1.09 mm heads which were manufactured and marked prior to January 1, 1997 may be reused.

Section 173.134. RSPA received two petitions for reconsideration of a provision to authorize certain discarded cultures and stocks of infectious substances to be described and packaged as regulated medical waste rather than infectious substances. On February 11, 1997, RSPA denied a petition for reconsideration from Browning Ferris Industries and on February 13, 1997, RSPA denied a petition for reconsideration from the Medical Waste Institute. This document publishes verbatim the two letters as follows:

February 11, 1997.

Ms. Mary Ellen Lynch,

Director of Environmental Policy, Browning Ferris Industries, 1350 Connecticut Avenue, NW., Suite 1101, Washington, DC 20036.

Dear Ms. Lynch: This letter responds to Browning Ferris Industries'' (BFI) October 25, 1996 petition for reconsideration of the provision in the Research and Special Programs Administration's (RSPA) final rule (61 FR 50616; September 26, 1996) in Docket HM–181H that expands the definition of regulated medical waste to include waste cultures and stocks of infectious substances. RSPA denies BFI's petition for reconsideration for reasons set forth in the following paragraphs.

Prior to the HM–181H final rule, 49 CFR 173.134(a)(4) limited the definition of regulated medical waste to exclude waste cultures and stocks of infectious substances. The final rule in Docket HM–181H added a new paragraph (b)(4) to Section 173.134 authorizing certain waste cultures and stocks (i.e., those in Biosafety Levels 1, 2 and 3, as defined in the Department of Health and Human Services' (HHS) Publication No. (CDC) 93–8395, *Biosafety in Microbiological and Biomedical Laboratories*, 3rd edition, May 1993, Section II) to be described and packaged as regulated medical waste rather than infectious substances. This action resulted in those materials being authorized in non-bulk UN packagings that conform to Packing Group II performance requirements.

In its October 25, 1996 petition, BFI petitions RSPA to reconsider revisions to 49 CFR 173.134 in light of regulations proposed on June 10, 1996 (61 FR 29327), by HHS's Centers for Disease Control and Prevention (CDC). The CDC issued its final rule, entitled *Additional Requirements for Facilities Transferring or Receiving Select Agents*, on October 24, 1996 (61 FR 55190).

In its petition, BFI made three major assertions, which are quoted, as follows:

RSPA failed to consider the pending CDC regulations prior to promulgating a final regulations (sic) for packaging and transportation of cultures and stocks of infectious substances.

Given the Congressionally mandated regulatory scheme now pending before CDC, it is neither reasonable nor in the public interest for RSPA to impose another more burdensome regulatory scheme on the same materials and for the same purpose of regulating the interstate (as well as intrastate) transportation of infectious agents—including discarded cultures and stocks of infectious agents—that could have adverse consequences for human health and safety.

RSPA should reconsider the final Section 173.134 rule and promulgate a final rule that is consistent with the final CDC rule governing shipping and handling requirements for facilities that transfer and receive select infectious agents that have the potential to pose a severe threat to public health and safety. Discarded cultures and stocks of infectious substances other than those included on the CDC Appendix A list should be regulated as regulated medical waste pursuant to 49 CFR Part 173.134, including the packaging regulations of that provision.

With regard to the first assertion, when RSPA published its final rule on September 26, 1996, the CDC had not yet issued its final rule. At the time RSPA was developing its final rule, CDC had issued only a notice of proposed rulemaking (NPRM). RSPA was not in a position to prejudge the provisions of the CDC final rule. Because numerous changes could have been made before the rule was finalized, RSPA did not rely on the NPRM. In fact, CDC solicited comments regarding those agents to be added or deleted from the proposed list and in its final rule changed the list of select agents that BFI asserts RSPA should have considered. In its final rule, CDC added, revised, and removed numerous entries from its proposed rule.

With regard to the second assertion, RSPA has not imposed ''another more burdensome regulatory scheme on the same materials and for the same purpose of regulating the interstate (as well as intrastate) transportation of infectious agents''. CDC and RSPA have jointly regulated infectious substances (or

''etiologic agents'') under different statutory authority for many years and have taken steps to ensure consistency between the two agencies' regulations and avoid unnecessary overlap of requirements. The final CDC regulations address different issues than the HMR and focus on additional requirements for facilities that transfer or receive specified select agents that are capable of causing substantial harm to human health. In its preamble to its final rule, CDC states:

Several commenters were concerned about shipping select agents and about acceptable carriers and carrier responsibilities. Nothing in this final rule is intended to preempt other applicable regulations. Select agents included under this final rule are required to be packaged, labeled and shipped in accordance with all applicable federal regulations. CDC believes that compliance with existing federal regulations on packaging, labeling and shipping select agents, in combination with the transfer requirements of this final rule, provide sufficient safeguards for safe and secure transport.

In summary, the RSPA and CDC final rules address different concerns and do not impose an overlapping scheme on the same materials for the same purpose. Compliance with both rules is feasible.

Also pertaining to BFI's second assertion, RSPA has not imposed ''a more burdensome regulatory scheme''. The June 26, 1996 NPRM for HM–181H proposed only to incorporate provisions of an exemption, DOT–E 11588, into the regulations. DOT–E 11588 authorized waste cultures and stocks in Biosafety Levels 1, 2, and 3 (as defined in HHS Publication No. 93–8395) to be described and packaged as regulated medical waste rather than infectious substances. The HM–181 final rule is consistent with the NPRM and represents a relaxation of the regulatory scheme for these waste materials.

With regard to BFI's third assertion, RSPA believes that BFI's concern is that select agents could be transported as regulated medical waste rather than as infectious substances. RSPA agrees with BFI that it would be inappropriate for these virulent agents to be transported in the lower integrity packagings which are permitted for regulated medical waste. The CDC final rule makes it clear (see preamble discussion on page 55193) that select agents must be destroyed on-site and may not be transported for disposal (i.e., as waste) unless they have first been treated and destroyed. Therefore, it is RSPA's position that a culture or stock of a select agent cannot become a regulated medical waste under 49 CFR 173.134 because the CDC regulations for destruction on-site preclude its being offered for transportation as a waste.

For the above reasons, your petition for reconsideration is denied. If BFI has additional information which it believes would warrant further rulemaking action on this issue, we recommend that it submit a petition for rulemaking under 49 CFR 106.31 outlining the recommended changes it believes should be made to the HMR, and including the additional justification.

Sincerely,

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

February 13, 1997.

Richard S. Moskowitz, Esq.,

Medical Waste Institute, 4301 Connecticut Avenue, NW., Suite 300, Washington, DC 20008.

Dear Mr. Moskowitz: This letter is in response to the Medical Waste Institute's (the Institute) October 23, 1996 petition for reconsideration of the provision in the Research and Special Programs Administration's (RSPA) final rule (61 FR 50616; September 26, 1996) in Docket HM–181H that authorizes discarded cultures and stocks of infectious substances to be described and packaged as regulated medical waste. RSPA denies the Institute's petition for reconsideration of the final rule in Docket HM–181H.

The Institute alleged that RSPA dismissed two requests submitted by the Institute in its comments to the June 26, 1996 notice of proposed rulemaking (NPRM). The first request was to allow discarded cultures and stocks to be packaged in packagings (herein referred to as ''OSHA-authorized packaging'') conforming to bloodborne pathogen standards of the Department of Labor's Occupational Safety and Health Administration (OSHA), which are permitted for other regulated medical waste under Section 173.134(b)(3)(ii). The Institute also requested that RSPA allow private carriers transporting cultures and stocks of infectious substances to backhaul non-food products in trailers that are properly disinfected. The Institute asserted that these two requests were within the scope of the rulemaking in Docket HM–181H and requested that RSPA reconsider these ''dismissals.''

In support of its first request, the Institute asserted that OSHA-authorized packaging has a ''proven track record'' in ensuring that the public is protected from exposure to hazardous material and that it is aware of no incident where a failure of an OSHA-authorized packaging resulted in a harmful release of discarded cultures and stocks. The Institute also maintained, in support of its second request, that there is no evidence of a health risk nor any recorded incident of disease transmission resulting from backhauling.

In a September 20, 1995 final rule on infectious substances (Docket HM–181G), waste cultures and stocks were excluded from the definition of regulated medical waste and were subject to requirements applicable to non-waste cultures and stocks of infectious substances. In the preamble to that final rule, RSPA noted that several commenters agreed that cultures and stocks contain a high concentration of microorganisms that have the potential to cause disease in humans or animals and require special handling. The final rule required cultures and stocks of infectious substances, including waste, to be in high integrity packagings conforming to Section 178.609.

Subsequent to the Docket HM–181G final rule, RSPA issued an exemption, DOT–E 11588, which authorized discarded cultures and stocks in Biosafety Levels 1, 2, and 3 (as defined in HHS Publication No. 93–8395) to be described and packaged as regulated medical waste rather than infectious substances. As an alternative to more stringent packagings for infectious substances prescribed in Section 178.609, RSPA authorized UN standard packagings meeting Packing Group II performance levels, but imposed additional safety controls by requiring dedicated vehicles operated by specialized (i.e., private and contract) carriers. In granting this exemption, RSPA intentionally excluded non-specification OSHA-authorized packaging permitted for other regulated medical waste under Section 173.134(b)(3)(ii), and specifically stated in the exemption that this packaging was not authorized because these packagings provide a lower level of safety than other packagings authorized for infectious substances. In addition, RSPA evaluated modal requirements prior to issuance of DOT–E 11588 and concluded that only private or contract motor carriers using vehicles dedicated to the transportation of medical waste are authorized.

The June 26, 1996 NPRM proposed only to incorporate the provisions of DOT–E 11588 into Section 173.134 of the regulations. The NPRM did not propose, nor request comments concerning, any further relaxation of packaging requirements beyond that provided in the exemption. There are no regulatory provisions for use of packagings of lesser integrity and RSPA is not aware of a ''proven track record'' for such packagings. The Institute's petition for a lower level of packaging safety than adopted in the HM–181H final rule is unjustified based on the information provided by the Institute and presents safety concerns that have not been fully analyzed. Similarly, the request to allow private carriers transporting discarded cultures and stocks of infectious substances to backhaul ''non-food products'' in trailers that are ''properly disinfected'' raises technical issues not addressed in the NPRM (e.g., standards for cleaning and defining criteria for ''non-food products'') and raises safety concerns about the ''proper'' disinfection of trailers and allowing non-food products, including consumer products, to come into contact with medical waste residue.

Both of these requested changes to the HMR raise technical and safety issues that have not been fully analyzed and resolved. At the present time, RSPA does not have the information required to analyze and address these issues. Any further relaxation of packaging performance level or revisions to authorize private carriers transporting cultures and stocks of infectious substances to backhaul non-food products in the same vehicles would necessitate additional notice and opportunity for comment, as required by the Administrative Procedure Act, 5 U.S.C. 553 (b) and (c). Therefore, RSPA is denying the petition for reconsideration of the final rule in Docket HM–181H.

A petition for rulemaking may be a more appropriate means to address the two changes to the HMR proposed by the Institute. The Institute may submit a petition

for rulemaking under Section 106.31 outlining any specific changes it believes should be made to the HMR, and include information sufficient to warrant further rulemaking action.

Sincerely,

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

Section 173.170. The first sentence in paragraph (c) is amended by changing the maximum net capacity of each inner metal or plastic receptacle from 450 g (15.9 ounces) to 454 g (16 ounces).

Part 178

Section 178.2. A new paragraph (f) is added to clarify that packagings may no longer be manufactured and marked to old DOT specifications which were removed in the final rule under Docket HM–181. This new paragraph replaces a similar prohibition that was removed from the transitional provisions in § 171.14 in the September 26, 1996 final rule.

III. Rulemaking Analyses and Notices

A. 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, was not reviewed by the Office of Management and Budget. The rule is not considered a significant rule under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034].

The economic impact of this rule is expected to result in only minimal costs to certain persons subject to the HMR and may result in modest cost savings to a small number of persons subject to the HMR and to the agency. Because of the minimal economic impact of this rule, preparation of a regulatory impact analysis or a regulatory evaluation is not warranted.

B. Executive Order 12612

The September 26, 1996 final rule, as amended herein, was analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''). Federal law expressly preempts State, local, and Indian tribe requirements applicable to the transportation of hazardous material that cover certain subjects and are not substantively the same as Federal requirements. 49 U.S.C. 5125(b)(1). These subjects are:

(1) The designation, description, and classification of hazardous material;

(2) The packing, repacking, handling, labeling, marking, and placarding of hazardous material;

(3) The preparation, execution, and use of shipping documents pertaining to hazardous material, and requirements respecting the number, content, and placement of such documents;

(4) The written notification, recording, and reporting of the unintentional release in transportation of hazardous material; or

(5) The design, manufacturing, fabrication, marking, maintenance, reconditioning, repairing, or testing of a package or container which is represented, marked, certified, or sold as qualified for use in the transportation of hazardous material.

This final rule preempts State, local, or Indian tribe requirements concerning these subjects unless the non-Federal requirements are ''substantively the same'' (see 49 CFR 107.202(d)) as the Federal requirements. RSPA lacks discretion in this area, and preparation of a federalism assessment is not warranted.

Federal law (49 U.S.C. 5125(b)(2)) provides that if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of the final rule and not later than two years after the date of issuance. RSPA has determined that the effective date of Federal preemption for these requirements in the September 26, 1996 final rule will be January 1, 1997.

C. Regulatory Flexibility Act

This final rule responds to petitions for reconsideration and agency review. It is intended to make editorial and technical corrections, provide clarification of the regulations and relax certain requirements. Therefore, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Paperwork Reduction Act

There are no new information collection requirements in this final rule.

E. Regulation Identifier Number (RIN)

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 contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 172

Hazardous materials transportation, Hazardous waste, Labels, Markings, Packaging and containers, Reporting and recordkeeping requirements.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers, Radioactive materials, Reporting and recordkeeping requirements, Uranium.

49 CFR Part 178

Hazardous materials transportation, Motor vehicle safety, Packaging and containers, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Chapter I is amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

1. The authority citation for Part 172 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

2. In § 172.101, paragraph (c)(10)(iii) is revised to read as follows:

§ 172.101 Purpose and use of hazardous materials table.

* * * * *

(c) * * *

(10) * * *

(iii) A mixture or solution not identified in the Table specifically by name, comprised of two or more hazardous materials in the same hazard class, shall be described using an appropriate shipping description (e.g., ''Flammable liquid, n.o.s.''). The name that most appropriately describes the material shall be used; e.g., an alcohol not listed by its technical name in the Table shall be described as ''Alcohol, n.o.s.'' rather than ''Flammable liquid, n.o.s.''. Some mixtures may be more appropriately described according to their application, such as ''Coating solution'' or ''Extracts, flavoring liquid'' rather than by an n.o.s. entry. Under the provisions of subparts C and D of this part, the technical names of at least two components most predominately contributing to the hazards of the mixture or solution may be required in association with the proper shipping name.

* * * * *

§ 172.101 [Amended]

3. In § 172.101, in the Hazardous Materials Table, for the entry

''Magnesium powder or Magnesium alloys, powder'' in PG I, in column 8A, the entry ''151'' is revised to read ''None''.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

4. The authority citation for Part 173 continues to read as follows:

Authority: 49 U.S.C. 5102–5127; 49 CFR 1.53.

5. In § 173.28, in the table in paragraph (b)(4)(i), the footnote is revised to read as follows:

§ 173.28 Reuse, reconditioning and remanufacture of packagings.

* * * * *

[1] Metal drums or jerricans with a minimum thickness of 0.82 mm body and 1.09 mm heads which are manufactured and marked prior to January 1, 1997 may be reused. Metal drums or jerricans manufactured and marked on or after January 1, 1997, and intended for reuse, must be constructed with a minimum thickness of 0.82 mm body and 1.11 mm heads.

* * * * *

§ 173.170 [Amended]

6. In § 173.170, in the first sentence of paragraph (c), the wording ''450 g (15.9 ounces)'' is revised to read ''454 g (16 ounces)''.

PART 178—SPECIFICATIONS FOR PACKAGINGS

7. The authority citation for part 178 continues to read as follows:

Authority: 49 U.S.C. 5101–5127; 49 CFR 1.53.

8. In § 178.2, a new paragraph (f) is added to read as follows:

§ 178.2 Applicability and responsibility.

* * * * *

(f) No packaging may be manufactured or marked to a packaging specification that was in effect on September 30, 1991, and that was removed from this part 178 by a rule published in the **Federal Register** on December 21, 1990 and effective October 1, 1991.

Issued in Washington, DC on March 20, 1997, under authority delegated in 49 CFR part 1.

Kelley S. Coyner,

Deputy Administrator.

[FR Doc. 97–7558 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC00

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Three Plants and Threatened Status for Five Plants From Vernal Pools in the Central Valley of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines endangered status pursuant to the Endangered Species Act of 1973, as amended (Act) for three plants, *Orcuttia pilosa* (hairy Orcutt grass), *Orcuttia viscida* (Sacramento Orcutt grass), and *Tuctoria greenei* (Greene's tuctoria); and threatened status for five plants, *Castilleja campestris* ssp. *succulenta* (fleshy owl's-clover), *Chamaesyce hooveri* (Hoover's spurge), *Neostapfia colusana* (Colusa grass), *Orcuttia inaequalis* (San Joaquin Valley Orcutt grass), and *Orcuttia tenuis* (slender Orcutt grass). Between publication of the proposed and final rules for these species, the Service determined that *Orcuttia inaequalis*, which was originally proposed as endangered, should be listed as threatened due to lesser immediacy and magnitude of threats to its existence. These species grow in the basins and margins of vernal pools of the Central Valley of California. Habitat loss and degradation due to urbanization, agricultural land conversion, livestock grazing, off-highway vehicle use, a flood control project, a highway project, altered hydrology, landfill projects, and competition from weedy nonnative plants imperil the continued existence of these species. This rule implements Federal protection and recovery provisions afforded by the Act for these eight plants.

EFFECTIVE DATE: April 25, 1997.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Sacramento Field Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite #130, Sacramento, California 95821–6340.

FOR FURTHER INFORMATION CONTACT: Ken Fuller at the above address or by telephone at 916/979–2120 or facsimile at 916/979–2128.

SUPPLEMENTARY INFORMATION:

Background

Vernal pools in the Central Valley of California were a common and widespread feature in pre-European times (Holland and Jain 1977). Although historic amounts of vernal pool habitat losses and annual loss rates have been disputed, Holland estimated that urbanization and other factors had eliminated 67 to 88 percent of the vernal pools in the Central Valley by 1973 (Holland 1978, and Robert Holland, consultant, *in litt.* 1992). Public comments and additional work regarding the number of remaining acres of vernal pool habitat in the Central Valley indicate the loss of vernal pool habitat is closer to 50 percent than 67 to 88 percent (59 FR 48139; R. Holland, pers. comm. 1996). The plants discussed herein grow only in vernal pools in California and have experienced minor to major population and habitat reductions throughout their respective ranges. California vernal pools are generally small, seasonally aquatic ecosystems that are inundated in the winter and dry slowly in the spring and summer, making a harsh, unique environment. Cyclical wetting and drying create an unusual ecological situation supporting a unique biota. Many plants and animals have evolved to possess such specific characteristics that these organisms cannot live outside these temporary pools. Four other listed species may occur with these plants: The vernal pool tadpole shrimp (Lepidurus packardi); conservancy fairy shrimp (Branchinecta conservatio); longhorn fairy shrimp (B. longiantenna); and vernal pool fairy shrimp (B. lynchi). However, no close associations are known between any of the listed shrimp species and the eight plants affected by this rule.

The Central Valley of California consists of the Sacramento Valley in the north half of the State and the San Joaquin Valley in the south half. Within the Central Valley, vernal pools are found in four physiographic settings, each possessing an impervious soil layer relatively close to the surface. These four settings include high terraces with iron-silicate or volcanic substrates, old alluvial terraces, basin rims with claypan soils, and low valley terraces with silica-carbonate claypans. Due to local topography and various geological populations, vernal pools are usually clustered into pool complexes. Pools within a complex typically are separated by a distance of a few to several meters and may form dense, interconnected mosaics of small pools or a more sparse scattering of large

pools. Vernal pool habitats and the eight plants discussed herein are found over a very limited, discontinuous, fragmented area within the Central Valley.

Discussion of the Eight Species

Neostapfia colusana (Colusa grass) is a robust, tufted annual that grows 7 to 30 centimeters (cm) (3 to 12 inches (in)) in height. The stems are decumbent toward the base with the upper portion erect and terminating in spike-like inflorescences that are cylindrical, dense, and resemble small ears of corn. Because of this unique inflorescence, this distinctive plant is not easily confused with any others. Joseph Burtt-Davy (1898) collected and first described *N. colusana* as a member of the genus *Stapfia*. Burtt-Davy (1899) renamed this genus *Neostapfia* and shortly thereafter, Frank Scribner (1899) submerged *Neostapfia* within the genus *Anthochloa*. Robert Hoover (1940) placed this species in the resurrected monotypic genus *Neostapfia*.

Neostapfia colusana has been extirpated from its type locality in Colusa County. Seven populations of *N. colusana* in Colusa, Merced, and Stanislaus counties have been lost. Three populations in Merced County and one occurrence in Stanislaus County have not been seen in many years and are considered to possibly be extirpated. The remaining 40 populations in the San Joaquin Valley are concentrated along a 200 kilometer (km) (98 mile (mi)) stretch of the eastern edge of the San Joaquin Valley in Stanislaus and Merced counties. Additionally, two separate populations occur in Solano County in the Sacramento Valley and another two populations are found in Yolo County. All populations exist on private lands, with the exception of one population found on Castle Air Force Base (Merced County) in 1993 and one population found on McClellan Air Force Base (Yolo County) in 1993. In addition to the population on The Nature Conservancy's (TNC) Jepson Prairie Preserve in Solano County, this plant is afforded some protection via a 970 hectare (ha) (2,400 acre (ac)) conservation easement purchased by TNC at the Flying M Ranch in Merced County (R. Alfandre, TNC, pers. comm. 1994). ''The overall trend for Colusa grass is one of decline'' (California Department Fish and Game (CDFG) 1992a).

Orcuttia inaequalis (San Joaquin Valley Orcutt grass) is a tufted annual that reaches 5 to 15 cm (2 to 6 in) in height. The grayish, pilose (bearing soft, straight hairs) plants have several spreading to erect stems, each terminating in a spike-like inflorescence. At maturity, the spikelets of the plant are aggregated into a dense, hat-shaped cluster, which separates them from other members of the genus *Orcuttia*. Additionally, the lemmas (lower bracts enclosing the grass floret) are deeply cleft into five prominent teeth which may be sharp-pointed or have awns that are 0.5 millimeters (mm) (0.2 in) long. The middle tooth is conspicuously longer than the four laterals. *Orcuttia inaequalis* does not occur with any other species of *Orcuttia*. The species most closely resembles *O. californica* and *O. viscida*. The former does not have the long central lemma tooth and lacks the grayish appearance, whereas, the spikelets of the latter are more congested toward the apex of the inflorescence, but not as much as in *O. inaequalis*. *Orcuttia inaequalis* has also smaller lemmas, noncurving lemma teeth, and smaller seeds. *Orcuttia inaequalis* grows with *Neostapfia colusana* at five sites in the San Joaquin Valley.

Klyver first collected and identified *Orcuttia inaequalis* as *O. californica* near Lane's Bridge in Fresno County in 1927 (Klyver 1931). Hoover (1936a) described *O. inaequalis* as a distinct species, but reduced the species to a variety of *O. californica* in 1941 (Hoover 1941). Reeder (1982) determined *O. inaequalis* to be a distinct species based on seed proteins, chromosome numbers, and morphological characteristics. Sixteen populations of *O. inaequalis* have been lost in Fresno, Madera, Merced, and Stanislaus counties. Additionally, three populations of *O. inaequalis* have not been seen in some years of surveying and are considered possibly extirpated. The remaining 23 populations, mostly in southeastern San Joaquin Valley in Fresno, Merced, and Madera counties, are discontinuously scattered over a 79 km (36 mi) range. Two populations are on Federal land, one managed by the Bureau of Land Management (BLM) and one transplanted population by the Bureau of Reclamation (BOR), while the remaining 21 populations are found on private lands. Three populations of *O. inaequalis* are protected by a conservation easement with TNC at the Flying M Ranch in Merced County. ''The general trend for San Joaquin Valley Orcutt grass is one of decline'' (CDFG 1991b).

Orcuttia pilosa (hairy Orcutt grass) is a densely tufted, usually densely pilose annual reaching about 5 to 20 cm (2 to 8 in) in height. The stems are erect or decumbent at the base. The inflorescence is spike-like and rather elongate, with the spikelets remote on the axis below and usually strongly congested above. The equal-length lemmas are deeply cleft into fine teeth that are sharp-pointed or short-awned. *Orcuttia pilosa* and *O. tenuis* grow together over a portion of their respective ranges but are readily distinguished, as the stems of *O. pilosa* are simple, tiller freely from the base and never branch from the upper nodes. Additionally, the spikelets of *O. pilosa* are strongly congested at the apex of the inflorescence and the stems and leaves are larger. *Orcuttia pilosa* occurs infrequently with *Tuctoria greenei*, but these two grasses can be readily distinguished.

Hoover collected *Orcuttia pilosa* in 1938 from a single locality in eastern Stanislaus County, at the time considering these specimens to be a more robust form of *O. tenuis*. He used one of these specimens as the type for a new species, *O. pilosa*, which he described after examining additional collections from Merced and Madera counties in San Joaquin Valley (Hoover 1941). *Orcuttia pilosa* occurs along a 490 km (223 mi) stretch on the eastern margin of the San Joaquin and Sacramento valleys from Tehama County south to Stanislaus County and through Merced and Madera counties. Previously, 34 populations of *O. pilosa* were known. Eleven populations variously have been extirpated or are presumed extirpated due to agricultural land conversion, urbanization, and intensive cattle grazing in Madera, Merced, Stanislaus, and Tehama counties. Of the 24 native, extant populations and 1 introduced population, only 12 populations are considered to be stable (Stone *et al.* 1988; J. Silveira, U.S. Fish and Wildlife Service (Service), pers. comm. 1994). Of the 25 populations, 3 ungrazed populations of *O. pilosa* occur on the Sacramento National Wildlife Refuge. One population of *O. pilosa* occurs on BOR lands, and a translocated one occurs on land owned by California State Department of Transportation. The remaining 20 populations occur on private lands with 1 population of *O. pilosa* in Butte County, 4 in Stanislaus County, 6 in Madera County, and 9 in Tehama County. Four of the nine populations of *O. pilosa* in Tehama County are located on the TNC's Vina Plains Preserve. However, only one of these sites at the preserve is excluded from an agreement allowing cattle grazing by the previous landowner (Stone *et al.* 1988). ''The overall trend for hairy Orcutt grass is one of decline

due to loss of vernal pool habitat'' (CDFG 1991c).

Orcuttia viscida (Sacramento Orcutt grass) is a densely tufted, pilose annual that reaches 2 to 10 cm (1 to 4 in) in height. The erect stems terminate in spike-like inflorescences that are congested at the apex. The plants are viscid (sticky) even when young and more so at maturity. *Orcuttia viscida* develops five-toothed lemmas 6 to 7 mm (0.2 to 0.3 in) long with the middle tooth conspicuously longer than the four laterals. The lemma teeth curve outward at maturity, giving the inflorescence a distinct bristly appearance. Although *O. viscida* is geographically isolated from all other members of the genus, it most closely resembles *O. inaequalis*, but can be separated as described above under the discussion of *O. inaequalis*.

Hoover collected *Orcuttia viscida* in 1941 from a vernal pool near Folsom in Sacramento County and described it as a variety of *O. californica* (Hoover 1941). Reeder elevated *O. viscida* to specific rank based on differences in chromosome number, seed size, and other morphological characteristics (Reeder 1980, 1982). *Orcuttia viscida* possesses the narrowest range of the eight species proposed for listing herein. *Orcuttia viscida* occurs within a 350 square km (135 square mi) area in eastern Sacramento County. Only 40 km (18 mi) separates the northernmost from the southernmost population. Two of the nine known populations have been extirpated. Presently, three populations are found on private lands and four populations are located on non-Federal public lands (one area owned by a public municipality, one owned by the County of Sacramento, one by the City of Fair Oaks, and one by the CDFG). ''The trend for Sacramento Orcutt grass is one of rapid decline'' (CDFG 1991d).

Tuctoria greenei (Greene's tuctoria) is a tufted, more or less pilose, annual grass that grows 5 to 15 cm (2 to 6 in) tall. The plant develops several to many erect stems, the outermost decumbent to spreading at the base, with each terminating in a spike-like inflorescence that may be partially enveloped by the uppermost leaf. The lemmas are strongly curved and more or less truncate at the apex.

Vasey (1891) described *Tuctoria greenei* as *Orcuttia greenei* from specimens collected by Edward Greene near Chico in Butte County in 1890. It remained in the genus *Orcuttia* until Reeder (1982) described the genus *Tuctoria* and placed the former *O. greenei* into the new genus *Tuctoria*. Nineteen populations of *T. greenei* have been extirpated or are possibly extirpated in Fresno, Madera, Merced, San Joaquin, Stanislaus, Tehama, and Tulare counties. The 20 remaining populations of *T. greenei* occur in Butte, Glenn, Merced, Shasta, and Tehama counties. The present range of this species extends 567 km (258 miles). With the exception of one small population of 50 plants on the Sacramento National Wildlife Refuge, all populations are on private lands, including four on the TNC's Vina Plains Preserve. ''The general trend for Greene's Orcutt grass is one of decline as a result of habitat alteration and destruction'' (CDFG 1991e).

Orcuttia tenuis (slender Orcutt grass) is a weakly-tufted and sparsely-pilose annual grass. It grows about 5 to 15 cm (2 to 6 in) in height, producing one to several erect stems that often branch from the upper nodes. The inflorescence of this plant is elongate, with the spikelets usually remote along the axis and slightly, if at all, congested toward the apex. The lemmas are deeply cleft into fine, equal-length, prominent teeth that are sharp-pointed or short-awned. *Orcuttia tenuis* and *O. pilosa* are found growing together over a portion of their respective ranges but are readily distinguished as described in the discussion of *O. pilosa*.

Alice Eastwood first collected *Orcuttia tenuis* in 1912 in Shasta County. These specimens were considered to be *O. californica* prior to the description of *O. tenuis* by Hitchcock as a new species in 1934, based upon spikelet arrangement as well as lemma tooth morphology (Hitchcock 1934). *Orcuttia tenuis* has been extirpated from its type locality in Shasta County and four other sites in the vicinity of the Redding Municipal Airport. Disjunct populations occur in vernal pools on remnant alluvial fans and high stream terraces and recent basalt flows across 440 km (220 mi) (Stone *et al.* 1988). *Orcuttia tenuis* is restricted to northern California, with 2 populations occurring in Lake County, 1 in Lassen County, 2 in Plumas County, 2 in Sacramento County, 19 (including one translocated) in Shasta County, 2 in Siskiyou County, and 32 in Tehama County. Thirty-nine populations are on private lands. In addition to the populations on the TNC's Vina Plains Preserve in Tehama County, The Trust for Public Lands has obtained a conservation easement on the Inks Creek Ranch in Tehama County to protect one population of *O. tenuis* (M. Kelly, BLM, pers. comm. 1993). The City of Redding owns lands containing two populations. The United States Forest Service (USFS) and the BLM jointly have prepared a management guide for one of the ten populations on lands administered by the BLM and three of the nine populations on those lands administered by the Lassen National Forest (B. Corbin, Lassen National Forest, pers. comm. 1994; J. Molter, BLM, pers. comm. 1994; California Natural Diversity Database (CNDDB) 1996). ''Although discoveries of additional populations in recent years have extended the known range of this species, the overall trend for slender Orcutt grass is one of decline as a result of habitat alteration and loss'' (CDFG 1991f).

Castilleja campestris ssp. *succulenta* (fleshy owl's-clover) is a glabrous, hemiparasitic (partly parasitic) annual herb belonging to the snapdragon family (Scrophulariaceae). The stems are simple or branched, generally 5 to 25 cm (2 to 10 in.) tall with brittle-succulent or brittle-fleshy, entire, alternate leaves. The branches end in a dense, short, green inflorescence with bracts equaling or exceeding the bright yellow to white flowers that appear in May. *Castilleja campestris* ssp. *succulenta* occurs with *C. campestris* ssp. *campestris* in Stanislaus County, but the latter can be distinguished by its usually more brittle leaves, shorter bracts, larger corollas, and longer stigmata.

Hoover (1936b) originally described the plant as *Orthocarpus campestris* var. *succulentus* from specimens at its type locality in beds of vernal pools near Ryer, Merced County. He subsequently elevated it to a full species, *O. succulentus*, distinguishing it from *O. campestris* on the basis of leaf and bract shape and flexibility, corolla color, and anther cell length (Hoover 1968). Chuang and Heckard (1991) significantly revised *Orthocarpus*, subsuming most of what had been called *Orthocarpus* into the genus *Castilleja*. They also proposed the new combination *C. campestris* ssp. *succulenta*. This small annual plant was formerly more widespread in the Central Valley and is now extirpated from its type locality near Ryer in Merced County. Additionally, three populations in Fresno County have not been observed for some years and are possibly extirpated (CNDDB 1996). The plant discontinuously occurs in the San Joaquin Valley over a range of 145 km (66 mi) extending through northern Fresno, western Madera, eastern Merced, southeastern San Joaquin, and Stanislaus counties. One population occurs on lands managed by the BOR, one on lands owned by the California Department of Transportation, and two populations on land managed by the BLM. Thirty-two populations occur on

private lands. Of these populations, seven occur at the Flying M Ranch, where TNC has a conservation easement (CNDDB 1996). ''The overall trend for succulent owl's clover is one of decline'' (CDFG 1991g).

Chamaesyce hooveri (Hoover's spurge), a member of the spurge family (Euphorbiaceae), is a prostrate, glabrous annual herb. The leaves are gray-green, asymmetric at the base, rounded to kidney-shaped and have small, narrow white teeth around the margins. The small flowers occur singly in the leaf axils. *Chamaesyce ocellata* can occur in the same range with *C. hooveri* but is readily distinguished by its spreading rather than prostrate habit, yellowish-green color, and entire leaf margins. *Chamaesyce serpyllifolia* is similar to *C. hooveri.* Both species have a gray-green color and may be prostrate, but *C. serpyllifolia* has less rounded leaves, and the marginal teeth are shorter and are usually limited to the leaf apex. Neither *C. ocellata* nor *C. serpyllifolia* have been documented growing together with *C. hooveri* in the same vernal pool.

Hoover first collected this plant in Tulare County in 1937. Wheeler (1940) described it as *Euphorbia hooveri.* Koutnik (1985) placed this species in the genus *Chamaesyce* based on the presence of a sheath around the vascular bundle, its sympodial (lateral branching) growth habit, and its photosynthetic pathway. *Chamaesyce hooveri* is found in vernal pools on remnant alluvial fans and related depositional stream terraces along a stretch of 528 km (240 mi) on the eastern margin of the Central Valley. Four populations of *C. hooveri* are extirpated or are possibly extirpated in Butte, Tehama, and Tulare counties. Of the 25 extant populations, 10 populations are known from Glenn, Merced, Stanislaus, and Tulare counties. Three populations occur at the northern end of Butte County and the remainder are located in Tehama County. Five of the 12 Tehama County populations occur on TNC's Vina Plains Preserve. All populations are on privately owned lands, except for the four populations in Glenn County found on the Sacramento National Wildlife Refuge (CNDDB 1996; J. Silveira, Sacramento National Wildlife Refuge, pers. comm. 1994).

Previous Federal Action

Federal actions on these eight species began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those species considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Castilleja campestris* ssp. *succulenta* (as *Orthocarpus succulentis* [sic]), *Neostapfia colusana, Orcuttia inaequalis* (as *O. californica* var. *inaequalis), O. pilosa, O. tenuis,* and *O. viscida* (as *O. californica* var. *viscida*) as endangered, and *Chamaesyce hooveri* (as *Euphorbia hooveri*) as threatened. The Service published a notice on July 1, 1975, (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act) and its intention to review the status of the species named therein. The seven plants above were included in the July 1, 1975, notice. On June 16, 1976, the Service published a proposal (42 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, Neostapfia colusana, O. inaequalis, O. pilosa, O. tenuis,* and *O. viscida* were included in the June 16, 1976, **Federal Register** document.

General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, publication (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. On December 10, 1979, the Service published a notice (44 FR 70796) of the withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired.

The Service published an updated Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *Castilleja campestris* ssp. *succulentus, Chamaesyce hooveri, Neostapfia colusana, Orcuttia inaequalis, O. pilosa, O. tenuis, O. viscida,* and *Tuctoria greenei* as category 1 candidates. Category 1 candidates were those species for which the Service had on file substantial information on biological vulnerability and threats to support a proposal to list. On November 28, 1983, the Service published a supplement to the notice of review (48 FR 53640), which changed *Castilleja campestris* ssp. *succulentus* and *N. colusana* to Category 2 candidates. Category 2 candidates were those species for which data in the Service's possession indicated that listing was possibly appropriate, but for which substantial data on biological vulnerability and threats were not known or on file to support proposed rules. The plant notice was again revised on September 27, 1985 (50 FR 39526) and the status of the eight plants remained unchanged from the 1983 supplement. In the revision of the plant notice published on February 21, 1990 (55 FR 6184), *N. colusana* was returned to category 1 status. In 1991 and 1992, the Service received additional information regarding threats to *Castilleja campestris* ssp. *succulenta,* and returned this species to category 1 status. As published in the **Federal Register** on February 28, 1996 (61 FR 7596), candidate category 2 status was discontinued and only category 1 species are recognized as candidates for listing purposes.

Section 4(b)(3)(B) of the Act requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, Neostapfia colusana, Orcuttia inaequalis, O. pilosa, O. tenuis,* and *O. viscida,* because the 1975 Smithsonian report had been accepted as a petition. In October of 1983 through 1991, the Service found that the petitioned listing of the above seven plant species was warranted but precluded by other higher priority listing actions.

A proposal to list *Orcuttia inaequalis, O. tenuis, O. viscida,* and *Tuctoria greenei* as endangered and *Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, Neostapfia colusana,* and *O. pilosa* as threatened was published on August 5, 1993 (58 FR 41700). This proposal primarily was based on information supplied by reports to the California Natural Diversity Data Base, the Status Survey of the Grass Tribe *Orcuttieae* and *Chamaesyce hooveri* (Euphorbiaceae) in the Central Valley of California (Stone *et al.* 1988), and observations by numerous botanists. Since publication of the proposed rule for these species, the Service has determined that *Orcuttia inaequalis,* which was proposed as endangered, should be listed as threatened due to a lesser immediacy and magnitude of threats to its existence.

The processing of this final rule conforms with the Service's listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475). The guidance clarifies the order in which the Service will process rulemakings following two related events: (1) The lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Public Law 104–6), and (2) the restoration of funding for listing through passage of the Omnibus Budget Reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. This final rule falls under Tier 2. At this time there are no pending Tier 1 actions. This rule has been updated to reflect any changes in distribution, status and threats since the effective date of the listing moratorium. This additional information was not of a nature to alter the Service's decision to list the species.

Summary of Comments and Recommendations

Upon the publication of the August 5, 1993, proposed rule and associated notifications (58 FR 41700), all interested parties were requested to submit factual reports or information that might assist the Service in determining whether listing is warranted for these species. A 90-day comment period closed on November 18, 1993. Appropriate Federal and State agencies, county and city governments, scientists, and interested parties were contacted and requested to comment. Individual newspaper notices of the proposed rule were published in the Lake County Record-Bee, Modesto Bee, Record Searchlight, Visalia Times-Delta, Siskiyou Daily News, Madera Tribune, Chico-Enterprise Record, Daily Republic, Turlock Daily, Fresno Bee, and Sacramento Bee on a variety of dates from August 21 to August 26, 1993.

In response to the publication of the proposed rule, William Hazeltine, Environmental Consultant, Oroville, California, requested a public hearing in a letter dated August 16, 1993. As a result, the public comment period was extended to November 18, 1993. Notice of the public hearing was published in the **Federal Register** (58 FR 52063) and in the Sacramento Bee, a newspaper with a large regional circulation. A public hearing was held at the Hyatt Regency Hotel in Sacramento on November 3, 1993, from 6 pm to 8 pm. Eleven people presented oral and written comments.

During the comment period, the Service received comments (letters and oral testimony) from 27 people. Numerous people submitted more than one comment to the Service. Seven comments supported the listing, 12 comments opposed the listing, and 8 comments are viewed as neutral. Several commenters provided clarification and additional detailed information that have been incorporated into this rule. Opposing comments and other comments questioning the proposed rule have been organized into specific issues. These issues and the Service's response to each are summarized as follows:

Issue 1. One commenter stated that the population of *Orcuttia viscida* in a vernal pool complex within a preserve in the proposed Sunrise-Douglas subdivision is not threatened. Another commenter stated that this same population is threatened by human disturbance.

Service Response: The Service reported in the proposed rule that one population of *Orcuttia viscida* was threatened by an industrial park development in eastern Sacramento County (CNDDB 1993). This industrial park development project was dropped from further consideration, and the Sunrise-Douglas subdivision has been proposed in the same area (George Clark, California Native Plant Society, *in litt.* 1993). The proposed subdivision includes a proposed preserve area, which includes the vernal pools containing *O. viscida* and *O. tenuis*. Because the preserve is only a proposal, it does not provide any protection to these plant populations. Detrimental effects from herbicide runoff, invasion of horticultural exotics, bicycle riding, and other human intrusions have been observed in other preserves adjacent to subdivisions, including one preserve for *O. viscida* in Sacramento County. The Service considers the populations at Sunrise-Douglas to be imperiled by similar threats as discussed in Factor E in the ''Summary of Factors Affecting the Species.''

Issue 2. One commenter stated that one population of *Orcuttia viscida* is not threatened by the Sacramento County landfill. Another commenter stated that the Sacramento County landfill threatens this same population.

Service Response: Recently, the Sacramento County landfill has been expanded because the current use area was nearly full to capacity. During the last landfill expansion project, the area containing the vernal pool complex, mostly centered on the county-owned land having one population of *Orcuttia viscida,* was avoided. Because the County currently does not own land elsewhere for future landfill expansion and has not announced plans to purchase additional land, it is reasonable to expect that any future expansion will threaten this population. Moreover, any expansion of the current landfill area will destroy potential habitat for *O. viscida* (Clark, *in litt.* 1993).

Issue 3. One commenter stated that loss of vernal pool habitat from many of the planned housing projects and aggregate mines in the Central Valley will be mitigated by vernal pool creation. Because vernal pool creation has been successful and is not experimental, no habitat losses exist as claimed by the Service.

Service Response: Ferren and Gervitz (1990) reviewed 21 vernal pool creation projects and stated that no conclusive data exist to substantiate the hypothesis ''that vernal pools can be restored or created to provide functional values within the range of variability of natural pools.'' In a review of 53 mitigation-related transplantation, relocation, and reintroduction attempts in California, Peggy Fiedler (1991) concluded that the success rate was 8 percent. In a study on the preservation and management of vernal pools, Jones and Stokes (1990) concluded that the science of vernal pool creation is still in its infancy and is primarily an experimental technique. Thus, the Service maintains that urbanization contributes to on-going losses of natural vernal pool habitat. The Service also maintains that vernal pool habitat creation efforts are experimental in nature at this time, and are generally not successful (59 FR 48136). Proposed subdivisions and aggregate mines continue to threaten suitable vernal pool habitat and, in some cases, populations of these eight vernal pool plants.

Issue 4. One commenter stated that the Service erroneously calculated the loss of vernal pool acreage in California and suggested that the number of acres of vernal pools lost was far less than claimed by the Service.

Service Response: The historical context of vernal pool losses in California in the proposed rule was not intended as a thorough, exhaustive investigation and analysis of vernal pool losses. Retrospective and contradictory information and opinions likely will continue to generate debate on this point. The relevant issue is that vernal pool habitat is depleted and fragmented to render these eight vernal pool plants

vulnerable to extinction by present and foreseeable threats across all or a significant portion of their respective ranges. The threats to vernal pool habitat and the eight vernal pool plants are discussed in the ''Summary of Factors Affecting the Species.''

Issue 5. Several commenters questioned the data that were used in the proposed rule to determine that these eight vernal pool plants warrant listing. One commenter stated that the data in the proposed rule were in error, incomplete, and inconclusive. One commenter stated that the data were poor because the status survey was done in 2 drought years.

Service Response: The Service has received reports from the CNDDB, knowledgeable botanists, and from a field status survey specifically directed at gathering the best available scientific and commercial information on the distribution and threats to these eight vernal pool plants. Information from botanical collections of these vernal pool plants that date from the 1890's was utilized in the preparation of the proposed rule. The Service received information from a request for information from Federal, State, and local agencies and consulted professional botanists during the preparation of the proposed rule. Destruction and loss of habitat and extirpation of populations of these eight vernal pool plants from a variety of causes have been documented. These species of plants have been surveyed in drought and non-drought years. Although these vernal pool plants have variable populations and new populations may be found in the future, the same threats are likely to apply to any newly discovered populations. No data were provided to substantiate comments that the findings of the proposed rule were based on erroneous or inconclusive data.

Issue 6. Several commenters stated that livestock grazing had no or little adverse or possibly a beneficial effect or was necessary for the survival of these eight vernal pool plants or that these plants are stable and thriving as a result of moderate or heavy grazing. One commenter stated that drought, not livestock grazing, was responsible for the decline of *Tuctoria greenei.* Another commenter stated that urbanization and drought, not livestock grazing, was responsible for the decline of *T. greenei.*

Service Response: Livestock grazing may have adverse, beneficial, or little effect on vernal pool plants depending upon a wide variety of circumstances. Grazing varies in frequency, intensity, timing, duration, and kind of animal, resulting in widely varying impacts to the plant communities involved. Temperature and effective spring rainfall moisture contribute to difficulties in predicting vernal pool plant growth and reproduction. These environmental factors influence the ability to determine vernal pool plant availability for livestock consumption and identify what levels of consumption are not likely to adversely affect long-term plant sustainability. Grazing on private lands occurs at many of the locations of these eight vernal pool plants. The Service is aware of some populations having no livestock grazing on them for over 40 years. Additionally, the Service is aware of numerous instances where, under a specific set of circumstances, livestock grazing has little to no adverse effect on some populations of these eight vernal pool plants. For instance, private livestock grazing in California commonly occurs in the winter and early spring. Direct impacts from grazing and trampling are avoided in many instances because the plants have yet to emerge from the vernal pools that are still filled with water in the winter and early spring. These populations have been characterized as stable and thriving and not threatened by grazing, given a specific set of management circumstances (Stone *et al.* 1988). However, it would be inaccurate to characterize these vernal pool plant populations as stable and thriving as a result of heavy or moderate grazing. Documented observations of positive, neutral, and detrimental effects of livestock grazing on some populations of these eight vernal pool plants exist (Stone *et al.* 1988).

One population of *Tuctoria greenei* may have been extirpated as a result of cattle grazing from a site on private land near Farmington, San Joaquin County. This population was last seen in 1936 (Stone *et al.* 1988). Three populations of *T. greenei* in Merced County, two populations in Tehama County, and one population in Stanislaus County are presumed to be extirpated as a result of cattle grazing (Stone *et al.* 1988). The last time any of these populations was documented was in 1981. The proposed rule stated that livestock grazing was responsible for the damaged and declining status of five populations of *T. greenei.* Alternatively, another five populations of *T. greenei* in Tehama County are not threatened by current livestock grazing practices and were not included in the discussion of grazing threats in the proposed rule. In these five specific cases in Tehama County, livestock grazing has little or no adverse effect and is compatible with the biological needs for the long-term persistence of these populations.

No commenter submitted any data to substantiate their statements that drought and/or urbanization have caused of the decline of *Tuctoria greenei.* Populations of *T. greenei* and the other seven vernal pool plants have been surveyed in drought and non-drought years. In regard to the likelihood of extirpation due to drought, these eight vernal pool plants have adapted to survive extreme environmental variations like drought. Current information suggests extirpation from drought is unlikely, except for marginal populations. It is not readily apparent why populations may not appear consistently on a given site and the reasons may be attributed to drought or other unknown factors.

The best scientific and commercial information indicates some populations of these eight vernal pool plants may have been extirpated as a result of livestock grazing and that other populations are adversely impacted by livestock grazing (Stone *et al.* 1988). The Service maintains that current information suggests that livestock grazing, under certain conditions, may be detrimental to some of these eight vernal pool species. The determination of whether impacts from livestock grazing are positive, neutral, or detrimental to these vernal pool plants is made on a site-by-site basis for specific populations and is based upon documented observations. Livestock grazing is only one of numerous activities adversely affecting these eight vernal pool plants. Additional information regarding livestock grazing may be found in ''Factor C'' in the ''Summary of Factors Affecting the Species.''

Issue 7. Several commenters stated that the listing of these eight vernal pool plant species will have an adverse impact on cattle ranching and that the Service needs to consider the economic effects of listing.

Service Response: Under section 4(b)(7)(A), a listing determination must be based solely on the best scientific and commercial data available. The legislative history of this provision clearly states the intent of Congress to ''ensure'' that listing decisions are ''based solely on biological criteria and to prevent non-biological considerations from affecting such decisions'', H. R. Rep. No. 97–835, 97th Cong. 2d Sess. 19 (1982). As further stated in the legislative history, ''Applying economic criteria * * * to any phase of the species listing process is applying economics to the determinations made under section 4 of the Act and is

specifically rejected by the inclusion of the word ''solely'' in this legislation,'' H. R. Rep. No. 97–835, 97th Cong. 2d Sess. 19 (1982). Because the Service is precluded from considering economic impacts in a final decision on a proposed listing, the Service has not examined such impacts to the cattle industry or other business that may be caused by the listing of these eight vernal pool species.

Issue 8. One commenter stated that livestock operators create vernal pool habitat by building stock ponds.

Service Response: Although some populations of *Orcuttia tenuis* are found in livestock ponds, such habitat is artificial and does not support the biological functions and values of natural vernal pools. Additionally, artificial livestock stock ponds are only a temporary feature of surface hydrology. Lack of maintenance or changing land uses can cause such a livestock pond to disappear. The Service considers that livestock ponds represent temporary artificial refuge that is not ecologically viable for the eight vernal pool plants to sustain themselves.

Issue 9. One commenter stated the Service should assess impacts from grasshopper predation on these eight vernal pool plants.

Service Response: Grasshopper predation has been recorded only twice in the history of monitoring information on these eight vernal pool plants. The Service does not consider grasshopper predation a serious threat to these eight vernal pool plants.

Issue 10. Several commenters stated that these vernal pool plant species are in preserves and do not require more protection. One commenter stated that piecemeal protection may not prevent extinction of these species. Another commenter stated that, in specific cases, some of the existing preserves do not protect these plants.

Service Response: The likelihood of the long-term survival of any of the eight vernal pool plants is difficult to predict with the best scientific methods. Difficulties and uncertainties in predicting extinction of species involve knowledge of many interrelated factors including; the biological status of the species, the genetic structure within and among populations of a species, the significance of contributions of marginal populations to the genetics of the species, the rate and direction of gene flow, historic or current population bottlenecks, genetic drift, and inbreeding. Upon listing of the eight vernal pool plants, the Service will undertake preparation of a recovery plan for vernal pool ecosystems in California. The recovery plan will include all federally listed and candidate vernal pool species and have the goal to delist the species. Implementation of the recovery plan will help provide more than piecemeal protection.

While a few populations of some of these vernal pool plants are found on preserves, most populations are located on private lands and are not secure. In the few cases where some of these species are in preserves on privately owned lands, the preserves are not managed specifically for these plants and threats arise from sources other than habitat destruction. For example, one commenter stated that one population of *Neostapfia colusana* located in a preserve, Jepson Prairie, owned by TNC, is threatened by competition from a nonnative, aggressive weed, common frog-fruit (*Phyla nodiflora* var. *nodiflora*). Furthermore, a population of *Orcuttia viscida*, located on a preserve owned by CDFG, is adversely affected by runoff from an adjacent housing development that has changed the hydrology of the vernal pool complex. For additional information regarding protection of individual populations, please refer to the ''Background'' and the ''Summary of Factors Affecting the Species.''

Issue 11. Several commenters stated that the Service must complete a Takings Implication Assessment under Executive Order 12630.

Service Response: The U.S. Attorney General has issued guidelines to the Department of the Interior (Department) on the implementation of Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights.'' Under these guidelines, a special rule applies when an agency within the Department is required by law to act without exercising its usual discretion. The provisions in the guidelines relating to non-discretionary actions clearly are applicable to the determination of endangered or threatened status for the vernal pool plants in this rule.

In this context, an agency's action might be subject to legal challenge if it did not consider or act upon economic information. In these cases, the Attorney General's guidelines state that Takings Implication Assessments (TIAs) shall be prepared after, rather than before, the agency makes the decision upon which its discretion is restricted. The purpose of the TIAs in these special circumstances is to inform policymakers of areas where unavoidable taking exposures exist. Such TIAs shall not be considered in the making of administrative decisions that must, by law, be made without regard to their economic impact. In enacting the Endangered Species Act, Congress required that the Department list species based solely upon scientific and commercial data indicating whether or not they are in danger of extinction. Thus, by law and U.S. Attorney guidelines, the Service cannot conduct such TIAs prior to listing. However, the Service will be preparing a Takings Implication Assessment regarding this listing after the listing becomes final.

Issue 12. Several commenters stated that the Service needs to complete a Regulatory Impact Analysis, as directed by Presidential Executive Order 12291, for the proposed rule for the eight vernal pool plants.

Service Response: The Endangered Species Act requires that listing decisions be made solely on the basis of biological information. The legislative history of the 1982 amendments to the Act states:

''The Committee of Conference * * * adopted the House language which requires the Secretary to base determinations regarding the listing or delisting of species 'solely' on the basis of the best scientific and commercial data available to him. As noted in the House Report, economic considerations have no relevance to determinations regarding the status of species and the economic analysis requirements of Executive Order 12291, and such statutes as the Regulatory Flexibility Act and the Paperwork Reduction Act, will not apply to any phase of the listing process.'' H.R. Conf. Rep. No. 835, 97th Cong., 2d Sess. 20 (1982); *accord*, H.R. Rep. No. 567, 97th Con., 2d Sess. 12, 19–20 (1982); S. Rep. No. 418, 97th Cong., 2d Sess. 4 (1982).

The Service has concluded that the analyses required by the Regulatory Flexibility Act and Executive Order 12291 are not applicable to listing determinations. Additionally, Executive Order 12291 was revoked by issuance of Executive Order 12866 on September 30, 1993.

Issue 13. Several commenters stated that the Service must prepare an Environmental Impact Statement (EIS), pursuant to the National Environmental Policy Act (NEPA), on this rule.

Service Response: For the reasons set out in the NEPA section of this document, the Service has determined that the rules issued pursuant to section 4(a) of the Act do not require the preparation of an EIS. The Federal courts have held in *Pacific Legal Foundation* v. *Andrus*, 657 F2d. 829 (6th Circuit 1981) that an EIS is not required for listing under the Act. The court decision noted that preparing an

EIS on listing actions does not further the goals of NEPA or the Act.

Issue 14. One commenter stated that the Service was uncooperative and inaccessible regarding the notification of the proposed rule. Another commenter stated that the Service needs to conduct a hearing for the proposed rule to list these eight vernal pool plants in Butte County because the Butte County Board of Supervisors passed a resolution that directs all government agencies to inform them of any action that may affect their economics, customs, or culture.

Service Response: The Service published a notice of the proposed rule regarding these eight vernal pool plants in the **Federal Register** on August 5, 1993. On August 16, 1993, the Service mailed out over 125 notifications of the proposed rule to Federal, State, and county entities, and individuals. Additionally, the Service published public notices regarding the proposed rule in the following newspapers—Chico-Enterprise Record, Fresno Bee, Fairfield Daily Republic, Lake County Record-Bee, Madera Tribune, Modesto Bee, Redding Record Searchlight, Siskiyou Daily News, Sacramento Bee, Turlock Daily, and Visalia Times-Delta.

In regard to notification of the public hearing, one request for a public hearing was received. In accordance with the Endangered Species Act, the Service determined that the request for a public hearing was received during the comment period and scheduled a public hearing in a large city, Sacramento, that is located in the center of the range of the eight species proposed for listing. The notification of the public hearing and extension of the comment period was published in the **Federal Register** on October 6, 1993 (58 FR 52063) and shortly thereafter published in the *Sacramento Bee*, a local newspaper with a large circulation. The Service also mailed the notification of public hearing and extension of comment period to interested parties. The Service maintains that adequate public notification was given in regard to the notification of the proposed rule, the public hearing, and extension of comment period for the eight vernal pool plants proposed for listing. The perception of the Service as uncooperative and inaccessible is regrettable. We will continue to strive for complete satisfaction in our communication with the public.

Issue 15. One commenter stated that the Service needs to designate critical habitat. Another commenter stated that critical habitat should not be designated. Another commenter stated that the Service needs to designate critical habitat for people to find more populations of these eight vernal pool plants.

Service Response: The Service believes that, at this time, the threat posed by designating critical habitat outweighs any potential benefit. As discussed in the ''Summary of Factors Affecting the Species'' and ''Critical Habitat'' sections of this rule, all eight vernal pool plants could be adversely affected by acts of vandalism. The Service is aware of vernal pools that contained suitable habitat for other federally proposed species that apparently were destroyed to escape regulatory requirements. Designation of critical habitat at this time would increase the threats to these eight vernal pool plants from similar acts of vandalism. Within the constraints of agency budget and priority workload, the Service is willing to work with anyone interested in inventorying vernal pools for undiscovered populations of these eight vernal pool plants. Critical habitat is typically designated for known populations throughout the range of these species. Therefore, such a designation would not aid in the discovery of new populations.

Issue 16. A commenter from a mosquito abatement district was concerned about restrictions of mosquito control activities in vernal pools. Another commenter stated that listing would prevent landowners from abating mosquitos on private lands and, thereby, could create a public nuisance that could cause a liability.

Service Response: After the Service proposed three species of fairy shrimp and one species of tadpole shrimp for listing in 1992 (57 FR 19856), commenters expressed similar concerns. Although degraded or disturbed vernal pools may contain abundant mosquito populations, most natural, non-degraded vernal pools do not provide a significant breeding source for mosquitos. Since the Federal listing the three species of fairy shrimp and one tadpole shrimp in vernal pools of California in 1994 (59 FR 48136), the Service is not aware of any problems or conflicts that have arisen regarding treatment of vernal pools for mosquitos and the need to protect federally listed fairy shrimp or tadpole shrimp. If the need for treatment of some vernal pools occurs, least toxic, benign chemical alternatives and biological or cultural controls exist for mosquito control. The Service recognizes that potential conflicts may exist with the use of some of the many chemicals used for mosquito control that may potentially be detrimental to vernal pool plants and biota. The Service does and will continue to work with recognized experts, and Federal, State, and local entities in examining the use of additional alternatives, such as including methoprene and the use of *Bacillus thuringiensis* var. *israelensis* (Bti) and *Lagenidium giganteum* to achieve mosquito control. The Service is confident that Federal listing will contribute to the survival of the eight species of vernal pool plants without threatening public health and safety.

Issue 17. One commenter recommended that the eight vernal pool species be listed as threatened because it would allow for incidental take in conservation plans.

Service Response: Section 9, ''Prohibited Acts'', of the Act and the Code of Federal Regulations (50 CFR parts 10, 17) address protection of federally listed endangered and threatened plants. Incidental take does not apply to federally listed plants. However, it is unlawful to remove, damage or destroy any such species from areas under Federal jurisdiction, or to remove, damage or destroy any such species in knowing violation of any State law or regulation on other lands. For further information, please see the protection section in ''Factor E'' in the ''Summary of Factors Affecting the Species.''

Peer Review

The Service solicited the expert opinions of more than a dozen appropriate and independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy and biological and ecological information for these eight species. Two responses from specialists were received. One specialist provided information supporting the position of the Service that *Orcuttia tenuis* and *O. viscida* were facing a number of threats in Sacramento County. The other specialist provided information that clarified overlap in the distribution of *Chamaesyce hooveri, C. ocellata,* and *C. serpyllifolia,* and provided additional range, distribution or threat information for *Orcuttia inaequalis, O. pilosa* and *Tuctoria greenei.* These comments were incorporated into the final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Orcuttia pilosa* Hoover (hairy Orcutt grass), *Orcuttia viscida* (Hoover) J. Reeder (Sacramento Orcutt grass), and *Tuctoria greenei* (Vasey) J. Reeder (Greene's tuctoria) should be classified

as endangered; and *Castilleja campestris* (Benth.) Chuang and Heckard ssp. *succulenta* (Hoover) Chuang and Heckard (fleshy owl's-clover), *Chamaesyce hooveri* (Wheeler) Koutnik (Hoover's spurge), *Neostapfia colusana* (Davy) Davy (Colusa grass), *Orcuttia inaequalis* Hoover (San Joaquin Valley Orcutt grass), and *Orcuttia tenuis* Hitchcock (slender Orcutt grass) should be classified as threatened. Procedures found at section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Orcuttia pilosa, Orcuttia viscida, Tuctoria greenei, Castilleja campestris ssp. succulenta, Chamaesyce hooveri, Neostapfia colusana, Orcuttia inaequalis,* and *Orcuttia tenuis* are as follows:

A. *The present or threatened destruction, modification, or curtailment of habitat or range.* The habitat of these species has been reduced and fragmented throughout their respective ranges as vernal pools continue to be eliminated by urbanization, flood control projects, landfill projects, highway development, and agricultural land conversion. Lands on the Central Valley floor are closer to existing and expanding cities and farms than the valley rim, which is steeper, less fertile and more removed from cities. As a result, valley floor vernal pools, along with open rangeland, have been and continue to be favored for urban and agricultural development. Within the last 20 years, conversion of land to agricultural use is known to have eliminated one population of *Chamaesyce hooveri* in Tulare County; five populations of *Neostapfia colusana* in Stanislaus County, one in Colusa County, and one in Merced County; five populations of *Orcuttia inaequalis* in Stanislaus County, four in Madera County, three in Merced County, and one in Fresno County; five populations of *O. pilosa* in Stanislaus County, two in Madera County, and one in Merced County; one population of *O. tenuis* in Shasta County; one population of *Tuctoria greenei* in Tulare County, three in Fresno County, one in Madera County, four in San Joaquin County, two in Stanislaus County, and two in Tehama County (Stone *et al.* 1988, Rarefind 1996). Agricultural land conversion now threatens eight populations of *O. pilosa* in Madera and Stanislaus counties; two populations of *Chamaesyce hooveri* in Stanislaus County and three populations in Tulare County; one population of *Castilleja campestris* ssp. *succulenta* in Madera County and one in Fresno County; fourteen populations of *N. colusana* in southeastern Stanislaus County; seven populations of *T. greenei* in Merced County; and two populations of *O. inaequalis* in Madera County (Stone *et al.* 1988, Woodward-Clyde 1992, CNDDB 1996).

Additionally, numerous activities associated with agricultural development have caused habitat degradation severe enough that many populations of the species proposed for listing herein have not been seen for 2 consecutive years or more and are presumed to be extirpated (Stone *et al.* 1988, CNDDB 1996). For example, livestock pond construction has inundated one population of *Neostapfia colusana* in Merced County. Irrigated agriculture and associated runoff have likely eliminated one population of *Orcuttia inaequalis* in Madera County, and one population of *Tuctoria greenei* in Madera County and one in Merced County. Overgrazing and hay production likely have destroyed one population of *O. inaequalis* in Tehama County. Discing combined with grazing presumably has destroyed one population of *T. greenei* in Merced County. Discing also has destroyed one population of *N. colusana* in Tulare County. Discing has likely eliminated one population of *Castilleja campestris* ssp. *succulenta* in Fresno County (Stone *et al.* 1988, CNDDB 1996). In addition, 5 of the 12 remaining populations of *O. pilosa* in Madera, Merced, and Stanislaus counties have been damaged by discing or discing combined with grazing (Stone *et al.* 1988).

Human activities that alter the hydrology of vernal pools, including changes in the amount of water or the length of inundation, may directly and indirectly affect vernal pool plants. For example, a vernal pool known to contain *Orcuttia tenuis* was channelized for mosquito abatement. It is likely that the population was extirpated as a result (Stone *et al.* 1988, CNDDB 1996). Pond construction for recreational waterfowl hunting in Colusa County has presumably eliminated one population of *Neostapfia colusana.* Additionally, hydrological modifications have destroyed two Merced County and one Fresno County population of *O. inaequalis,* and three populations of *O. tenuis* in Shasta County (Stone *et al.* 1988). Increases in agricultural field runoff are responsible for possibly extirpating one population of *N. colusana* in Merced County and one in Stanislaus County (CNDDB 1996). One population of *Chamaesyce hooveri* in Stanislaus County is threatened by increases in agricultural irrigation runoff and by grazing (CNDDB 1996). The U.S. Army Corps of Engineers' (Corps) Merced County Stream Channel Project threatens three populations of *O. inaequalis,* four populations of *N. colusana,* and four populations of *Castilleja campestris* ssp. *succulenta* in Merced County within the San Joaquin Valley (R. Keck, Service, pers. comm. 1992; CNDDB 1996).

Because the human population of the Central Valley is growing rapidly, numerous populations of *Chamaesyce hooveri, Orcuttia inaequalis, O. pilosa, O. tenuis,* and *O. viscida* have been extirpated and continue to be threatened by urban development projects. For example, two major proposed urban developments are likely to adversely affect significant amounts of vernal pool habitat in the Central Valley, one for 80,000 people in southwest Placer County and one for 40,000 people in southeastern Yolo County. In El Dorado County, a 730 ha (1,800 ac) community near Georgetown is proposed as the first of 15 large-scale urban developments. Four new cities, projected to house 142,000 people, are proposed for Sutter County in the Sacramento Valley (Weigand 1991). Urbanization has extirpated one population of *O. inaequalis* in Fresno County, three populations of *O. pilosa* in Madera County, and one population of *Tuctoria greenei* in Tehama County (Stone *et al.* 1988). In the Sacramento Valley, eight populations of *O. tenuis* in Shasta County are threatened by urbanization around Redding (Stone *et al.* 1988). Numerous proposed housing developments, golf courses, and landfills in the Sacramento and San Joaquin valleys threaten vernal pool areas that may provide suitable habitat for *O. tenuis* and *O. viscida,* including Borden Ranch, Evelyn Clipper Residential Subdivision, Laguna Commons, Laguna Palms, Lakeview subdivision, Merced Community Golf Course, Rio Mesa subdivision, River Bend Ranch, Sunrise-Douglas, and Yosemite Estates (June DeWesse, Kelly Geer, and Mark Littlefield, Service, pers. comm. 1994; CNDDB 1996). Although one population of *O. viscida* in eastern Sacramento County is within a preserve, this population remains threatened by a proposed subdivision (G. Clark, CNPS, pers. comm. 1993). Housing tract developments imperil two populations of *Castilleja campestris* ssp. *succulenta* in Fresno County and one population in Madera County, and one population of

O. tenuis in Shasta County (CNDDB 1996).

Proposed gravel and aggregate mining projects that threaten to destroy vernal pool habitat containing *Orcuttia inaequalis, O. viscida* and *Castilleja campestris* ssp. *succulenta* include Granite Vineyard Aggregate Mining Project and Granite 1/Aspen VI, both in Sacramento County, and Fresno County Surface Mining (K. Geer, pers. comm. 1994). The University of California prepared a draft environmental impact statement for a new 810-ha (2,000-ac) campus for 25,000 students that will be located at Lake Yosemite in Merced County. The site is in valley grassland that harbors vernal pool habitat (John Zimmermann, University of California, in litt. 1994; Geer, pers. comm. 1994) and contain some of the eight plant species in this rule.

In addition to the numerous housing developments discussed above, increasing urbanization of the Central Valley can affect vernal pool habitat. Landfills, highway projects, and a proposed Federal prison facility on a former U.S. Air Force base threaten vernal pool habitat. For example, the 90 ha (200 ac) Merced County Landfill will destroy vernal pools contained in the project area. This project area contains *Orcuttia inaequalis, O. pilosa, Castilleja campestris* ssp. *succulenta, Neostapfia colusana,* and *Tuctoria greenei*. Additionally, a proposed landfill threatens one population of *C. campestris* ssp. *succulenta* in Fresno County (CNDDB 1996). One of the seven Sacramento County populations of *O. viscida* is threatened by a public landfill expansion (G. Clark, *in litt.* 1993). Three populations of *C. campestris* ssp. *succulenta*, two populations of *O. inaequalis*, and one population of *O. pilosa* in Madera County are threatened by proposed expansion of State Highway 41 (Brian Apper, California State Dept. of Transportation, *in litt.* 1993; CNDDB 1996). One population of *N. colusana* in Merced County is threatened by a proposed Federal prison on part of the former Castle Air Force Base (Earth Technology Corporation 1994).

B. *Overutilization for commercial, recreational, scientific, or educational purposes*. Overutilization is not known to be a factor for any of these species. Collecting for scientific or horticultural purposes or uncontrolled visits by groups or individuals could result in trampling of vernal pool plants from increased publicity that may result from a listing proposal. The Service is aware of several instances of the destruction of vernal pool and associated upland habitats known or likely to contain species proposed for Federal listing in the Central Valley of California. Vandalism is considered a threat to the eight vernal pool species, as discussed further in the ''Critical Habitat'' section of this rule.

C. *Disease or predation*. All eight plants occur mostly on private land, some Federal rangelands managed by the USFS and the BLM that are subject to livestock grazing, and rarely on National Wildlife Refuge lands managed by the Service. Livestock grazing and associated trampling may or may not adversely affect vernal pool plants depending on, among other things, the kind of livestock, stocking level, season-of-use, and grazing duration. The intensity and, more importantly, the timing of this activity affect how livestock grazing may adversely impact vernal pool plants (Stone et al. 1988). However, as long as the land remains in dry pasture, moderate grazing regimes appear to have little impact on populations of *Orcuttia, Neostapfia, Tuctoria,* and *Chamaesyce hooveri* (Stone *et al.* 1988). The stems of *C. hooveri* exude a latex when broken that appears to repel herbivores and that may be poisonous. The impact of grazing combined with plant competition probably has an adverse effect on *Tuctoria greenei* (see Factor E below).

D. *The inadequacy of existing regulatory mechanisms*. The Endangered Species Act can incidentally afford protection to these plants if they co-exist with species already listed as threatened or endangered. Four other listed species may occur with these plants: The vernal pool tadpole shrimp (*Lepidurus packardi*); conservancy fairy shrimp (*Branchinecta conservatio*); longhorn fairy shrimp (*B. longiantenna*); and vernal pool fairy shrimp (*B. lynchi*). However, these species are only rarely and sporadically found in the same vernal pools or vernal pool complexes as the eight vernal pool plants.

Under section 404 of the Clean Water Act, the U. S. Army Corps of Engineers (Corps) regulates the discharge of fill into waters of the United States, which includes navigable and isolated waters, headwaters, and adjacent wetlands. The section 404 regulations require that applicants obtain an individual permit to place fill for projects affecting greater than 4 ha (10 ac) of waters of the United States. Nationwide Permit (NWP) No. 26 (33 CFR part 330) was established by the Department of the Army to facilitate authorization of discharges of fill into isolated waters (such as vernal pools) that cause the loss of less than 4 ha (10 ac) of waters of the United States, and that cause only minimal individual and cumulative environmental impacts. Projects that qualify for authorization under NWP 26 and that affect less than one acre of isolated waters or headwaters may proceed without notifying the Corps. Evaluation of impacts of such projects through the section 404 permit process is thus precluded.

Corps District and Division Engineers may require that an individual section 404 permit be obtained if projects otherwise qualifying under NWP 26 would have greater than minimal individual or cumulative environmental impacts. However, the Corps has been reluctant to withhold authorization under NWP 26 unless the existence of a listed threatened or endangered species would be jeopardized, regardless of the significance of the affected wetland resources.

Additionally, and equally important, the upland watersheds of vernal pools are not provided any protection in most cases. Disturbance or loss of watersheds have extirpated several populations of these species as discussed previously in Factor A. Thus, as a consequence of the small scale of many vernal pools (most are less than one acre in size) and the lack of protection of associated watersheds, these vernal pool plants receive insufficient Federal protection under section 404 of the Clean Water Act.

The *Orcuttia tenuis* Species Management Guide written by the Lassen National Forest and the Susanville District of the BLM (1990) gives long-term management direction for 5 of 19 Forest Service and BLM plant and animal populations in Plumas, Shasta, and Siskiyou counties in northern California. Since 1990, three of the five populations of *O. tenuis* included in the guide have been fenced to protect them from impacts from grazing and off-highway vehicle use. Since 1990, six additional populations of *O. tenuis* located on BLM administered land, not currently included in the species management guide, have been fenced to protect the populations from grazing. Grazing has been discontinued in some instances.

The California Fish and Game Commission has listed *Castilleja campestris* ssp. *succulenta, Neostapfia colusana, Orcuttia inaequalis, O. pilosa, O. tenuis,* and *O. viscida* as endangered, and has classified *Tuctoria greenei* as a rare species under the California Endangered Species Act (California Fish and Game Code section 2050 *et seq.*) and California Code of Regulations Title 14 § 670.2 (1995). *Chamaesyce hooveri* is not State-listed or classified.

Although the ''take'' of State-listed plants is prohibited under the California Native Plant Protection Act (California Fish and Game Code Section 1908 and California Fish and Game Code Section 2080), State law appears to exempt the taking of such plants via habitat modification or land use changes by the owner. After the CDFG notifies a landowner that a State-listed plant grows on his or her property, the California Native Plant Protection Act requires only that the landowner notify the agency ''at least 10 days in advance of changing the land use to allow salvage of such a plant'' (California Fish and Game Code § 1913(c)).

The California Environmental Quality Act (CEQA) obligates disclosure of environmental resources within proposed project areas and may enhance opportunities for conservation efforts. However, CEQA does not guarantee that such conservation efforts will be implemented. Additionally, part of the environmental review under the CEQA for projects that result in the loss of sites supporting these species includes the development of mitigation plans. Such plans usually involve the transplantation of the plant species to another existing vernal pool, or the artificial creation of vernal pool habitat. Transplantation and habitat creation efforts are experimental in nature at this time, and are generally not successful (Fiedler 1991, Jones and Stokes 1990). Following the development of the transplantation plan, the original site is destroyed. Therefore, if the mitigation effort fails, the resource has already been lost.

The public agency with primary authority or jurisdiction over the project (the lead agency) is responsible for conducting a review of the project and consulting with other agencies concerned with the resources affected by the project. However, the lead agency may approve projects that cause significant environmental damage, such as the destruction of State-listed endangered species, and does not always require adequate mitigation for the replacement or protection of the affected resources. The protection of listed species through CEQA is therefore dependent upon the discretion of the lead agency.

Conservation easements do not currently ensure adequate protection for these vulnerable plant species. First, fewer than 8 percent of the populations of these eight species are within existing conservation easements. Secondly, although four populations of *Orcuttia pilosa* are located on the TNC's Vina Plains Preserve, only one of these sites is excluded from an agreement allowing continued cattle grazing by the previous landowner, and the other populations have all been damaged by grazing (Stone *et al.* 1988). Two of the five populations of *Tuctoria greenei* on the Vina Plains Preserve are also damaged and declining due to grazing (CNDDB 1996).

E. *Other natural or manmade factors affecting its continued existence.* Nonnative annual and perennial plants have invaded many vernal pools of the Central Valley. Nonnative annual grasses such as *Hordeum geniculatum, Phalaris paradoxa, Polypogon monospeliensis,* and *Lolium multiflorum* and soil disturbance associated with cattle grazing appear to result in low vigor and low seed production of two populations of *Orcuttia inaequalis* in Merced County (Stone *et al.* 1988). Additionally, the nonnative perennial herb, *Sida hederacea,* appears to threaten another *O. inaequalis* population at a heavily grazed site in Merced County (Stone *et al.* 1988). This same perennial, along with the three weedy, nonnative grasses *L. multiflorum, H. geniculatum,* and *P. monospeliensis,* appear to threaten three populations of *O. pilosa,* two in Tehama County and one in Stanislaus County (Stone *et al.* 1988). The native perennials *Eleocharis macrostachya* and *Eryngium* sp. appear to limit distribution and abundance of three populations of *O. tenuis* in Shasta County and ten populations in Tehama County in the Sacramento Valley (Stone *et al.* 1987, 1988). Five populations of *Chamaesyce hooveri* in Tehama County are threatened by one or more native or nonnative plant species (CNDDB 1996). The distribution and abundance of *O. viscida* at six of the seven extant sites is significantly restricted by *Eleocharis macrostachya,* which appears to threaten one population of *O. viscida* through competitive exclusion (Stone *et al.* 1988). Another population of *Neostapfia colusana* on TNC's Jepson Prairie Preserve is threatened by competitive exclusion from the nonnative, aggressive *Phyla nodiflora* var. *nodiflora* (CNDDB 1996; G. Clark, *in litt.* 1993). Initial results from on-going research regarding controlling or eradicating *Phyla nodiflora* var. *nodiflora* at the Jepson Prairie Preserve have indicated that control or eradication is likely to be very difficult (CDFG 1991h).

Soil disturbance from cattle grazing combined with competition from the introduced annual grasses *Crypsis schoensides, Phalaris paradoxa, Hordeum geniculatum,* and *Polypogon monspeliensis* and the nonnative perennial Lolium multiflorum appear to adversely affect two populations of *Tuctoria greenei* in Tehama County and one in Butte County within the Sacramento Valley, and all seven remaining extant sites in Merced County in the San Joaquin Valley (Stone *et al.* 1987, 1988; CNDDB 1996). *Tuctoria greenei* appears to be the most susceptible of the eight plants in this rule to negative grazing impacts because its preference to grow in the margin of a vernal pool (along the outer edges of the pool) makes it more susceptible to livestock trampling damage and competition from nonnative weeds such as *L. multiflorum, Phalaris paradoxa,* and *Polypogon monospeliensis* (Stone *et al.* 1987). All populations of *T. greenei* are subject to grazing. One population of *T. greenei* in Tehama County, two in Merced County, and one in Butte County are damaged and declining due to grazing (Stone *et al.* 1988). Because cattle grazing is likely the primary cause for extirpation or presumed extirpation of *T. greenei* at eight sites and all other populations are grazed by livestock, the remaining populations of *T. greenei* are potentially threatened by grazing (Stone *et al.* 1988). Lastly, the primary threat to populations of *Orcuttia pilosa, O. tenuis,* and *T. greenei* on TNC's Vina Plains Preserve is competition from nonnative, aggressive weeds, including *Convolvulus arvensis, Proboscidea louisianica,* and *Xanthium strumarium* (CDFG 1991i, CNDDB 1996).

A population of *Neostapfia colusana* on the McClellan U.S. Air Force Base radio transmitter site in Yolo County is severely degraded due to herbicide runoff from the antenna pads and to discing of firebreaks (CNDDB 1996; G. Clark, *in litt.* 1993).

Off-highway vehicle damage has been reported to one population of *Orcuttia tenuis* in Plumas County and threatens two additional populations in Shasta and one population of *O. pilosa* in Madera County (CNDDB 1996).

Because vernal pools are fairly localized habitats in close proximity to urban and agricultural areas, uncontrolled visits by groups or individuals could result in trampling of vernal pool plants and potentially threaten all eight species.

The Service has carefully assessed the best scientific and commercial information available regarding the present and future threats faced by these eight species in determining to issue this rule. As described under the ''Summary of Factors Affecting the Species'' section above, the available information indicates that many of the populations of these plants are currently threatened. Thirty-three populations of these eight vernal pool plants have been extirpated and much of the habitat has

been lost to a variety of human activities. Large-scale human population increases and attendant urban growth, as well as changes in agricultural uses in adjacent areas, have destroyed and continue to destroy significant quantities of the plants' vernal pool habitat and continue to eliminate many plant populations. As a result, all eight species have fragmented, discontinuous, highly restricted habitats within the Central Valley, most of which are vulnerable to current and future threats.

More than half of the remaining populations of the plants determined for listing as endangered face numerous on-going threats. Although these remaining populations of *O. pilosa, O. viscida,* and *Tuctoria greenei* vary in size of occupied habitat, their geographic distribution near expanding urban areas and restriction to the Central Valley floor renders them more vulnerable to various threats, as described in Factor ''A''. The Central Valley floor is favored over the valley rim for urban development, agricultural activities, and agricultural land conversion. The immediacy and magnitude of threats to these plant populations is, therefore, greater than those occurring above the valley floor. Nine populations of *O. pilosa* have been lost and two others are possibly extirpated. Fourteen of the remaining 25 native extant populations of *O. pilosa* are variously threatened by urbanization, agricultural land conversion, a highway expansion project, discing, off-highway vehicle use, and competition from nonnative weeds. Of the seven extant populations of *O. viscida,* five populations are threatened by one or more of the following factors—a landfill project, urban development, and competition from nonnative weeds. Approximately half the known populations of *Tuctoria greenei* have been extirpated or are possibly extirpated by some form of human activity. With the exception of the population on the Sacramento National Wildlife Refuge, the remaining 20 extant populations of *T. greenei* are variously threatened by competition from nonnative weeds, grazing, and agricultural land conversion. Based upon the above evaluation, the proposed action is to list *O. pilosa, O. viscida,* and *T. greenei* as endangered.

The remaining populations of the four species proposed as threatened and *Orcuttia inaequalis,* which was proposed as endangered, face fewer existing threats, that are of lesser magnitude. Moreover, several populations of these five plants occur in pool habitats above the Central Valley floor (up to 1,090 m (3,600 feet) in elevation) and/or somewhat removed from expanding urban areas. Nonetheless, these five species are likely to become increasingly imperiled in the foreseeable future unless current trends of urban development and agricultural conversion are reversed. Of the 36 extant populations of *Castilleja campestris* ssp. *succulenta,* nearly half are threatened by one or more of the following—urbanization, agricultural land conversion, discing, trampling, a flood control project, and a proposed highway expansion project. About one-third of the 25 remaining populations of *Chamaesyce hooveri* are threatened by agricultural land conversion, a flood control project, and/or competition with nonnative weeds. Ten populations of *Neostapfia colusana* are lost or suspected of being lost due to conversion of habitat. Of the 44 remaining populations of *N. colusana,* 22 populations are threatened or are damaged and declining due to agricultural land conversion, discing, a flood control project, a proposed Federal prison, herbicide contaminated runoff, and/or competition with nonnative plants. Sixteen populations of *O. inaequalis* have been lost and three other populations are possibly extirpated. Of the remaining 23 native extant populations of *O. inaequalis,* 11 are variously threatened by urbanization, agricultural land conversion, and competition with nonnative weeds. Twenty-three of the 59 native extant populations of *O. tenuis* are variously threatened either by one or more of the following—urbanization, altered hydrology, off-highway vehicles, and competition from nonnative weeds. Based on the evaluation above, the preferred action is to list *Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, N. colusana, O. inaequalis,* and *O. tenuis* as threatened.

Alternatives to this action were considered but not preferred. Not listing *Orcuttia pilosa, O. viscida, and Tuctoria greenei* as endangered or *Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, Neostapfia colusana, O. inaequalis,* and *O. tenuis* as threatened would not provide adequate protection and would not be consistent with the Act. The Service is not proposing to designate critical habitat for these plants species at this time, as discussed below.

Critical Habitat

Critical habitat is defined in section 3(5)(A) of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' as defined in section 3(3) of the Act means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and the implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Orcuttia pilosa, O. viscida, Tuctoria greenei, Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, Neostapfia colusana, O. inaequalis,* and *O. tenuis.* Service regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(1) the species is imperiled by taking or other human activity and the identification of critical habitat can be expected to increase the degree of such threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. In the case of the eight vernal pool plants in this final rule, both criteria are met.

The listing of these plants as endangered or threatened elevates awareness of their rarity, making them more sought after by curiosity seekers, researchers, rare plant collectors, and vandals. Because vernal pool habitats are small and easily identified, the publication of precise maps and descriptions of critical habitat in the **Federal Register** would increase the vulnerability of these plant species to incidents of collection and general vandalism. Over a period of recent years, the Service is aware of the discing or filling of vernal pools and associated upland habitats known to or likely containing Federal candidate, proposed or listed species including vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), California tiger salamander (*Ambystoma californiense*), Burke's goldfields (*Lasthenia burkei*), Sonoma sunshine (*Blennosperma bakeri*), and Butte County meadowfoam (*Limnanthes floccosa* ssp. *californica*) (Jim Browning, Jan Knight, Chris Nagano, Dan Strait, Service, pers. comms. 1994).

Most of the populations of the eight vernal pool plants occur on private lands where Federal involvement in land-use activities does not generally occur. The most likely Federal involvement would occur with the Corps through section 404 of the Clean Water Act. The Service finds that Federal involvement in the few areas where these plants occur on Federal land has already been identified without the designation of critical habitat. The USFS and the BLM jointly have prepared a species management guide for *Orcuttia tenuis.* A few populations have been fenced to protect them from off-highway vehicle use and grazing. The BLM also is aware of the populations of *Castilleja campestris* ssp. *succulenta* and *O. inaequalis* and has fenced several populations of each species to protect the populations from trespass grazing. Sacramento National Wildlife Refuge personnel are also aware of the few populations of *Chamaesyce hooveri, O. pilosa,* and *Tuctoria greenei* occurring on Service land in Glenn County. Protection of a few populations of several of these vernal pool plants and their habitats on Federal land will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for these eight plants is not prudent at this time because such designation would increase the threat from vandalism or other human activities. The Service also finds that designation of critical habitat is not beneficial because most of the populations of the eight vernal pool plants are found on private lands. Where they are found on Federal lands, the agencies are aware of the species and are already addressing conservation efforts.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(1) requires Federal agencies to use their authorities to further the purposes of the Act by carrying out programs for listed species. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action is likely to adversely affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

The Corps of Engineers will become involved with these species through its permitting authority under section 404 of the Clean Water Act as well as water projects in the Central Valley such as the Merced County Streams Project. By regulation, nationwide permits may not be issued where a federally listed endangered or threatened species would be affected by the proposed project without first completing formal consultation pursuant to section 7 of the Act. The presence of a listed species would highlight the national importance of these resources. In addition, issuance of housing loans by the Department of Housing and Urban Development in areas that presently support these eight species would be subject to review by the Service under section 7 of the Act. The BOR will become involved under its Friant water contract renewal program to the extent that these species may occur within the 404,700 ha (1 million ac) water delivery area (M. Kohl, Service, pers. comm. 1992). Other future BOR contract renewals will provide additional potential for section 7 involvement. The BLM and the USFS will become involved as they are responsible for authorizing grazing and other land uses in areas containing vernal pools. Highway construction and maintenance projects that receive funding from the Department of Transportation (Federal Highways Administration) will be subject to review under section 7 of the Act. The Federal Bureau of Prisons could become involved in discussions with the Service in the event that part of the reuse of the former U.S. Castle Air Force Base is determined to be a Federal prison facility. Castle Air Force Base is now closed, but the property is still under Federal ownership. The U.S. Air Force may become involved regardless of the decision of whether a Federal prison is located on part of the former U.S. Air Force base.

Listing *Orcuttia pilosa, O. viscida,* and *Tuctoria greenei* as endangered and *Castilleja campestris* ssp. *succulenta, Chamaesyce hooveri, Neostapfia colusana, O. inaequalis,* and *O. tenuis* as threatened provides for the development of a recovery plan(s), which will bring together State and Federal efforts for conservation of these plants. The recovery plan(s) would establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan(s) would set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also would describe site-specific management actions necessary to achieve conservation and survival of these species. Additionally, pursuant to section 6 of the Act, the Service would be able to grant funds to affected states for management actions aiding in the protection and recovery of these plants.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered and threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. Seeds from cultivated specimens of threatened plant taxa are exempt from these prohibitions provided that a statement ''Of Cultivated Origin'' appears on the shipping containers. Certain exceptions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the

propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with purposes of the Act. Because none of these eight plants are common in the wild or in cultivation, trade permits likely would not be sought. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Permits Branch, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (503/231–6241).

It is the policy of the Service (59 FR 34272; July 1, 1994) to identify to the maximum extent practicable at the time of listing those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed or on-going activities. The Service believes that the following actions would result in a violation of section 9, although possible violations are not limited to these actions alone: Collection, damage, or destruction of these species on Federal lands, except in certain cases described below; and activities on non-Federal lands conducted in knowing violation of California State law, which requires a ten day notice be given before taking of plants on private land. The Service believes that, based on the best available information, the following actions will not result in a violation of section 9 on private land provided that they do not violate State trespass or other laws: Livestock grazing, ranching operations (construction or maintenance of fences, water facilities, corrals; off-road vehicle travel), firebreak construction and maintenance, non-federally authorized mining, and recreational activities. Activities that occur on Federal land, or on private land that receive Federal authorization, permits, or funding, and for which either a Federal endangered species permit is issued to allow collection for scientific or recovery purposes, or a consultation is conducted in accordance with section 7 of the Act, would also not result in a violation of section 9. General prohibitions and exceptions that apply to all endangered and threatened plants in section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, apply as discussed earlier in this section. Questions regarding whether specific activities will constitute a violation of section 9 should be directed to the Field Supervisor of the Service's Sacramento Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Service has determined that Environmental Assessments and Environmental Impact Statements, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements. This rulemaking was not subject to review by the Office of Management and Budget under Executive Order 12866. The Department has determined that these final regulations meets the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor of the Sacramento Field Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Ken Fuller (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

§ 17.12 [Amended]

2. Section 17.12(h) is amended by adding the following, in alphabetical order under Flowering Plants, to the List of Endangered and Threatened Plants to read as follows:

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Flowering Plants:							
*	* *		* *		*		*
Castilleja campestris ssp. *succulenta.*	Fleshy owl's-clover	U.S.A. (CA).	Scrophulariaceae	T	611	NA	NA
*	* *		* *		*		*
Chamaesyce hooveri	Hoover's spurge	U.S.A. (CA).	Euphorbiaceae	T	611	NA	NA
*	* *		* *		*		*
Neostapfia colusana	Colusa grass	U.S.A. (CA).	Poaceae	T	611	NA	NA
*	* *		* *		*		*
Orcuttia inaequalis	San Joaquin Valley Orcutt grass.	U.S.A. (CA).	Poaceae	T	611	NA	NA

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	* *		* *		*		*
Orcuttia pilosa	Hairy Orcutt grass	U.S.A. (CA).	Poaceae	E	611	NA	NA
*	* *		* *		*		*
Orcuttia tenuis	Slender Orcutt grass	U.S.A. (CA).	Poaceae	T	611	NA	NA
*	* *		* *		*		*
Orcuttia viscida	Sacramento Orcutt grass	U.S.A. (CA).	Poaceae	E	611	NA	NA
*	* *		* *		*		*
Tuctoria greenei	Greene's tuctoria	U.S.A. (CA).	Poaceae	E	611	NA	NA
*	* *		* *		*		*

Offset Folios 7 to 8 Insert Here
Dated: February 24, 1997.

John G. Rogers,

Acting Director, U.S. Fish and Wildlife Service

[FR Doc. 97–7619 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 970318058–7058–01; I.D. 022597A]

RIN 0648–XX82

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Rescission of Control Date

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

ACTION: Notice of rescission of control date.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) believe that changes in the management of the spiny lobster fishery makes a previously announced control date obsolete. Therefore, on behalf of the Councils, NMFS announces that the date of January 15, 1986, is no longer considered a control date for entry into the Gulf of Mexico and South Atlantic spiny lobster fishery.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Georgia Cranmore, 813–570–5305.

SUPPLEMENTARY INFORMATION: The spiny lobster fishery is managed under the Fishery Management Plan for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Councils and is implemented through regulations at 50 CFR part 640, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act.

A control date of January 15, 1986, was established for the spiny lobster fishery in anticipation of a possible Federal limited access program for this fishery (51 FR 5713, February 18, 1986). The notice announcing this control date stated that anyone entering the fishery after January 15, 1986, was not assured of continued participation if a limited access system was adopted.

No limited access program was developed by the Councils. Instead, the Councils adopted Florida's management regime for the exclusive economic zone (EEZ) off Florida. The commercial fishery is confined primarily to Florida waters and the EEZ off Florida. Commercial and recreational spiny lobster landings outside Florida are negligible.

In 1992, NMFS adopted for the EEZ off Florida, Florida's spiny lobster trap certificate, trap reduction, and trap identification programs (57 FR 56516, November 30, 1992).

In 1994, NMFS removed the requirement for Federal vessel permits in the commercial fishery in the EEZ off Florida (59 FR 53118, October 21, 1994). The South Atlantic Council determined (at its November 1996 meeting) and the Gulf Council determined (at its July 1996 meeting) that these changes in the management of the spiny lobster fishery make the control date obsolete. Therefore, NMFS announces the rescission of the January 15, 1986, control date with respect to this fishery.

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

Dated: March 20, 1997.

C. Karnella,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–7717 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 031997A]

Fisheries of the Exclusive Economic Zone Off Alaska; Offshore Component Pollock in the Aleutian Islands Subarea

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

ACTION: Modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock by vessels catching pollock for processing by the offshore component in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to fully utilize the total allowable catch (TAC) of pollock in that area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), March 20, 1997, through 1200 hrs, A.l.t., March 22, 1997.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the Bering Sea

and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(c)(3)(iii), the allowance for the pollock TAC apportioned for vessels catching pollock for processing by the offshore component in the AI was established by the Final 1997 Harvest Specifications for Groundfish (62 FR 7168, February 18, 1997) as 16,835 metric tons (mt). The Administrator, Alaska Region, NMFS (Regional Administrator), has established a directed fishing allowance of 14,835 mt, and set aside the remaining 2,000 mt as bycatch to support other anticipated groundfish fisheries. The fishery for pollock by vessels catching pollock by vessels catching pollock for processing by the offshore component in the AI of the BSAI was closed to directed fishing under § 679.20(d)(1)(iii) on February 27, 1997, (62 FR 9379, March 3, 1997) and opened March 12, 1997, through March 14, 1997, (62 FR 13351, March 20, 1997).

NMFS has determined that as of March 18, 1997, 2,500 mt remain in the directed fishing allowance. Therefore, NMFS is terminating the previous closure and is opening directed fishing for pollock by vessels catching pollock for processing by the offshore component in the AI of the BSAI effective 1200 hrs, A.l.t., March 20, 1997.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Current information shows the catching capacity of vessels catching pollock for processing by the offshore component is in excess of 1,000 mt per day.

NMFS is prohibiting directed fishing for pollock by vessels catching pollock for processing by the offshore component in the AI of the BSAI at 1200 hrs, A.l.t., March 22, 1997, through December 31, 1997.

All other closures remain in full force and effect.

Classification

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: March 20, 1997.

George H. Darcy,

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

[FR Doc. 97–7539 Filed 3–20–97; 4:47 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 58
Wednesday, March 26, 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

Rural Business-Cooperative Service

Rural Utilities Service

7 CFR Part 4284

RIN 0570–AA20

Rural Cooperative Development Grants

AGENCIES: Rural Business-Cooperative Service and Rural Utilities Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Business-Cooperative Service (RBS) proposes to revise its regulations published previously under Rural Technology Development Grants (RTDG). This action is necessary to comply with the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) (Pub. L. 104–127), which removed ''technology'' from RTDG, thereby directing the focus of the program specifically to cooperative development. The 1996 Act also clarified that public bodies were not eligible applicants, and modified application requirements and applicant selection criteria. Exhibit A will be removed since it contains administrative material. The intended effect of this action is to improve the economic condition of rural areas through cooperative development.

DATES: Comments must be submitted on or before April 25, 1997.

ADDRESSES: Submit written comments in duplicate to the Director, Regulations and Paperwork Management Division, Rural Housing Service, USDA, Stop 0743, 1400 Independence Avenue, SW., Washington, DC 20250–0743. Comments may also be submitted via the internet by addressing them to: comments@rus.usda.gov and must contain ''Rural Cooperative Development Grants'' in the subject. All written comments will be available for public inspection at the above address during normal working hours.

FOR FURTHER INFORMATION CONTACT: James E. Haskell, Assistant Deputy Administrator, Cooperative Services, Rural Business-Cooperative Service, U.S. Department of Agriculture, Stop 3250, Room 4016, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250. Telephone (202) 720–8460.

SUPPLEMENTARY INFORMATION:

Classification

We are issuing this proposed rule in conformance with Executive Order 12866, and the Office of Management and Budget has determined that it is not a ''significant regulatory action.''

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, subpart G, ''Environmental Program.'' RBS has determined that this action does not constitute a major federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Public Law 91–190, an Environmental Impact Statement is not required.

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with this rule: (1) All state and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings in accordance with the regulations of the Agency at 7 CFR part 11, must be exhausted before bringing suit in court challenging action taken under this rule unless these regulations specifically allow bringing suit at an earlier time.

Intergovernmental Review

This program is listed in the Catalog of Federal Domestic Assistance under number 10.771 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. RBS has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940–J.

National Performance Review

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

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. Under section 202 of the UMRA, RBS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires RBS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. 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.

Regulatory Flexibility Act

This proposed rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities since this rulemaking action does not involve a new or expanded program. The removal of ''technology'' from RTDG substantially narrows the scope of this program. No provision of this rule requires action on the part of small businesses not required of large businesses. This rule requires no action on the part of any applicant not previously required by an applicant.

Paperwork Reduction Act

The information collection and recordkeeping requirements contained in this regulation were previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. chapter 35 and were assigned OMB control number 0570–0006, in accordance with the Paperwork Reduction Act of 1995. This proposed

rule does not impose any new information or recordkeeping requirements from those approved by OMB. Public reporting burden for this collection of information is estimated to vary from 30 minutes to 8 hours per response, with an average of 1.85 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Department of Agriculture, Clearance Officer, OIRM, Stop 7630, Washington, D.C. 20250.

Background

The RTDG program was established by rule on August 12, 1994 (59 FR 41386–98) and was authorized by section 310B(f) through (h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932). The 1996 Act removed ''technology'' from RTDG, thereby directing the focus of the program specifically to cooperative development. The 1996 Act also clarified that public bodies were not eligible applicants, and modified application requirements and applicant selection criteria. The primary objective of the Rural Cooperative Development Grant (RCDG) program is to improve the economic condition of rural areas through cooperative development. The program is administered through Rural Development State Offices acting on behalf of RBS. RBS is one of the successors of the Rural Development Administration pursuant to the Department of Agriculture Reorganization Act of 1994 (Pub. L. 103–354).

Other Regulations Affected

Conforming changes which are necessary as a result of the revisions proposed to part 4284, subpart F will be done at the Final Rule stage.

List of Subjects 7 CFR Part 4284

Business and industry, Grant programs—Housing and community development, Rural areas.

Accordingly, chapter XLII, title 7, Code of Federal Regulations, is proposed to be amended as follows:

PART 4284—GRANTS

1. The authority citation for part 4284 is revised to read as follows:

Authority: 5 U.S.C. 301, 7 U.S.C. 1989, 16 U.S.C. 1005.

Subpart F—Rural Cooperative Development Grants

2. Part 4284, subpart F is revised to read as follows:

Subpart F—Rural Cooperative Development Grants

Table of Contents

Subpart F—Rural Cooperative Development Grants

§ 4284.501 Purpose.

(a) This subpart outlines the Rural Business-Cooperative Service's policies and authorizations and sets forth procedures to provide grants for cooperative development in rural areas.

(b) Grants will be made available to nonprofit corporations and institutions of higher education for the purpose of establishing and operating centers for rural cooperative development.

(c) Copies of all forms and Instructions referenced in this subpart are available in the RBS National Office or any Rural Development State Office.

§ 4284.502 Policy.

The grant program will be used to facilitate the creation or retention of jobs in rural areas through the development of new rural cooperatives, value-added processing, and rural businesses.

§ 4284.503 [Reserved]

§ 4284.504 Definitions.

Agency—Rural Business-Cooperative Service (RBS) or a successor agency.

Approval official—Any authorized agency official.

Center—The entity established or operated by the grantee for rural cooperative development.

Cooperative—A user-owned and controlled business from which benefits are derived and distributed equitably on the basis of use.

Cooperative development—The startup, expansion, or operational improvement of a cooperative which will promote the development of new services and products that can be produced or provided in rural areas, new processes that can be utilized in the production of products in rural areas, or new enterprises that can add value to on-farm production through processing or marketing. Operational improvement includes making the cooperative more efficient or better managed.

Economic development—The growth of an area as evidenced by increases in total income, employment opportunities, decreased outmigration of populations, value of production, increased diversification of industry, higher labor force participation rates, increased duration of employment, higher wage levels, or gains in other measurements of economic activity, such as land values.

Nonprofit institution—Any organization or institution, including an accredited institution of higher education, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

Project—The undertaking for which funds will be used to develop or operate a cooperative development center.

Public body—Any state, county, city, township, incorporated town or village, borough, authority, district, economic development authority, or Indian tribe on federal or state reservations or other federally recognized Indian tribe in rural areas.

RBS—The Rural Business-Cooperative Service, an agency of the United States Department of Agriculture, or a successor agency.

Rural and rural area—Includes all territory of a state that is not within the outer boundary of any city having a population of 50,000 or more and its immediately adjacent urbanized and urbanizing areas with a population density of more than 100 persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

Rural Development—Rural Development mission area.

Servicing office—Any Rural Development State Office or successor office.

State—Any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Federated States of Micronesia, and the Republic of the Marshall Islands.

Subcenter—A unit of a center acting under the same direction as and having a purpose consistent with that of the center.

Urbanized area—An area immediately adjacent to a city having a population of 50,000 or more which, for general social and economic purposes, constitutes a single community and has a boundary contiguous with that of the city. Such community may be incorporated or unincorporated to extend from the contiguous boundaries to recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. Outer boundaries of an incorporated community extend at least to its legal boundaries. Cities which may have a contiguous border with another city, but are located across a river from such city, are recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area, as defined in this section, are not in a nonrural area.

Urbanizing area—A community which is not now, or within the foreseeable future not likely to be, clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community is considered ''separate'' when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities, or public parks shall be disregarded. A community is considered ''independent'' when its social (e.g., government, educational, health, and recreational facilities) and economic structure (e.g., business, industry, tax base, and employment opportunities) are not primarily dependent on the city and its immediately adjacent urbanized areas.

§ 4284.505 Applicant eligibility.

(a) Grants may be made to nonprofit corporations and institutions of higher education. Grants may not be made to public bodies.

(b) An outstanding judgment obtained against an applicant by the United States in a Federal Court (other than in the United States Tax Court), which has been recorded, shall cause the applicant to be ineligible to receive any grant or loan until the judgment is paid in full or otherwise satisfied. RBS grant funds may not be used to satisfy the judgment.

§§ 4284.506–4284.514 [Reserved]

§ 4284.515 Grant purposes.

Grant funds may be used to pay up to 75 percent of the costs for carrying out relevant projects. Applicant's contribution may be in cash or in-kind contribution in accordance with 7 CFR parts 3015 and 3019 of this title and must be from nonfederal funds except that a loan from another federal source can be used for the applicant's contribution. Grant funds may be used for, but are not limited to, the following purposes:

(a) Applied research and feasibility studies that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(b) Collection, interpretation, and dissemination of principles, facts, technical knowledge, or other information that may be useful to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(c) Providing training and instruction for individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(d) Providing loans and grants to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

(e) Providing technical assistance, research services, and advisory services to individuals, cooperatives, small businesses, and other similar entities in rural areas served by the center.

§ 4284.516 Ineligible grant purposes.

Grant funds may not be used to:

(a) Pay more than 75 percent of relevant project or administrative costs.

(b) Duplicate current services or replace or substitute support previously provided.

(c) Pay costs of preparing the grant application package.

(d) Pay costs incurred prior to the effective date of the grant made under this subpart.

(e) Pay for building construction, the purchase of real estate or vehicles, improving or renovating office space, or the repair or maintenance of privately-owned property.

(f) Fund political activities.

(g) Pay for assistance to any private business enterprise which does not have at least 51 percent ownership by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§ 4284.517–4284.526 [Reserved]

4284.527 Other considerations.

(a) *Civil rights compliance requirements.* All grants made under this subpart are subject to the requirements of title VI of the Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color, and national origin as outlined in part 1901, subpart E of this title. In addition, the grants made under this subpart are subject to the requirements of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap; the requirements of the Age Discrimination Act of 1975 which prohibits discrimination on the basis of age; and title III of the Americans with Disabilities Act, Public Law 101–336, which prohibits discrimination on the basis of disability by private entities in places of public accommodations.

(b) *Environmental requirements.*

(1) *General applicability.* Unless specifically modified by this section, the requirements of part 1940, subpart G of this title apply to this subpart. For example, the Agency's general and specific environmental policies contained in §§ 1940.303 and 1940.304 of part 1940, subpart G of this title must be met. Although the purpose of the grant program established by this subpart is to improve business, industry, and employment in rural areas, this purpose is to be achieved, to the extent practicable, without adversely affecting important environmental resources of rural areas such as important farmland and forest lands, prime rangelands, wetland, and flood plains. Prospective recipients of grants, therefore, must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans and projects that minimize the potential to adversely impact on the environment.

(2) *Technical assistance.* An application for a technical assistance project is generally excluded from the environmental review process by § 1940.333 of this title. However, as further specified in that section, the grantee of a technical assistance grant, in the process of providing technical assistance, must consider and generally document within their plans the potential environmental impacts of the plan and recommendations provided to the recipient of the technical assistance.

(3) *Applications for grants to provide financial assistance to third-party recipients.* As part of the preapplication, the applicant must provide a complete ''Request for Environmental Information,'' for each project specifically identified in its plan to provide financial assistance to third parties who will undertake eligible projects with such assistance. The Agency will review the preapplication, supporting materials, and any required ''Request for Environmental Information'' and initiate an appropriate environmental review for the preapplication. This assessment will focus on the potential cumulative impacts of the projects as well as any environmental concerns or problems that are associated with individual projects that can be identified at this time from the information submitted. Because the Agency's approval of this type of grant application does not constitute a commitment to the use of grant funds for any identified third-party projects (see § 4284.541), no public notification requirements will apply to the preapplication. After the grant is approved, each third-party project to be assisted under the grant will undergo the applicable environmental review and public notification requirements in part 1940, subpart G of this title prior to the Agency providing its consent to the grantee to assist the third-party project. If the preapplication reflects only one project which is specifically identified as the third-party recipient for financial assistance, the Agency may proceed directly to the appropriate environmental assessment for the third-party recipient with public notification as required. The applicant must be advised that if the recipient or project changes after the grant is approved, the project to be assisted under the grant will undergo the applicable environmental review and public notification requirements.

(c) *Government-wide debarment and suspension (non-procurement) and requirements for drug-free workplace.* Persons who are disbarred or suspended are excluded from federal assistance and benefits including grants under this subpart. Grantees must certify that they will provide a drug-free workplace. See 7 CFR part 3017 and RD Instruction 1940–M (available in any Rural Development State Office) for further guidance.

(d) *Restrictions on lobbying.* All grants must comply with the lobbying restrictions set forth in 7 CFR part 3018.

(e) *Excess capacity or transfer of employment.* If a proposed grant is for more than $1 million and will increase direct employment by more than 50 employees, the applicant will be requested to provide written support for an Agency determination that the proposal will not result in a project which is calculated to, or likely to, result in the transfer of any employment or business activity from one area to another. This limitation will not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations.

(f) *Management assistance.* Grant recipients will be supervised, as necessary, to ensure that projects are completed in accordance with approved plans and specifications and that funds are expended for approved purposes. Grants made under this subpart will be administered under, and are subject to, 7 CFR parts 3015, 3017, 3019, and 3051, as appropriate, and established RBS guidelines.

(g) *National Historic Preservation Act of 1966.* All projects will be in compliance with the National Historic Preservation Act of 1966 in accordance with part 1901, subpart F of this title.

(h) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* All projects must comply with the requirements set forth in 7 CFR part 21.

(i) *Flood plains and wetlands.* All projects must comply with Executive Order 11988, ''Flood Plain Management,'' and Executive Order 11990, ''Protection of Wetlands.''

(j) *Flood or mudslide hazard area precautions.* If the grantee financed project is in a flood or mudslide area, flood or mudslide insurance must be provided.

(k) *Termination of Federal requirements.* Once the grantee has provided assistance with project loans in an amount equal to the grant provided by RBS, the requirements imposed on the grantee shall not be applicable to any new projects thereafter financed from the RCDG funds. Such new projects shall not be considered as being derived from federal funds. The purposes of such new projects, however, shall be consistent with these regulations.

(l) *Intergovernmental review.* Grant projects are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials. A loan fund established in whole, or in part, with grant funds will also be considered a project for the purpose of intergovernmental review as well as the specific projects funded with grant funds from the RCDG funds. For each project to be assisted with a grant under this subpart and which the state has elected to review under their intergovernmental review process, the state point of contact must be notified. Notification, in the form of a project description, can be initiated by the grantee. Any comments from the state must be included with the grantee's request to use RBS grant funds for the specific project. Prior to the RBS decision on the request, compliance with requirements of intergovernmental consultation must be demonstrated for each project. These requirements should be completed in accordance with ''Intergovernmental Review of Department of Agriculture Programs and Activities,'' part 3015, subpart V of this title (see RD Instruction 1940–J, available in any Rural Development State Office).

§ 4284.528 Application processing.

(a) *Preapplications.*

(1) Applicants will file an original and one copy of the ''Application for Federal Assistance (For Non-construction),'' with the appropriate Rural Development State Office. This form is available in any Rural Development State Office.

(2) All preapplications shall be accompanied by:

(i) Evidence of applicant's legal existence and authority to perform the proposed activities under the grant.

(ii) Latest financial information to show the applicant's financial capacity to carry out the project. At a minimum, the information should include a balance sheet and an income statement. A current audited report is preferred where one is reasonably obtainable.

(iii) Estimated breakdown of total costs, including costs to be funded by the applicant or other identified sources. Certification must be provided from the applicant that its matching share to the project is available and will be used for the project. The matching share must meet the requirements of 7 CFR parts 3015 and 3019 as applicable. Certifications from an authorized representative of each source of funds must be provided indicating that funds are available and will be used for the proposed project.

(iv) Budget and description of the accounting system to be used.

(v) Area to be served, identifying within that area each governmental unit (i.e., town, county, etc.) affected by the proposed project. Evidence of support and concurrence from each affected governmental unit must be provided by either a resolution or a written

statement from the chief elected local official.

(vi) A listing of cooperative businesses to be assisted or created.

(vii) Applicant's experience with similar projects, including experience of key staff members and persons who will be providing the proposed services and managing the project.

(viii) The number of months duration of the project and the estimated time it will take from grant approval to beginning of service.

(ix) Method and rationale used to select the areas or businesses that will receive the service.

(x) Brief description of how the work will be performed and whether organizational staff, consultants or contractors will be used.

(xi) Evaluation method to be used by the applicant to determine if objectives of the proposed activity are being accomplished.

(xii) A brief plan that contains the following provisions and describes how the applicant will meet these provisions:

(A) A provision that substantiates that the applicant will effectively serve rural areas in the United States.

(B) A provision that the primary objective of the applicant will be to improve the economic condition of rural areas by promoting development of new cooperatives or improvement of existing cooperatives.

(C) Supporting data from established official independent sources along with any explanatory documentation.

(D) A description of the activities that the applicant will carry out to accomplish such objective.

(E) A description of the proposed activities to be funded under this subpart.

(F) A description of the contributions that the applicant's proposed activities are likely to make to the improvement of the economic conditions of the rural areas served by the applicant.

(G) Provisions that the applicant, in carrying out its activities, will seek, where appropriate, the advice, participation, expertise, and assistance of representatives of business, industry, educational institutions, the federal, state, and local governments.

(H) Provisions that the applicant will consult with any college or university administering Extension Service programs and cooperate with such college or university in the coordination of the center's activities and programs.

(I) Provisions that the applicant will take all practicable steps to develop continuing sources of financial support for the center, particularly from sources in the private sector.

(J) Provisions for:

(*1*) Monitoring and evaluating its activities; and

(*2*) Accounting for money received and expended by the applicant under this subpart.

(K) Provisions that the applicant will provide for the optimal application of cooperative development in rural areas, especially those areas adversely affected by economic conditions, such that local economic conditions can be improved through cooperative development.

(xiii) If grant funds are to be used for the purpose of making loans or grants to individuals, cooperatives, small businesses, and other similar entities (ultimate recipients) in rural areas for eligible purposes under this subpart, the preapplication must include the agreement proposed to be used between the applicant and the ultimate recipients that includes the following:

(A) An assurance that the responsibilities of the grantee, as a recipient of grant funds under this subpart, are passed on to the ultimate recipient and the ultimate recipient understands its responsibilities to comply with the requirements set forth in this subpart, including 7 CFR parts 3015 and 3019 as applicable.

(B) Provisions that the ultimate recipient will comply with debarment and suspension requirements contained in 7 CFR part 3017 and will execute a ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.''

(C) Provisions that the ultimate recipient will execute an ''Equal Opportunity Agreement,'' and an ''Assurance Agreement.''

(D) Documentation that the ultimate recipient understands its responsibilities to the applicant.

(E) Documentation that the applicant understands its responsibilities in monitoring the ultimate recipient's activities under the grant and the applicant's plan for such monitoring.

(F) Documentation, when other references or sources of information are used, along with copies, if possible, that provides dates, addresses, page numbers and explanations of how interpretations are made to substantiate that such things as economically distressed conditions do exist.

(G) Narrative addressing all items in 4284.540(a) regarding grant selection criteria.

(b) *Applications.* Upon notification that the applicant has been selected for funding, the following will be submitted to Rural Development by the applicant:

(1) Proposed scope of work, detailing the proposed activities to be accomplished and time frames for completion of each activity.

(2) Other information requested by RBS to make a grant award determination.

(c) *Applicant response.* If the applicant fails to submit the application and related material by the date shown on the invitation for applications, which will follow the final rulemaking notice, Rural Development may discontinue consideration of the preapplication.

§§ 4284.529–4284.539 [Reserved].

§ 4284.540 Grant selection criteria.

Grants will be awarded under this subpart on a competitive basis. The priorities described in this paragraph will be used by RBS to rate preapplications. RBS review of preapplications will include the complete preapplication package submitted to the Rural Development State Office. Points will be distributed according to ranking as compared with other preapplications on hand. All factors will receive equal weight with points awarded to each factor on a 5, 4, 3, 2, 1 basis depending on the applicant's ranking compared to other applicants.

(a) Preference will be given to applications that:

(1) demonstrate a proven track record in administering a nationally coordinated, regionally or State-wide operated project;

(2) demonstrate previous expertise in providing technical assistance in rural areas;

(3) demonstrate the ability to assist in the retention of business, facilitate the establishment of cooperatives and new cooperative approaches, and generate employment opportunities that will improve the economic conditions of rural areas;

(4) demonstrate the ability to create horizontal linkages among businesses within and among various sectors in rural areas of the United States and vertical linkages to domestic and international markets;

(5) commit to providing technical assistance and other services to underserved and economically distressed rural areas of the United States;

(6) commit to providing greater than a 25 percent matching contribution with private funds and in-kind contributions; and

(7) evidence transferability or demonstration value to assist rural areas outside of project area.

(b) Each preapplication for assistance will be carefully reviewed in accordance with the priorities established in this

section. A priority rating will be assigned to each preapplication. Preapplications selected for funding will be based on the priority rating assigned each preapplication and the total funds available. All preapplications submitted for funding should contain sufficient information to permit RBS to complete a thorough priority rating.

§ 4284.541 Grant approval, fund obligation, grant closing, and third-party financial assistance.

The grantee will execute all documents required by RBS to make a grant under this subpart.

§§ 4284.542–4284.556 [Reserved].

§ 4284.557 Fund disbursement.

Grants will be disbursed as follows:

(a) A ''Request for Advance or Reimbursement'' will be completed by the applicant and submitted to Rural Development not more frequently than monthly. Payments will be made by electronic funds transfer pursuant to the Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

(b) The grantee's share in the cost of the project will be disbursed in advance of grant funds or on a pro-rata distribution basis with grant funds during the disbursement period. The grantee may not provide its contribution at the end of the grant period.

§ 4284.558 Reporting.

A ''Financial Status Report'' and a project performance activity report will be required of all grantees on a quarterly calendar basis. A final project performance report will be required with the last Financial Status Report. The final report may serve as the last quarterly report. The final report must include a final evaluation of the project. Grantees must constantly monitor performance to ensure that time schedules are being met, projected work by time periods is being accomplished, and other performance objectives are being achieved. Grantees are to submit an original of each report to Rural Development. The project performance reports shall include, but not be limited to, the following:

(a) A comparison of actual accomplishments to the objectives established for that period;

(b) Reasons why established objectives (if any) were not met;

(c) Problems, delays, or adverse conditions which will affect attainment of overall project objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular project work elements during established time periods. This disclosure shall be accompanied by a statement of the action taken or planned to resolve the situation; and

(d) Objectives and timetable established for the next reporting period.

§§ 4284.559—4284.570 [Reserved]

§ 4284.571 Audit requirements.

The grantee will provide an audit report in accordance with § 1942.17 of this title. Audits must be prepared in accordance with general accounting principles and standards using the publication, ''Standards for Audit of Governmental Organizations, Programs, Activities and Functions.''

§ 4284.572 Grant servicing.

Grants will be serviced in accordance with part 1951, subpart E of this title.

§ 4284.573 Programmatic changes.

The grantee shall obtain prior approval for any change to the scope or objectives of the approved project. Failure to obtain prior approval of changes to the scope or budget can result in suspension or termination of grant funds.

§ 4284.574 Subsequent grants.

Subsequent grants will be processed in accordance with the requirements set forth in this subpart. Cooperative development projects receiving assistance under this program will be evaluated one year after assistance is received. If it is determined to be in the best interests of the program, preference may be given to a project or projects for an additional grant in the immediately succeeding year.

§ 4284.575 Grant suspension, termination, and cancellation.

Grants may be canceled by RBS by written notice. Grants may be suspended or terminated for cause or convenience in accordance with 7 CFR parts 3015 and 3019, as applicable.

§§ 4284.576—4284.586 [Reserved]

§ 4284.587 Exception authority.

The Administrator may, in individual cases, make an exception to any requirement or provision of this subpart if the Administrator determines that application of the requirement or provision would adversely affect U.S. Department of Agriculture interest.

§§ 4284.588—4284.599 [Reserved]

§ 4284.600 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575–0006. You are not required to respond to this collection of information unless it displays a valid OMB control number.

Dated: March 17, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97–7743 Filed 3–25–97; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–51–AD]

RIN 2120–AA64

Airworthiness Directives; Mooney Aircraft Corporation Models M20F, M20J, and M20L Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to Mooney Aircraft Corporation (Mooney) Models M20F, M20J, and M20L airplanes. The proposed action would require removing the fuel cap retaining lanyard from the fuel filler cap assemblies. A report of lost engine power during flight because of fuel starvation prompted the proposed action. The investigation revealed that the airplane fuel float became trapped by the fuel cap retaining lanyard, keeping the float from following the fuel level. This condition caused the pilot to get a false fuel quantity reading. The actions specified by the proposed AD are intended to prevent loss of engine power and fuel depletion during flight caused by a false fuel gauge reading.

DATES: Comments must be received on or before May 30, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–51–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

Service information that applies to the proposed AD may be obtained from Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas 78028. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Ms. Alma Ramirez-Hodge, Aerospace Engineer, FAA, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150; telephone (817) 222–5147; facsimile (817) 222–5960.

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 that summarizes 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–CE–51–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, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96–CE–51–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Events Leading to the Proposed Action

The FAA received a report of an incident where a Mooney Model M20J airplane lost engine power during flight because of fuel starvation. The pilot noted that the fuel gauge indicated the tank was half full before the engine quit. The pilot switched fuel tanks, re-started the engine, and the airplane landed without further incident. Subsequent investigation of the incident revealed that after fueling the airplane, the fuel cap retaining lanyard trapped the outboard float, preventing the float from following the fuel level downward. As a result, the fuel gauge showed the tank as half full of fuel when the tank was actually empty. The fuel cap lanyard and tank float design is the same for all Mooney Models M20F, M20J, and M20L airplanes.

Related Service Information

Mooney Aircraft has issued service bulletin M20–259, Issue Date: September 1, 1996, which specifies removing the lanyard from the fuel cap assembly.

Explanation of the Provisions of the Proposed Action

After examining the circumstances and reviewing all available information related to the incident described above, the FAA has determined that AD action should be taken to prevent loss of engine power and fuel depletion during flight caused by a false fuel gauge reading.

Since an unsafe condition has been identified that is likely to exist or develop in other Mooney Models M20F, M20J, and M20L airplanes of the same type design, the proposed AD would require removing the lanyard (nylon type material) from the fuel cap assembly.

Cost Impact

The FAA estimates that 2,526 airplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 1 workhour per airplane to accomplish the proposed action, and that the average labor rate is approximately $60 an hour. There are no parts to include in this cost estimate. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $151,560 or $60 per airplane. The FAA has no way to determine how many owners/operators have accomplished this action, and would assume that no operator has accomplished this action.

Regulatory Impact

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 action (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) 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 has been placed 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 USC 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

Mooney Aircraft Corporation: Docket No. 96–CE–51–AD.

Applicability: The following Models and serial numbered airplanes, certificated in any category.

Models	Serial numbers
M20F	All serial numbers.
M20J	24–0001 through 24–3381.
M20L	26–0001 through 26–0041.

Note 1: This AD applies to each airplane 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 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 (c) 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 within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent loss of engine power and fuel depletion during flight caused by a false fuel gauge reading, accomplish the following:

(a) Remove the lanyard (nylon type material) from the left-hand (LH) and right-hand (RH) fuel filler cap assembly in accordance with the INSTRUCTIONS section of Mooney Aircraft Corporation Service Bulletin M20–259, Issue Date: September 1, 1996.

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Fort Worth Airplane Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(d) All persons affected by this directive may obtain copies of the document referred to herein upon request to Mooney Aircraft Corporation, Louis Schreiner Field, Kerrville, Texas, 78028; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 20, 1997.

Larry E. Werth,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7679 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–182–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A300–600 Series Airplanes

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 certain Airbus Industrie Model A300–600 series airplanes. This proposal would require repetitive eddy current inspections to detect cracks of the outer skin of the fuselage at certain frames, and repair or reinforcement of the structure at the frames, if necessary. This proposal also would require eventual reinforcement of the structure at certain frames, which, when accomplished, terminates the repetitive inspections. This proposal is prompted by a report indicating that fatigue cracks were found in the area of certain frames. The actions specified by the proposed AD are intended to prevent such fatigue cracking, which could reduce the structural integrity of the airframe and result in rapid decompression of the airplane.

DATES: Comments must be received by May 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–182–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

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 shall 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 Number 96–NM–182–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–182–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Model A300–600 series airplanes. The DGAC advises that, during inspection of in-service Model A300 series airplanes, fatigue cracks were found after 18,000 flight cycles in the area of frames 28A and 30A, at left and right-hand stringer 30. Fatigue cracking in this area of the fuselage could reduce the structural integrity of the airframe and result in rapid decompression of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A300–53–6045, dated March 21, 1995, as revised by Change Notice No. O.A., dated June 1, 1995, which describes procedures for repetitive eddy current inspections to detect cracks of the outer skin of the fuselage at frames 28A and 30A above stringer 30, and repair or reinforcement of the structure of the frames, if necessary.

Airbus also has issued Service Bulletin A300–53–6037, dated March 21, 1995, which describes procedures for reinforcement of the structure at frames 28 and 29, and frames 30 and 31, between stringers 29 and 30. Accomplishment of the reinforcement will limit the risk of cracking in these areas. Such reinforcement eliminates the need for the repetitive inspections.

The DGAC classified Airbus Service Bulletin A300–53–6045 as mandatory and issued French airworthiness directive (C/N) 95–244–191(B), dated December 6, 1995, in order to assure the continued airworthiness of these airplanes in France. The DGAC

classified Airbus Service Bulletin A300–53–6037 as recommended.

FAA's Conclusions

This airplane model is manufactured in France 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require repetitive eddy current inspections to detect cracks of the outer skin of the fuselage at frames 28A and 30A above stringer 30; and repair or reinforcement of the structure of the frames, if necessary. Additionally, the proposed AD would require eventual reinforcement of the structure at frames 28 and 29, and frames 30 and 31, between stringers 29 and 30. Accomplishment of this reinforcement constitutes terminating action for the repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Differences Between Proposed Rule and Service Bulletins

Operators should note that, unlike the procedures described in Airbus Service Bulletins A300–53–6045 and A300–53–6037, this proposed AD would not permit further flight if cracks are detected in the outer skin. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject outer skin that is found to be cracked must be repaired or modified prior to further flight.

Operators should also note that the proposed AD would differ from Airbus FL Service Bulletin A300–53–6045 in that it would require the initial eddy current inspection to be accomplished prior to the accumulation of 14,100 total flight cycles, or within 12 months of the effective date of the AD, whichever occurs later. (The service bulletin recommends inspection prior to the accumulation of 18,000 flight cycles, or at the next ''C'' check, whichever occurs first.) In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the susceptibility of the outer skin of the fuselage to fatigue cracking, which could result in rapid decompression of the airplane. The FAA has also received reports of fatigue cracking on affected airplanes that had accumulated as few as 14,100 total flight cycles. In consideration of these items, the FAA finds that the initial eddy current inspection conducted at the proposed compliance time stated previously will better ensure that any detrimental effect associated with fatigue cracking will be identified and corrected prior to the time that it could adversely affect the outer skin of the fuselage.

Operators should also note that this AD proposes to mandate, within 5 years, the reinforcement described in Service Bulletin A300–53–6037 as terminating action for the repetitive inspections. [Incorporation of this terminating action of this service bulletin is optional in the French C/N 95–244–191(B).] The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet.

This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed reinforcement requirement is in consonance with these conditions.

Cost Impact

The FAA estimates that 34 Airbus Model A300–600 series airplanes of U.S. registry would be affected by this proposed AD.

The eddy current inspection that is proposed by this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection on U.S. operators is estimated to be $2,040, or $60 per airplane, per inspection cycle.

The reinforcement that is proposed in this AD would take approximately 93 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $7,200 per airplane. Based on these figures, the cost impact of the proposed modification requirements of this AD on U.S. operators is estimated to be $434,520, or $12,780 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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 the following new airworthiness directive:

Airbus Industrie: Docket 96–NM–182–AD.

Applicability: Model A300–600 series airplanes on which Airbus Modification 8683 was not accomplished during production, or on which Airbus Modification 8684 has not been installed; certificated in any category.

Note 1: Airbus Models A300 B2 and B4 series airplanes are not subject to the requirements of this AD.

Note 2: 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 (c) 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 fatigue cracking of the fuselage outer skin at frames 28A and 30A, which could reduce the structural integrity of the airframe and result in rapid decompression of the airplane, accomplish the following actions:

(a) Prior to the accumulation of 14,100 total flight cycles, or within 12 months after the effective date of the AD, whichever occurs later, conduct an eddy current inspection to detect cracking of the fuselage outer skin at frames 28A and 30A above stringer 30, in accordance with Airbus Service Bulletin A300–53–6045, dated March 21, 1995, as revised by Change Notice No. O.A., dated June 1, 1995.

(1) If no cracking is found, repeat the inspection thereafter at intervals not to exceed 4,500 flight cycles.

(2) If any cracking is found that is within the limits specified in the service bulletin, repair in accordance with paragraph 2.D. of the Accomplishment Instructions of Airbus Service Bulletin A300–53–6045, dated March 21, 1995, as revised by Change Notice No. O.A., dated June 1, 1995; or reinforce the structure at frames 28 and 29, and at frames 30 and 31, between stringers 29 and 30, in accordance with Airbus Service Bulletin A300–53–6037, dated March 21, 1995.

1(i) If the repair is accomplished: After the repair, repeat the eddy current inspection thereafter at intervals not to exceed 4,500 flight cycles.

(ii) If the reinforcement is accomplished: Such reinforcement constitutes terminating action for the repetitive inspections required by this AD.

(3) If any cracking is found that is outside the limits specified in the service bulletin, prior to further flight, reinforce the structure at frames 28 and 29, and at frames 30 and 31, between stringers 29 and 30, in accordance with Airbus Service Bulletin A300–53–6037, dated March 21, 1995. Such reinforcement constitutes terminating action for the repetitive inspections required by this AD.

(b) Within 5 years after the effective date of this AD, reinforce the structure at frames 28 and 29, and at frames 30 and 31, between stringers 29 and 30, in accordance with Airbus Service Bulletin A300–53–6037, dated March 21, 1995. Such reinforcement constitutes terminating action for the repetitive inspections required by this AD.

(c) 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, Standardization Branch, ANM–113, 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, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) 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.

Issued in Renton, Washington, on March 20, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7681 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 97–NM–06–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011 Series Airplanes Equipped With Rolls-Royce Model RB.211–524 Series Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Lockheed Model L–1011 series airplanes, that currently requires several modifications of the engine high speed gearboxes. This action would require that a new modification be installed in lieu of one of those previously required. This proposal is prompted by a report indicating that one of the currently required modifications is not completely effective because it can create interference problems between the fireloop and a fuel line. The actions specified by the proposed AD are intended to reduce the possibility of a fire in the high speed gear boxes, and to ensure that any fire which may occur is readily detected by the flight crew.

DATES: Comments must be received by May 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97-NM–06-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. 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 Lockheed Aeronautical Systems Support Company, Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080; and Rolls-Royce plc, Technical Publications Department, P.O. Box 17, Parkside, Coventry CV1 2LZ, England. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7367; fax (404) 305–7348.

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 shall 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 Number 97–NM–06–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–06–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 1, 1994, the FAA issued AD 94–03–10, amendment 39–8817 (59 FR 6535, February 11, 1994), applicable to certain Lockheed Model L–1011 series airplanes, to require several modifications of the engine high speed gear boxes:

1. Installation of an additional fire detection system on the high speed gearbox on the number 1, 2, and 3 engines;
2. Installation of a new vent tube in the gear compartment of the high speed gearbox on the number 1, 2, and 3 engines; and
3. Modification of the breather duct of the high speed gearbox on the number 2 engine.

That AD was prompted by a report of an oil fire that occurred in the engine high speed gearbox on a Rolls Royce RB211–524 series on one airplane. The fire burned a hole through the gearbox in the vicinity of the breather rotor. Investigation revealed that the fire was caused by problems associated with the failure of a roller bearing in the gearbox. Failure of any of the roller bearings in the engine high speed gearbox can lead to ignition of the gearbox oil. An internal gearbox fire could eventually breach the gearbox, due to melting of the magnesium in the gearbox housing, and could damage adjacent components.

The requirements of that AD are intended to reduce the possibility of fire in the engine high speed gearbox, and to ensure that, if a fire occurs, it is readily detected by the flight crew.

Actions Since Issuance of Previous Rule

Since the issuance of AD 94–03–10, the FAA has received a report indicating that one operator, who had installed the required fire detection system on its affected airplanes, identified an interference problem between the fireloop (fire rail sensor assembly) and the flexible fuel supply tube when the installation was completed. This interference allows these two components to come into contact with each other, which renders the modification less effective than intended in minimizing the possibility of a fire in the engine high speed gearbox.

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed Service Bulletin 093–26–039, Revision 1, dated April 10, 1996, which describes procedures for installing an additional fire detection loop in the number. 1, 2, and 3 high speed gearboxes on Rolls Royce RB.211–524 series engines. It also describes new procedures for revising the routing of the fire detector sensor assembly, with associated clipping changes to alleviate the lack of clearance.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 94–03–10. It would continue to require installation of a new vent tube in the high speed gearbox on the number 1, 2, and 3 engines, and modification of the breather duct of the high speed gearbox on the number 2 engine.

This proposed AD also would continue to require the installation of an additional fire detection system on the high speed gearbox on the number 1, 2, and 3 engines; however, it would require that the installation be accomplished in accordance with the revised service bulletin, described previously, which incorporates the new routing procedures. This proposed requirement would mean that operators who already have complied with the installation required by AD 94–03–10 must perform additional procedures relative to rerouting the installation assembly.

Cost Impact

There are approximately 92 Lockheed Model L–1011 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 28 airplanes of U.S. registry would be affected by this proposed AD.

The installation of a new vent tube in the high speed gear box, which is currently required by AD 94–03–10, takes approximately 3 work hours to accomplish, at an average labor rate of $60 per work hour. Required parts are estimated to cost $500 per airplane.

Based on these figures, the cost impact of this action on U.S. operators is estimated to be $19,040, or $680 per airplane.

The modification of the breather duct on the high speed gearbox on the number 2 engine, which is currently required by AD 94–03–10, requires approximately 6 work hours to accomplish, at an average labor rate of $60 per work hour. Required parts are estimated to cost $10,000 per airplane. Based on these figures, the cost impact of this action on U.S. operators is estimated to be $290,080, or $10,360 per airplane.

The installation of the additional fire detecting loop in accordance with the revised Lockheed service bulletin would require approximately 9 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. If the airplane is equipped with a Walter Kidde fire detection system, required parts are estimated to cost $2,100 per airplane. If the airplane is equipped with a Graviner fire detection system, required parts are estimated to cost $8,100 per airplane. Based on these figures, the cost impact of this proposed requirement on U.S. operators is estimated to be between $73,920 and $241,920 for the fleet, or between $2,640 and $8,640 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that at least 19 airplanes of U.S. registry already have been modified to incorporate the breather duct on the high speed gearbox on the number 2 engine. Therefore, the future cost impact of this proposed AD is reduced by at least $196,840.

Regulatory Impact

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 removing amendment 39–8817 (59 FR 6535, February 11, 1994), and by adding a new airworthiness directive (AD), to read as follows:

LOCKHEED: Docket 97–NM–06–AD. Supersedes AD 94–03–10, Amendment 39–8817.

Applicability: Model L–1011 series airplanes, equipped with Rolls-Royce Model RB211–524 series engines; 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 (c) 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 reduce the possibility of a fire in the engine high speed gearbox, and to insure that, if a fire occurs, it is readily detected by the flight crew, accomplish the following:

(a) Within 16,000 flight hours or 48 months after March 14, 1994, (the effective date of AD 94–03–10, amendment 39–8817), whichever occurs first, accomplish both paragraphs (a)(1) and (a)(2) of this AD:

(1) Install a new vent tube in the gear compartment of the high speed gearbox on the number 1, number 2, and number 3 engines, in accordance with Rolls-Royce Service Bulletin RB.211–72–4666, Revision 4, dated May 16, 1986.

Note 2: Installation of a new vent tube prior to the effective date of this AD in accordance with Rolls-Royce Service Bulletin RB.211–72–4666, Revision 3, dated October 14, 1977, is considered acceptable for compliance with this AD.

(2) Modify the breather duct of the high speed gearbox on the number 2 engine in accordance with Lockheed Service Bulletin 093–71–067, Revision 2, dated December 12, 1988.

Note 3: Modification of the breather duct prior to the effective date of this AD in accordance with Lockheed Service Bullion 093–71–067, Revision 1, dated April 1, 1986, is considered acceptable for compliance with this AD.

(b) Install an additional fire detection system on the high speed gearbox on the number 1, number 2, and number 3 engines in accordance with paragraph (b)(1), (b)(2), or (b)(3) of this AD, as applicable:

(1) For airplanes on which an additional fire detection system has not been installed: Within 6,000 flight hours or 18 months after the effective date of this AD, whichever occurs first, install the system in accordance with Lockheed Service Bulletin 093–26–039, Revision 1, dated April 10, 1996.

(2) For airplanes on which an additional fire detection system has been installed prior to the effective date of this AD and in accordance with Lockheed Service Bulletin 093–26–039, dated November 11, 1992: Within 6,000 flight hours or 18 months after the effective date of this AD, whichever occurs first, modify the system in accordance with Lockheed Service Bulletin 093–26–039, Revision 1, dated April 10, 1996.

(3) For airplanes on which an additional fire detection system has been installed prior to the effective date of this AD and in accordance with Lockheed Service Bulletin 093–26–039, Revision 1, dated April 10, 1996: No further action is required by this paragraph.

(c)(1) 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, Atlanta Aircraft Certification Office (ACO), FAA, Small 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, Atlanta ACO.

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

(2) Alternative methods of compliance, approved previously in accordance with AD 94–03–10, amendment 39–8817, are approved as alternative methods of compliance with this AD.

(d) 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.

Issued in Renton, Washington, on March 20, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7682 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–165–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300-B2 and -B4 Series Airplanes, Excluding Model A300–600 Series Airplanes, Equipped With General Electric CF6–50 Series Engines or Pratt & Whitney JT9D–59A Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A300-B2 and -B4 series airplanes that currently requires an inspection to detect discrepancies of a certain thrust reverser control lever spring; an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system; and either the correction of discrepancies or deactivation of the associated thrust reverser. That AD also provides for an optional terminating action. That AD was prompted by a report that, due to broken and deformed thrust reverser control lever springs, an uncommanded movement of the thrust reverser lever to the unlock position and a ''reverser unlock'' amber warning occurred on one airplane. The actions specified by that AD are intended to detect such broken or deformed control lever springs before they lead to uncommanded deployment of a thrust reverser and consequent reduced controllability of the airplane. This proposal would require installation of the previously optional terminating action in accordance with the latest service information.

DATES: Comments must be received by May 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96-NM–165-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Chuck Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2589; fax (206) 227–1149.

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 shall 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 Number 96-NM–156-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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96-NM–165-AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On February 8, 1996, the FAA issued AD 96–04–05, amendment 39–9517 (61 FR 6503, February 21, 1996), applicable to certain Airbus Model A300–B2 and –B4 series airplanes, to require an inspection to detect discrepancies of a certain thrust reverser control lever spring; an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system; and either the correction of discrepancies or deactivation of the associated thrust reverser. That AD also provides for optional terminating action for the inspection and test. That AD was prompted by a report that, due to broken and deformed thrust reverser control lever springs, an uncommanded movement of the thrust reverser lever to the unlock position and a ''reverser unlock'' amber warning occurred on one airplane. The requirements of that AD are intended to detect such broken or deformed control lever springs before they lead to uncommanded deployment of a thrust reverser and consequent reduced controllability of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 96–04–05, Airbus has issued Service Bulletin A300–78–0015, Revision 2, dated May 24, 1996, as revised by Change Notice 2.A., dated May 24, 1996. This service bulletin revision describes procedures for replacement of the left and right control levers of the thrust reverser with new control levers equipped with new springs. The new spring has a 100 percent increase in stiffness and possesses a redundant locking device. Accomplishment of the replacement eliminates the need for the inspection and operational test. The revised service bulletin indicates that, for airplanes on which the replacement specified in the original issue or Revision 1 of the service bulletin has been accomplished, additional work is necessary.

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified Revision 2 of the service bulletin as mandatory and issued French airworthiness directive 95–185–187(B)R1, dated March 27, 1996, in order to assure the continued airworthiness of these airplanes in France. The French airworthiness directive specifies that Revision 2 of the service bulletin is the appropriate source of service information for accomplishment of the replacement, and that the original issue and Revision 1 of the service bulletin may not be used to accomplish that action.

Additionally, it should be noted that, in the preamble of AD 96–04–05, the FAA indicated that the optional terminating action was considered to be ''interim action,'' and that further rulemaking action to require that terminating action was being considered. The FAA is now proposing to mandate the previously optional terminating action in accordance with the latest service bulletin revision described previously, rather than in accordance with the original issue of the service bulletin, as specified in AD 96–04–05.

FAA's Conclusions

These airplane models are manufactured in France and are 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 DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 96–04–05 to continue to require an inspection to detect discrepancies of a certain thrust reverser control lever spring; an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system; and either the correction of discrepancies or deactivation of the associated thrust reverser.

The proposed AD also would require replacement of the left and right control levers of the thrust reverser with new control levers equipped with new springs; this replacement would constitute terminating action for the inspection and operational test requirements. This action would be required to be accomplished in accordance with the service bulletin described previously.

The optional terminating action that was previously provided for by AD 96–04–05 would effectively be removed from the airplane when the replacement required by this proposed AD is installed. Additionally, for those airplanes on which the previously optional terminating action has not been accomplished, no additional work would be required to be to install the replacement proposed by this AD.

Cost Impact

There are approximately 21 Airbus Model A300–B2 and –B4 series airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 96–04–05 take approximately 6 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $55 per airplane. Based on these figures, the cost impact on U.S. operators of the actions currently required is estimated to be $8,715, or $415 per airplane.

The new actions that are proposed in this AD action would take approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $1,945 per airplane. Based on these figures, the cost impact on U.S. operators of the proposed requirements of this AD is estimated to be $47,145, or $2,245 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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 removing amendment 39–9517 (61 FR 6503, February 21, 1996), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 96-NM–165-AD. Supersedes AD 96–04–05, Amendment 39–9517.

Applicability: Model A300-B2 and -B4 series airplanes, equipped with General Electric CF6–50 series engines or Pratt & Whitney JT9D–59A engines; certificated in any category.

Note 1: Model A300–600 series airplanes are not subject to the requirements of this AD.

Note 2: 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 (c) 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 detect broken or deformed thrust reverser control lever springs before they lead to uncommanded deployment of a thrust reverser and consequent reduced controllability of the airplane, accomplish the following:

Restatement of Requirements of AD 96–04–05, Amendment 39–9517:

(a) Within 500 flight hours after March 22, 1996 (the effective date AD 96–04–05, amendment 39–9517), perform a mechanical integrity inspection to detect discrepancies of the thrust reverser control lever spring having part number (P/N) A2791294520000, and an operational test to verify the integrity of the flight inhibition circuit of the thrust reverser system, in accordance with Airbus All Operators Telex (AOT) 78–03, Revision 1, dated July 20, 1994.

(1) If no discrepancies are detected, no further action is required by paragraph (a) of this AD.

(2) If the control lever spring is found broken or out of tolerance, prior to further flight, replace it with a new control lever spring or deactivate the associated thrust reverser in accordance with the AOT.

(3) If the flight inhibition circuit of the thrust reverser system fails the operational test, prior to further flight, determine the origin of the malfunction, in accordance with the AOT.

(i) If the origin of the malfunction is identified, prior to further flight, repair the flight inhibition circuit in accordance with the AOT.

(ii) If the origin of the malfunction is not identified, prior to further flight, replace the relay having P/N 125GB or 124GB, and repeat the operational test, in accordance with the AOT. If the malfunction is still present, prior to further flight, inspect and repair the wiring in accordance with the AOT. If the malfunction is still present following the inspection and repair, prior to further flight, deactivate the associated thrust reverser in accordance with the AOT.

New Requirements of this AD:

(b) Within 60 days after the effective date of this AD, replace the left and right control levers of the thrust reverser with new control levers equipped with new springs, in accordance with Airbus Service Bulletin A300–78–0015, Revision 2, dated May 24, 1996, as revised by Change Notice 2.A., dated May 24, 1996. After replacement, no further action is required by this AD.

Note 3: Accomplishment of the replacement in accordance with either the original issue or Revision 1 of Airbus Service Bulletin A300–78–0015 is not considered acceptable for compliance with the applicable action specified in this AD.

(c) 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, Standardization Branch, ANM–113, 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, Standardization Branch, ANM–113.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(d) 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.

Issued in Renton, Washington, on March 20, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7683 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 96–NM–282–AD]

RIN 2120–AA64

Airworthiness Directives; Gulfstream American (Frakes Aviation) Model G–73 (Mallard) Series Airplanes Modified in Accordance With Supplemental Type Certificate (STC) SA2323WE

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 certain Gulfstream American (Frakes Aviation) Model G–73 (Mallard) series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to prohibit positioning the power levers below the flight idle stop, and to provide a statement of consequences of positioning the power levers below the flight idle stop. The proposed AD is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the propeller beta was used improperly during flight. The actions specified by the proposed AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

DATES: Comments must be received by May 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–282–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Brian Hancock, Flight Test Pilot, Airplane Certification Office, ASW–150, FAA, Rotorcraft Directorate, 1601 Meacham Boulevard, Fort Worth, Texas 76137–4298; telephone (817) 222–5152; fax (817) 222–5960.

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 shall 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 Number 96–NM–282–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–282–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In recent years, the FAA has received reports of 14 incidents and/or accidents involving intentional or inadvertent operation of the propellers in the beta range during flight on airplanes equipped with turboprop engines. (Beta is the range of propeller operation intended for use during taxi, ground idle, or reverse operations as controlled by the power lever settings aft of the flight idle stop.)

Five of the fourteen in-flight beta occurrences were classified as accidents. In each of these five cases, operation of the propellers in the beta range occurred during flight. Operation of the propellers in the beta range during flight, if not prevented, could result in loss of airplane controllability, or engine overspeed with consequent loss of engine power.

Communication between the FAA and the public during a meeting held on June 11–12, 1996, in Seattle, Washington, revealed a lack of consistency of information on in-flight beta operation contained in the FAA-approved Airplane Flight Manual (AFM) for airplanes that are not certificated for in-flight operation with the power levers below the flight idle stop. (Airplanes that are certificated for this type of operation are not affected by the above-referenced conditions.)

The FAA's Determination

The FAA has examined the circumstances and reviewed all available information related to the incidents and accidents described previously. The FAA finds that the Limitations Section of the AFM's for certain airplanes must be revised to prohibit positioning the power levers below the flight idle stop while the airplane is in-flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The FAA has determined that the affected airplanes include those that are equipped with turboprop engines and that are not certificated for in-flight operation with the power levers below the flight idle stop. Since Gulfstream American (Frakes Aviation) Model G–73 series airplanes meet these criteria, the FAA finds that the AFM for these airplanes must be revised to include the limitation and statement of consequences described previously.

Explanation of the Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Gulfstream American (Frakes Aviation) Model G–73 (Mallard) series airplanes of the same type design, the proposed AD would require revising the Limitations Section of the AFM to prohibit positioning the power levers below the flight idle stop, and to provide a statement of the consequences of positioning the power levers below the flight idle stop.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 20 Gulfstream American (Frakes Aviation) Model G–73 (Mallard) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 10 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $600, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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 the following new airworthiness directive:

Gulfstream American (Frakes Aviation): Docket 96–NM–282–AD.

Applicability: Model G–73 (Mallard) series airplanes modified in accordance with Supplemental Type Certificate No. SA2323WE, certificated in any category.

Note 1: This AD applies to each airplane 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 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 loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

''Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.''

(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, Fort Worth Airplane Certification Office (ACO), ASW–150, FAA, Rotorcraft Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth 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.

Issued in Renton, Washington, on March 20, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7684 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 39

[Docket No. 97–NM–08–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model 382 Series Airplanes

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 all Lockheed Model 382 series airplanes. This proposal would require revising the Airplane Flight Manual (AFM) to prohibit positioning the power levers below the flight idle stop, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The proposed AD is prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the propeller beta was used improperly during flight. The actions specified by the proposed AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

DATES: Comments must be received by May 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–08–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. 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 Lockheed Aeronautical Systems Support Company (LASSC), Field Support Department, Dept. 693, Zone 0755, 2251 Lake Park Drive, Smyrna, Georgia 30080. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft

Certification Office, Small Airplane Directorate, Campus Building, 1701 Columbia Avenue, Suite 2–160, College Park, Georgia 30337–2748; telephone (404) 305–7367; fax (404) 305–7348.

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 shall 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 Number 97–NM–08–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–08–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In recent years, the FAA has received reports of 14 incidents and/or accidents involving intentional or inadvertent operation of the propellers in the beta range during flight on airplanes equipped with turboprop engines. (Beta is the range of propeller operation intended for use during taxi, ground idle, or reverse operations as controlled by the power lever settings aft of the flight idle stop.)

Five of the fourteen in-flight beta occurrences were classified as accidents. In each of these five cases, operation of the propellers in the beta range occurred during flight. Operation of the propellers in the beta range during flight, if not prevented, could result in loss of airplane controllability, or engine overspeed with consequent loss of engine power.

Communication between the FAA and the public during a meeting held on June 11–12, 1996, in Seattle, Washington, revealed a lack of consistency of the information on in-flight beta operation contained in the FAA-approved Airplane Flight Manual (AFM) for airplanes that are not certificated for in-flight operation with the power levers below the flight idle stop. (Airplanes that are certificated for this type of operation are not affected by the above-referenced conditions.)

Explanation of Relevant Service Information

The FAA has reviewed and approved Lockheed AFM 382/E/G, Revision 24, dated November 15, 1996. This revision prohibits positioning the power levers below the flight idle stop while the airplane is in flight. Additionally, the revision contains a caution or warning which states that such positioning of the power levers may lead to loss of airplane controllability, or engine overspeed and consequent loss of engine power.

FAA's Determinations

The FAA has examined the circumstances and reviewed all available information related to the incidents and accidents described previously. The FAA finds that the Limitations Section of the AFM's for certain airplanes must be revised to prohibit positioning the power levers below the flight idle stop while the airplane is in-flight, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The FAA has determined that the affected airplanes include those that are equipped with turboprop engines and that are not certificated for in-flight operation with the power levers below the flight idle stop. Since Lockheed Model 382 series airplanes meet these criteria, the FAA finds that the AFM for these airplanes must be revised to include the limitation and statement of consequences described previously.

Explanation of the Requirements of the Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop in other Lockheed Model 382 series airplanes of the same type design, the proposed AD would require revising the Limitations Section of the AFM to prohibit positioning the power levers below the flight idle stop speed, and to provide a statement of the consequences of positioning the power levers below the flight idle stop. The actions would be required to be accomplished in accordance with the Lockheed AFM document described previously.

Interim Action

This is considered interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 18 Lockheed Model 382 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 18 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,080, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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 the following new airworthiness directive:

Lockheed Aeronautical Systems Company: Docket 97–NM–08–AD.

Applicability: All Model 382 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane 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 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 loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This may be accomplished by inserting a copy of this AD or Lockheed AFM 382/E/G, Revision 24, dated November 15, 1996, into the AFM.

''Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.''

(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, Atlanta Aircraft Certification Office (ACO), FAA, Small 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, Atlanta ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta 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.

Issued in Renton, Washington, on March 20, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7685 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–110–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

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 all Dornier Model 328–100 series airplanes. This proposal would require inspections for chafing of various control cables, and replacement of any chafed cable with a serviceable cable. This proposal is prompted by chafing of various control cables found during inspections conducted at the manufacturer's facility and at overhaul facilities. The actions specified by the proposed AD are intended to prevent such chafing, which could cause the pilot's controls for the autopilot, elevator/rudder, and engine to be ineffective. This condition, if not corrected, could result in reduced controllability of the airplane.

DATES: Comments must be received by May 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. 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 Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Connie Beane, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2796; fax (206) 227–1149.

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 shall 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 Number 96–NM–110–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition may exist on all Dornier Model 328–100 series airplanes. The LBA advises that it received several reports indicating that chafing of

various control cables (i.e., the autopilot, elevator and rudder, and engine control cables) was found during inspections conducted at the manufacturer's facility and at overhaul facilities. Chafing of these control cables can occur due to high cable tension through the fairleads, misalignment, and/or sharp pulley groove designs. Such chafing of the control cables could cause the pilot's controls for the autopilot, elevator/rudder, and engine to be ineffective. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletin ASB–328–00–011, dated December 4, 1995, which describes procedures for the following:

- Repetitive inspections for chafing of the autopilot control cables (elevator, rudder, and aileron) in the area of the servo drums, and adjustment of the tension of all autopilot control cables; and replacement of any chafed cable with a serviceable cable.
- Repetitive inspections for chafing of the elevator and rudder control cables and fairleads in the area of the rear pressure bulkhead, and to determine correct installation of the bulkhead; replacement of any chafed cable with a serviceable cable; and readjustment of any incorrect installation.
- Repetitive inspections for chafing of the engine control cables and fairleads in the area of the fuselage conduit seal housing and the wing/nacelle fairleads; and replacement of any chafed cable with a serviceable cable.

The LBA classified this service bulletin as mandatory and issued German airworthiness directive 96–001, dated January 3, 1996, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

This airplane 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, the proposed AD would require repetitive inspections for chafing of the control cables (autopilot, elevator and rudder, and engine), and replacement of any chafed cable with a serviceable cable. The actions would be required to be accomplished in accordance with the alert service bulletin described previously.

Cost Impact

The FAA estimates that 42 Dornier Model 328–100 series airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $15,120, or $360 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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 the following new airworthiness directive:

Dornier: Docket 96–NM–110–AD.

Applicability: All Model 328–100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane 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 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 chafing of various control cables, which could cause the pilot's controls for the autopilot, elevator/rudder, and engine to be ineffective, and could result in consequent reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 2,000 total hours time-in-service, or within 200 hours time-in-service after the effective date of this AD, whichever occurs later: Accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with Dornier Alert Service Bulletin ASB–328–00–011, dated December 4, 1995. Repeat those actions thereafter at intervals not to exceed 1,500 hours time-in-service.

(1) Perform an inspection for chafing of the autopilot control cables (elevator, rudder, and aileron) in the area of the servo drums, and adjust the tension of all autopilot control cables. If any chafing is found, prior to further flight, replace the chafed cable with a serviceable cable.

(2) Perform an inspection for chafing of the elevator and rudder control cables and fairleads in the area of the rear pressure bulkhead, and to determine correct installation of the bulkhead.

(i) If any chafing is found, prior to further flight, replace the chafed cable with a serviceable cable.

(ii) If any incorrect installation is found, prior to further flight, readjust the installation.

(3) Perform an inspection for chafing of the engine control cables and fairleads in the area of the fuselage conduit seal housing and the wing/nacelle fairleads. If any chafing is found, prior to further flight, replace the chafed cable with a serviceable cable.

(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, Standardization Branch, ANM–113, 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, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(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.

Issued in Renton, Washington, on March 20, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7686 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

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14 CFR Part 39

[Docket No. 96–NM–31–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727 and Model 737 Series Airplanes Equipped With J.C. Carter Company Fuel Valve Actuators

AGENCY: Federal Aviation Administration, DOT.

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

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 727 and Model 737 series airplanes, that would have required replacement of the actuator of the engine fuel shutoff valve and the fuel system crossfeed valve with an improved actuator. That proposal was prompted by a report indicating that, during laboratory tests, the actuator clutch on the engine fuel shutoff and crossfeed valves failed to function properly. This action expands the applicability of the proposed rule by including an additional Kearfott actuator that is subject to the addressed unsafe condition. The actions specified by this proposed AD are intended to prevent improper functioning of these actuators, which could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel; improperly functioning actuators also could prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire.

DATES: Comments must be received by April 14, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. 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 J.C. Carter Company Inc., Aerospace Components and Repair Service, 673 W. 17th Street, Costa Mesa, California 92627–3605. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen S. Bray, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2175; fax (206) 227–1181.

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 shall 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 Number 96–NM–31–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, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–31–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 727 and 737 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on March 29, 1996 (61 FR 14034). That NPRM would have required replacement of the actuator having P/N 40574–5 (Kearfott Model 3715–9) on the fuel system crossfeed valve and the engine shutoff valves either with a new actuator having P/N 40574–4, or with an actuator having P/N 40574–2 and a nameplate. That NPRM was prompted by a report indicating that, during laboratory tests, the actuator clutch on the engine shutoff and crossfeed valves failed to function properly. That condition, if not corrected, could result in improper functioning of these actuators, which could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel; improperly functioning actuators could also prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire.

Actions Since Issuance of Previous Proposal

Due consideration has been given to the comments received in response to the NPRM:

Request for Clarification of What Prompted the NPRM

One commenter points out that the description of what prompted the NPRM that appeared in the Summary section of the preamble to the notice states that ''during laboratory tests, the actuator clutch on the engine shutoff valves slipped at cold temperatures due

to improper functioning.'' The commenter states that, during the laboratory tests, some of the Kearfott Model 3715–7 actuators exhibited operational problems (i.e., brush binding) at cold temperatures, but the Kearfott Models 3715–8 and –9 did not. The commenter also states that, during these tests, clutch binding occurred on all three of these Kearfott models; this situation could result in the actuator failing before its normal life-limit.

The FAA finds that clarification of this point is necessary. The commenter is correct in pointing out that, during the subject laboratory tests, brush binding occurred only on the Kearfott Model 3715–7 actuator. However, the FAA finds that the clutch binding occurred only on the Kearfott Models 3715–8 and –9 actuators during these tests, and that the design of the Kearfott Model 3715–7 actuator is subject to clutch binding events like the Kearfott Models 3715–8 and –9 actuators. In order to generalize these points, the FAA has revised the Summary and Discussion sections in the preamble to the Supplemental NPRM to indicate that ''the engine shutoff and crossfeed valves failed to function properly.''

Request to Revise Discussion Section of the Preamble

The same commenter notes that the Discussion section of the preamble to the NPRM states that, ''an additional fuel valve actuator having part number (P/N) 40574–5 (Kearfott Model 3715–9) installed on certain Model 727 and 737 series airplanes is also subject to the same failure * * * addressed in AD 95–15–06.'' The commenter states that this statement is incorrect. However, the commenter makes no specific request with regard to changing the proposed AD.

The commenter points out that the Kearfott Model 3715–9 actuator has a clutch binding condition, whereas the J.C. Carter P/N 40574–2 actuator (Electromech Model EM 487–2 and –3), addressed by AD 95–15–06, amendment 39–9309 (60 FR 37811, July 24, 1995), has a clutch slippage condition. The commenter also points out that the Electromech Model EM–487–3 actuator has a condition only apparent during cold temperature operation, which returns to normal at warmer temperatures. In addition, the commenter states that the Kearfott Model 3715–9 actuator can result in a hard failure, not a latent failure like the Electromech Model EM 487–2 and –3 actuator.

The FAA acknowledges that the statement quoted by the commenter could be misleading. The FAA is aware that the two failures associated with the clutch on the Kearfott and Electromech actuators are different in nature; however, both of these failures result in the same unsafe condition (i.e., improperly functioning actuators could result in fuel imbalance due to the inability of the flightcrew to crossfeed fuel; improperly functioning actuators also could prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire). However, since the Discussion section of the preamble to the originally proposed NPRM is not restated in this supplemental NPRM, no change to the supplemental NPRM is necessary.

Request to Revise Descriptive Language of the Referenced Service Bulletin

The same commenter also notes that the description of the replacement requirements that appeared in the Discussion section of the preamble to the NPRM refers to ''actuators having P/N 40574–2 (Kearfott Model 3715–7) with nameplates * * *.'' The commenter states that this statement is inaccurate since it implies that only actuators manufactured by Kearfott are acceptable for the subject replacement. The commenter suggests that actuators made by Kearfott are not acceptable replacements, and suggests that a more accurate description would be ''actuators having P/N 40574–2 with nameplates * * *.'' The FAA acknowledges that the commenter's wording is more accurate. However, since this portion of the Discussion section of the preamble to the originally proposed NPRM is not restated in this supplemental NPRM, no change to the supplemental NPRM is necessary.

Clarification Concerning Acceptable Replacement Actuators

Paragraph (a) of the original NPRM indicates that ''an actuator having P/N 40574–2 with a nameplate identified in paragraph III, Material, of J.C. Carter Company Service Bulletin 61163–28–09, dated September 28, 1995,'' is considered to be an acceptable replacement part. The FAA points out that paragraph III of the service bulletin includes a statement indicating that only those actuators with nameplates reflecting that they were made by certain manufacturers (and identified as Model 3715–7) are acceptable, except as identified in Figure 1.0 of the service bulletin. That figure specifies that only certain actuators that have not been affected by a manufacturer's recall are considered to be acceptable replacements. The FAA has revised paragraph (a) of the final rule to clarify this information.

Request to Revise the Replacement Requirements of the Proposed Rule

In addition, the same commenter notes that, in the fifth paragraph of the Discussion section of the preamble to the NPRM, the FAA concluded that actuators having P/N 40574–2 (Kearfott Models 3715–7 and –8) currently are required to be replaced in accordance with AD 95–15–06; therefore, the proposed AD would require replacement only of actuators having P/N 40574–5. The commenter points out that Kearfott Models 3715–7 and –8 actuators are not covered under AD 95–15–06. The commenter also points out that these Kearfott actuators have the potential to exhibit the same clutch binding condition as actuators having P/N 40564–5. Therefore, the commenter requests that Kearfott Models 3715–7 and –8 actuators be made subject to the requirements of the proposed rule.

The FAA concurs with the commenter's request. The FAA has reviewed the applicability of AD 95–15–06 and has determined that only actuators having P/N 40574–2 (Electromech Model EM–487–3) are subject to the requirements of that AD. The FAA agrees that actuators having P/N 40574–2 (Kearfott Models 3715–7 and –8) are subject to the requirements of this proposal. In light of this, the FAA has revised the applicability and the replacement requirement specified in paragraph (a) of this supplemental NPRM.

Conclusion

Since this change expands the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 4,137 Boeing Model 727 and 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 2,190 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be supplied by J.C. Carter Company at no cost to operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $394,200, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD

action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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 the following new airworthiness directive:

Boeing: Docket 96–NM–31–AD.

Applicability: Model 727 and Model 737 series airplanes, equipped with J.C. Carter Company fuel valve actuators having part number (P/N) 40574–2 (Kearfott Models 3715–7 and –8) or 40574–5 (Kearfott Model 3715–9), 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 improper functioning of a certain actuator, which could result in a fuel imbalance due to the inability of the flightcrew to crossfeed fuel, or which could prevent the pilot from shutting off the fuel to the engine following an engine failure and/or fire, accomplish the following:

(a) Within 36 months after the effective date of this AD, replace any actuator having P/N 40574–2 (Kearfott Models 3715–7 and –8) or 40574–5 (Kearfott Model 3715–9) on the fuel system crossfeed valve and the engine shutoff valves with either a new actuator having P/N 40574–4, or an actuator having P/N 40574–2 with a nameplate identified in paragraph III, Material, of J.C. Carter Company Service Bulletin 61163–28–09, dated September 28, 1995, that is not affected by a manufacturer's recall (reference Figure 1.0 of the service bulletin). The replacement shall be done in accordance with J.C. Carter Company Service Bulletin 61163–28–09, dated September 28, 1995.

(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, Seattle 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, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle 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.

Issued in Renton, Washington, on March 20, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–7687 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–ASW–28]

Proposed Establishment of Class E Airspace; New Mexico, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace extending upward from 1,200 feet above ground level (AGL) within Restricted Area R–5107B, and the portion of Restricted Area R–5107A north of latitude 32°18′00″N, located in south/central New Mexico. These White Sands Missile Range restricted areas are currently excluded from Class E airspace extending upward from 1,200 feet AGL within the boundary of the state of New Mexico. The intended effect of this proposal is to provide controlled airspace for aircraft operating within confines of Restricted Area R–5107B and that portion of Restricted Area R–5107A north of latitude 32°18′00″N., White Sands Missile Range, New Mexico, NM.

DATES: Comments must be received on or before May 27, 1997.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96–ASW–28, Fort Worth, TX 76193–0530. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Forth Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193–0530; telephone: (817) 222–5593.

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, 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 under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: ''Comments to Airspace Docket No. 96–ASW–28.'' The postcard will be date/time stamped and returned to the commenter. All comments received on or before the specific closing dates 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 Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Forth Worth, TX 76193–0530. 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 that 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, controlled airspace extending upward from 1,200 feet AGL within the confines of Restricted Area R–5107B and a portion of R–5107A north of latitude 32°18′00″N, White Sands Missile Range, New Mexico, NM. White Sands Missile Range has upgraded the radar coverage within this area to provide air traffic control services for aircraft authorized to operate within this restricted area. The intended effect of this proposal is to provide adequate Class E airspace for aircraft operating within the boundaries of Restricted Area R–5107B and the portion of Restricted Area R–5107A north of latitude 32°18′00″N, White Sands Missile Range, New Mexico, NM.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace areas extending upward from 700 feet or more above ground level 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 that need frequent and routine amendments 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. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant 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 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9D, *Airspace Designations and Reporting Points*, dated September 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.

* * * * *

ASW NM E5 New Mexico, NM [Amended]

On the eighteenth and nineteenth line, change ''excluding Restricted Areas R–5101, R–5107B, and the portion of R–5107A north of Lat. 32°18′00″N to read ''excluding Restricted Area R–5101,''

* * * * *

Issued in Forth Worth, TX, on March 19, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–7667 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Departmental Offices

31 CFR Part 1

Privacy Act of 1974; Proposed Rule Exempting a System of Records From Certain Provisions of the Privacy Act

AGENCY: Departmental Offices, Treasury.

ACTION: Proposed Rule.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury gives notice of a proposed amendment to 31 CFR 1.36 to exempt a new system of records, the Suspicious Activity Reporting System (the ''SAR System''), Treasury/DO .212, from certain provisions of the Privacy Act. The exemptions are intended to increase the value of the system of records for law enforcement purposes, to comply with legal prohibitions against the disclosure of certain kinds of information, and to protect certain information about individuals maintained in the system of records.

DATES: Comments must be received no later than April 25, 1997.

ADDRESSES: Comments should be sent to Office of Legal Counsel, Financial Crimes Enforcement Network (''FinCEN''), 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182–2536. Comments will be made available for inspection and copying by appointment. Persons wishing such an opportunity should call Eileen Dolan at (703) 905–3590.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Langwiser, Attorney—Advisor, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182, (703) 905–3582.

SUPPLEMENTARY INFORMATION: The rules of FinCEN, the Board of Governors of the Federal Reserve System (the ''Board''), the Office of the Comptroller of the Currency (''OCC''), the Federal Deposit Insurance Corporation

(''FDIC''), the Office of Thrift Supervision (''OTS''), and the National Credit Union Administration (''NCUA'') (collectively, the Federal Supervisory Agencies),[1] create an integrated process for reporting suspicious activity and known or suspected crimes at, by, or through depository institutions and certain of their affiliates. The process is based on a single uniform Suspicious Activity Report (''SAR''), filed with FinCEN.

A single information system for the use of SARs is a key part of the integrated system. The single information system will permit enhanced analysis and tracking of such information, and rapid dissemination of the reports to appropriate law enforcement agencies. In accordance with 31 U.S.C. 5318(g) and 5319, data from the SAR System is exchanged, retrieved, and disseminated, both manually and electronically, among FinCEN, the Federal Supervisory Agencies, appropriate federal, state, and local law enforcement agencies, and state banking supervisory agencies. The provisions of 31 U.S.C. 5318(g)(4)(B) specifically require that the agency designated as repository for suspicious transaction reports refer those reports to any appropriate law enforcement or supervisory agency.

Agencies to which information will be referred electronically, which in certain cases may involve electronic transfers of batch information, initially will include the Federal Supervisory Agencies, the Federal Bureau of Investigation, the Criminal Investigation Division of the Internal Revenue Service, the United States Secret Service, the United States Customs Service, and the Executive Office of United States Attorneys, the Offices of the 93 United States Attorneys, and state supervisory agencies and certain state law enforcement agencies that have entered into appropriate agreements with FinCEN. (The FBI and Secret Service may receive electronic transfers of batch information as forms are filed to permit those agencies more efficiently to carry out their investigative responsibilities.) It is anticipated that information from the SAR system will also be disseminated to other appropriate federal, state or local law enforcement and regulatory agencies and also to non-United States financial regulatory agencies and law enforcement agencies. Organizations to which information from the SAR System is electronically disseminated are collectively referred to as ''SAR System Users.''

The SAR System is housed at the Internal Revenue Service Computing Center (''DCC'') in Detroit, Michigan. The SAR System is managed by FinCEN, with the assistance of the staff of DCC.

Pursuant to the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Department of the Treasury is publishing separately a notice of a proposed new system of records, Suspicious Activity Reporting System - Treasury/DO.212.

Under 5 U.S.C. 552a(j)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is ''maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.''

Under 5 U.S.C. 552a(k)(2), the head of an agency may promulgate rules to exempt a system of records from certain provisions of 5 U.S.C. 552a if the system of records is ''investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section.''

The Department of the Treasury is hereby giving notice of a proposed rule to exempt the SAR System from certain provisions of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2) and the authority vested in the Assistant Secretary (Enforcement) by 31 CFR 1.23(c). The reasons for exempting the system of records from sections (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act are set forth in the proposed rule.

The Department of the Treasury has determined that this proposed rule is not a ''significant regulatory action'' under Executive Order 12866.

Pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, for the reasons set forth above it is hereby certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

In accordance with the provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d), the Department of the Treasury has determined that this proposed rule will not impose new record keeping, application, reporting, or other types of information collection requirements.

Lists of Subjects in 31 CFR Part 1

Privacy.

Part 1 of title 31 of the Code of Federal Regulations is amended as follows:

PART 1—[AMENDED]

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

Authority: 5 U.S.C. 301 and 31 U.S.C. 321. Subpart A also issued under 5 U.S.C. 552 as amended. Subpart C also issued under 5 U.S.C. 552a.

2.Section 1.36 of Subpart C is amended by revising the heading ''Office of the Assistant Secretary for Law Enforcement'' to read ''Assistant Secretary (Enforcement)'' and under the Financial Crimes Enforcement Network by redesignating paragraph (g) as (l) and by adding paragraphs (g) thru (k) to read as follows:

§ 1.36 Systems exempt in whole or in part from the provisions of 5 U.S.C. 552a and this part.

* * * * *

ASSISTANT SECRETARY (ENFORCEMENT)

Financial Crimes Enforcement Network

* * * * *

(g) *In general.* The Assistant Secretary (Enforcement), exempts the system of records entitled ''Suspicious Activity Reporting System'' (Treasury/DO .212) from certain provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

(h)*Authority.* 5 U.S.C. 552a(j) and (k); 31 CFR 1.23(c).

(i)*General exemptions under 5 U.S.C. 552a(j)(2).* Pursuant to 5 U.S.C. 552a(j)(2), the Assistant Secretary (Enforcement), hereby exempts the Suspicious Activity Reporting System

[1] FinCEN and the Federal Supervisory Agencies have all published rules requiring such reporting. See the rules publshed by FinCEN, the Board, OCC, FDIC, OTS and NCUA, respectively, at: 61 FR 4326 (February 5, 1996); 61 FR 4338 (February 5, 1996); 61 FR 4332 (February 5, 1996); 61 FR 6095 (February 16, 1996); 61 FR 6100 February 16, 1996); 61 FR 11526 (March 21, 1996).

(SAR System) of records, maintained by FinCEN, an office reporting to the Assistant Secretary (Enforcement), from the following provisions of the Privacy Act of 1974:

5 U.S.C. 552a(c)(3) and (4);
5 U.S.C. 552a(d)(1), (2), (3), and (4);
5 U.S.C. 552a(e)(1), (2), and (3);
5 U.S.C. 552a(e)(4)(G), (H), and (I):
5 U.S.C. 552a(e)(5) and (8);
5 U.S.C. 552a(f); and
5 U.S.C. 552a(g).

(j)*Specific exemptions under 5 U.S.C. 552a(k)(2).* To the extent that the exemption under 5 U.S.C. 552a(j)(2) does not apply to the SAR System of records, the Assistant Secretary (Enforcement), hereby exempts the SAR System of records from the following provisions of 5 U.S.C. 552a pursuant to 5 U.S.C. 552a(k)(2):

5 U.S.C. 552a(c)(3);
5 U.S.C. 552a(d)(1), (2), (3), and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4)(G), (H), and (I); and
5 U.S.C. 552a(f).

(k) *Reasons for exemptions under 5 U.S.C. 552a(j)(2) and (k)(2).* (1) 5 U.S.C. 552a(e)(4)(G) and (f)(1) enable individuals to inquire whether a system of records contains records pertaining to them. Application of these provisions to the SAR System would allow individuals to learn whether they have been identified as suspects or possible subjects of investigation. Access by individuals to such knowledge would seriously hinder the law enforcement purposes that the SAR System is created to serve, because individuals involved in activities that are violations of law could:

(i) Take steps to avoid detection;

(ii) Inform associates that an investigation is in progress;

(iii) Learn the nature of the investigation;

(iv) Learn whether they are only suspects or identified as violators of law;

(v) Begin, continue, or resume illegal conduct upon learning that they are not identified in the system of records, or

(vi) Destroy evidence needed to prove the violation.

(2) 5 U.S.C. 552a(d)(1), (e)(4)(H) and (f)(2), (f)(3) and (f)(5) grant individuals access to records containing information about them. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

(i) Permitting access to records contained in the SAR System would provide individuals with information concerning the nature of any current investigations and would enable them to avoid detection or apprehension, because they could:

(A) Discover the facts that would form the basis of an arrest;

(B) Destroy or alter evidence of criminal conduct that would form the basis of their arrest, and

(C) Delay or change the commission of a crime that was about to be discovered by investigators.

(ii) Permitting access to either on-going or closed investigative files would also reveal investigative techniques and procedures, the knowledge of which could enable individuals planning crimes to structure their operations so as to avoid detection or apprehension.

(3) 5 U.S.C. 552a(d)(2), (d)(3) and (d)(4), (e)(4)(H) and (f)(4) permit an individual to request amendment of a record pertaining to him or her and require the agency either to amend the record or note the disputed portion of the record and, if the agency refuses to amend the record, to provide a copy of the individual's statement of disagreement with the agency's refusal, to persons or other agencies to whom the record is thereafter disclosed. Because these provisions depend on the individual's having access to his or her records, and since these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to records, for the reasons set out in paragraph (e)(2) these provisions do not apply to the SAR System.

(4) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute that the agency made in accordance with 5 U.S.C. 552a(d) to any record that the agency disclosed to the person or agency, if an accounting of the disclosure was made. Because this provision depends on an individual's having access to and an opportunity to request amendment of records pertaining to him or her, and because these rules exempt the SAR System from the provisions of 5 U.S.C. 552a relating to access to and amendment of records, for the reasons set forth in paragraphs (e)(2) and (3), this provision does not apply to the SAR System.

(5) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of any disclosures of records required by 5 U.S.C. 552a(c)(1) available to the individual named in the record upon his or her request. The accounting must state the date, nature, and purpose of each disclosure of the record and the name and address of the recipient.

(i) The application of this provision would impair the effective use of information collected in the SAR System. Making an accounting of disclosures available to the subjects of an investigation would alert them to the fact that another agency is conducting an investigation into their criminal activities and could reveal the geographic location of the other agency's investigation, the nature and purpose of that investigation, and the dates on which that investigation was active. Violators possessing such knowledge would be able to take measures to avoid detection or apprehension by altering their operations, by transferring their criminal activities to other geographical areas, or by destroying or concealing evidence that would form the basis for arrest.

(ii) Moreover, providing an accounting to the subjects of investigations would alert them to the fact that FinCEN has information regarding possible criminal activities and could inform them of the general nature of that information. Access to such information could reveal the operation of the information-gathering and analysis systems of FinCEN, the Federal Supervisory Agencies and other SAR System Users and permit violators to take steps to avoid detection or apprehension.

(6) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a general notice listing the categories of sources for information contained in a system of records. The application of this provision to the SAR System could compromise FinCEN's and the Federal Supervisory Agencies' ability to provide useful information to law enforcement agencies, because revealing sources for the information could:

(i) Disclose investigative techniques and procedures,

(ii) Result in threats or reprisals against informers by the subjects of investigations, and

(iii) Cause informers to refuse to give full information to criminal investigators for fear of having their identities as sources disclosed.

(7) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or executive order. The application of this provision to the SAR System could impair the effectiveness of law enforcement because in many cases, especially in the early stages of investigation, it may be impossible immediately to determine whether information collected is relevant and necessary, and information that initially appears irrelevant and unnecessary, upon further evaluation or upon collation with information

developed subsequently, often may prove helpful to an investigation.

(8) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under federal programs. The application of this provision to the SAR System would impair FinCEN's ability to collect, analyze and disseminate to System Users investigative or enforcement information. The SAR System is designed to house information about known or suspected criminal activities or suspicious transactions that has been collected and reported by financial institutions, or their examiners or other enforcement or supervisory officials. It is not feasible to rely upon the subject of an investigation to supply information. An attempt to obtain information from the subject of any investigation would alert that individual to the existence of an investigation, providing an opportunity to conceal criminal activity and avoid apprehension. Further, with respect to the initial SAR, 31 U.S.C. 5318(g)(2) specifically prohibits financial institutions making such reports from notifying any participant in the transaction that a report has been made.

(9) 5 U.S.C. 552a(e)(3) requires an agency to inform each individual whom it asks to supply information, on the form that it uses to collect the information or on a separate form that the individual can retain, the agency's authority for soliciting the information; whether disclosure of information is voluntary or mandatory; the principal purposes for which the agency will use the information; the routine uses that may be made of the information; and the effects on the individual of not providing all or part of the information. The application of these provisions to the SAR System would compromise the ability of the component agencies of the SAR System to use the information effectively for purposes of law enforcement.

(10) 5 U.S.C. 552a(e)(5) requires an agency to maintain all records it uses in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination. Application of this provision to the SAR System would hinder the collection and dissemination of information. Because Suspicious Activity Reports are filed by financial institutions with respect to known or suspected violations of law or suspicious activities, it is not possible at the time of collection for the agencies that use the SAR System to determine that the information in such records is accurate, relevant, timely and complete.

(11) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when the agency makes any record on the individual available to any person under compulsory legal process, when such process becomes a matter of public record. Application of these requirements to the SAR System would prematurely reveal the existence of an ongoing investigation to the subject of investigation where there is need to keep the existence of the investigation secret. It would render ineffective 31 U.S.C. 5318(g)(2), which prohibits financial institutions and its officers, employees and agents from disclosing to any person involved in a transaction that a SAR has been filed.

(12) 5 U.S.C. 552a(g) provides an individual with civil remedies when an agency wrongfully refuses to amend a record or to review a request for amendment, when an agency wrongfully refuses to grant access to a record, when any determination relating to an individual is based on records that are not accurate, relevant, timely and complete, and when an agency fails to comply with any other provision of 5 U.S.C. 552a so as to adversely affect the individual. The SAR System should be exempted from this provision to the extent that the civil remedies relate to the provisions of 5 U.S.C. 552a from which paragraphs (k)(1) through (11) of this section exempt the SAR System. There should be no civil remedies for failure to comply with provisions from which this system of records is exempted. Exemption from this provision will also protect FinCEN from baseless civil court actions that might hamper its ability to collate, analyze and disseminate data.

* * * * *

Dated: February 3, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

[FR Doc. 97–7560 Filed 3–25–97; 8:45 am]

BILLING CODE: 4820–03–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11–97–004]

Special Local Regulation; Laughlin Aquamoto Sports Challenge and Expo

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the table of events in 33 CFR 100.1102 by adding the Laughlin Aquamoto Sports Challenge and Expo being conducted in the waters of the Colorado River from Davis Dam south to Harrah's Hotel and Casino on the following dates: annually, a four-day weekend event in May or June. These regulations are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

DATES: Comments should be received on or before May 12, 1997.

ADDRESSES: Comments should be mailed to Lieutenant Mike A. Arguelles, U.S. Coast Guard Marine Safety Office, 2716 North Harbor Drive, San Diego, California 92101, or may be delivered to the same address between 8 a.m. and 3 p.m. Monday through Friday, except federal holidays. The telephone number is (619) 683–6484. The Captain of the Port maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at Coast Guard Marine Safety Office, 2716 North Harbor Drive, San Diego.

FOR FURTHER INFORMATION CONTACT: Lieutenant Mike A. Arguelles, Coast Guard Marine Safety Office, San Diego; telephone number (619) 683–6484.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or comments. Persons submitting comments should include their name and address, identify this rulemaking (CGD11–97–004) and the specific section of this proposal to which each comment applies, and give the reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgment of receipt of comments

should enclose a stamped, self-addressed postcard or envelope.

A public comment period of only 45 days is necessary in order to permit publication of a final rule at least 30 days prior to commencement of the effective period, yet still allow opportunity for submission and consideration of comments from the public.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the project officer at the address under **ADDRESSES.** If it determines that the opportunity for oral presentation will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Aquamoto Sports Challenge and Expo will consist of various styles of watercraft racing. The races will take place, annually, over a four-day weekend in May or June. These regulations are necessary to provide for the safety of life, property, and navigation on the navigable waters of the United States during scheduled events.

Discussion of Regulation

The race zone encompasses the Colorado River from the Davis Dam south to Harrah's Hotel and Casino. The race courses will be marked by vessels with signs, and both north and south boundaries of the race zone will have major signs to alert non-participants using the river. On various days and times during the event, the race zone will be in use by vessels competing in the Aquamoto Challenge. During these times the Colorado River from Davis Dam south to Harrah's Hotel and Casino will be closed to all traffic with the exception of emergency vessels. No vessels other than participants or official patrol vessels will be allowed to enter this zone unless specifically cleared by or through an official patrol vessel. Once the zone is established, authorization to remain within the zone is subject to termination at any time. The Patrol Commander may impose other restrictions within the zone if circumstances dictate. Restrictions will be tailored to impose the least impact on maritime interests yet provide the level of security deemed necessary to safely conduct the Aquamoto and Expo.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require assessment of potential cost and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' may include small businesses and not-for-profit organizations that are not dominant in their fields and (2) governmental jurisdictions with populations less than 50,000. Because it expects the impact of this proposal to be so minimal, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this proposal, if adopted, will not have a substantial impact on a significant number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this regulation under the principles and criteria in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B as revised in 59 CFR 38654, July 29 1994 and 61 FR 13563, March 27, 1996, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and Environmental Analysis checklist will be available for inspection and copying in the docket to be maintained at the address listed in **ADDRESSES**.

List of Subjects in 33 CFR Part 100

Regattas, Marine parades.

Proposed Regulation

For the reasons set out in the preamble the Coast Guard proposes to amend Part 100, Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46.

2. In § 100.1102, Table 1 is amended by adding an entry for the Laughlin Aquamoto Sports Challenge and Expo immediately following the entry for the Laughlin Classic to read as follows:

§ 100.1102 Marine Events on the Colorado River, between Davis Dam (Bullhead City, Arizona) and Headgate Dam (Parker, Arizona).

* * * * *

TABLE 1

*	*	*	*	*	*	*
Laughlin Aquamoto Sports Challenge and Expo. Sponsor: Baja Promotions. Dates: Four-day weekend event in May or June. Where: That portion of Colorado river near Laughlin, Nevada, from Davis Dam to Harrah's Hotel and Casino.						

* * * * *

Dated: March 17, 1997.

J.M. MacDonald,

Captain, U.S. Coast Guard, Commander, Coast Guard Pacific Area, Acting.

[FR Doc. 97–7620 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TN–165–01–9633b; FRL–5709–9]

Approval and Promulgation of Air Quality Implementation Plans; Tennessee; Approval of Revisions to Knox County Regulations for Violations and General Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the revisions to the Knoxville/Knox County portion of the Tennessee State Implementation Plan (SIP) submitted by the State of Tennessee for the purpose of revising the current regulations for the permit requirements, definitions, and administrative requirements. In the final rules section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed 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. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: To be considered, comments must be received by April 25, 1997.

ADDRESSES: Written comments on this action should be addressed to Karen C. Borel, at the Environmental Protection Agency, Region 4 Air Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. Copies of documents relative to 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. Reference file TN165–01–9633. The Region 4 office may have additional background documents not available at the other 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 Planning Branch, 100 Alabama Street, SW, Atlanta, Georgia 30303. [contact Karen Borel, 404/562–9029].

Tennessee Department of Environment and Conservation, Division of Air Pollution Control, 9th Floor L & C Annex, 401 Church Street, Nashville, Tennessee 37243–1531.

Knox County Department of Air Pollution Control, City-County Building, Suite 339, 400 West Main Street, Knoxville, Tennessee, 37902.

FOR FURTHER INFORMATION CONTACT: Karen C. Borel at (404) 562–9029.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: January 15, 1997.

A. Stanley Meiburg

Acting Regional Administrator

[FR Doc. 97–7720 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[CT27–1–7200b; A–1–FRL–5667–3]

Clean Air Act Approval and Promulgation of State Implementation Plans; Connecticut: PM10 Prevention of Significant Deterioration Increments; and Approval of a Second 1-Year Extension of PM10 Attainment Date for New Haven

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing full approval of a State Implementation Plan (SIP) revision submitted by the State of Connecticut, which replaces the total suspended particulate (TSP) prevention of significant (PSD) increments with increments for PM10 (particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers). EPA is also proposing full approval of Connecticut's request for a second 1-year extension of the attainment date for the New Haven PM10 nonattainment area, based on monitored air quality data for the national ambient air quality standard for PM10 during the years 1993–95. These actions are being taken under the Clean Air Act. In the Final Rules Section of this **Federal Register**, EPA is approving the Connecticut's SIP revision and extension request as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA does receive 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 proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before April 25, 1997.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection, EPA—Region 1, JFK Federal Bldg (CAA), Boston, MA 02203. Copies of Connecticut's submittal and EPA's technical support document are available for public inspection by appointment during normal business hours at the following locations: Office of Ecosystem Protection, EPA—Region 1, One Congress Street, 11th floor, Boston, MA 02203; Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106; and Air and Radiation Docket and Information Center, 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Jeff Butensky at (617) 565–3583 or butensky.jeff@epamail.epa.gov.

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

AUTHORITY: 42 U.S.C. 7401–7671q.

Dated: December 9, 1996.

John P. DeVillars,

Regional Administrator, EPA—Region 1.

[FR Doc. 97–7691 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 52

[NM22–1–7103b; FRL–5709–7]

Approval and Promulgation of Implementation Plan for New Mexico: General Conformity Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: This action proposes to approve a revision to the New Mexico State Implementation Plan (SIP) for the State of New Mexico that contains general conformity rules. Specifically, the general conformity rules, if approved, will enable the New Mexico Environment Department to review conformity of all Federal actions (See 40 CFR part 51, subpart W—Determining Conformity of General Federal Actions to State or Federal Implementation Plans) with the control strategy SIPs submitted for the nonattainment and maintenance areas within the State outside the boundaries of Bernalillo County. This proposed action would streamline the conformity process and allow direct consultation among agencies at the local levels. The Federal actions by the Federal Highway Administration and Federal Transit Administration (under Title 23 U.S.C. or the Federal Transit Act) are covered by the transportation conformity rules under 40 CFR part 51, subpart T—Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act.

The EPA is proposing to approve this SIP revision under sections 110(k) and 176 of the Clean Air Act (the Act). The rationale for the proposed approval and other information are provided in the Final Rule Section of this **Federal Register**.

In the Final Rules Section of this **Federal Register**, the EPA is approving this General Conformity SIP revision as a direct final rulemaking without prior proposal because the EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If the 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. The EPA will not institute a second comment period on this action. Any parties interested in providing comments on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing and postmarked by April 25, 1997.

ADDRESSES: Copies of the New Mexico General Conformity SIP and other relevant information are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 665–7214.

Air Quality Bureau, New Mexico Environment Department, 1190 St. Francis Drive, Santa Fe, New Mexico 87502, Telephone: (505) 827–0042.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E.; Air Planning Section (6PDL), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone (214) 665–7247.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 4, 1997.

Jerry Clifford,

Acting Regional Administrator.

[FR Doc. 97–7689 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1639

Welfare Reform

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: Part 1639 was published on August 29, 1996, as an interim rule with a request for comments. The interim rule was intended to implement a provision in the Legal Services Corporation's (''Corporation'' or ''LSC'') FY 1996 appropriations act which restricts recipients from initiating legal representation or challenging or in any way participating in an effort to reform a Federal or State welfare system. Although this restriction has been retained under the Corporation's FY 1997 appropriations act, recently enacted Federal legislation has changed the status of the Federal welfare system. In light of this change in law, the Corporation requests comments on a proposed revised version of the interim rule. The interim rule remains effective, however, until a final version has been adopted and published by the Corporation.

DATES: Comments must be submitted on or before April 25, 1997.

ADDRESSES: Comments should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First Street NE., 11th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel (202) 336–8910.

SUPPLEMENTARY INFORMATION: The Board of Directors (''Board'') of the Legal Services Corporation adopted an interim rule on July 20, 1996, for publication in the **Federal Register** with a request for comments. The interim rule was published and became effective on August 29, 1996. See 61 FR 45757. The interim rule implements § 504(a)(16) of the Corporation's FY 1996 appropriations act, Pub. L. 104–134, 110 Stat. 1321 (1996), which restricts recipients of LSC funds from initiating legal representation or participating in efforts to reform a Federal or State welfare system.

Subsequent to the adoption of the interim rule by the Board, Congress enacted and the President signed the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, 110 Stat. 2105 (1996) (''Personal Responsibility Act''). The Board's Operations and Regulations Committee (''Committee'') held public hearings on the interim rule on December 13, 1996, and March 7, 1997. At the March meeting, the Committee adopted proposed revisions to the definitions in the interim rule to incorporate most provisions of the Personal Responsibility Act and requested that the proposed revisions be published for public comment. For comparison purposes, the interim rule can be found at 61 FR 45757 (Aug. 29, 1996).

The version of the rule in this publication has no force of law and is submitted only as a proposed revised version of the interim rule which, if published as final, would replace the

interim rule. The interim version of the rule remains controlling law until replaced by a final rule adopted and published by the Corporation.

A discussion of the proposed revisions to the interim rule is provided below.

Section 1639.2 Definitions

The interim rule defined Federal or State welfare system to include Federal and State AFDC programs under Title IV–A of the Social Security Act, 42 U.S.C. 601 et seq. and provisions enacted by Congress or a State to replace or modify these programs, such as Title I of the Personal Responsibility Act. The proposed revision continues this definition and specifically incorporates Title I of the Personal Responsibility Act, which replaced the AFDC program with the Temporary Assistance for Needy Family (''TANF'') Block Grant. Also included in the definition would be any components or requirements from other public benefit or human services programs that are part of the AFDC program, such as requirements of establishment of paternity and cooperation with child support enforcement. In addition, it would also include State changes in the AFDC program and State efforts to implement TANF, as well as State efforts to eliminate AFDC and replace it with a new program (for example, the Wisconsin Works program). Federal or State welfare system would also include any State AFDC programs or their replacements which are continued under TANF and are being conducted under waivers granted by the Department of Health and Human Services, pursuant to § 1115 of the Social Security Act or other enacted legislation.

Written comments supported the definition in the interim rule. However, the Committee seeks comments on the revised definition, which incorporates all other provisions of the Personal Responsibility Act, except for the Child Support provisions in Title III, and is proposed to respond to stated congressional concerns. Upon consideration of the legislative history of the Corporation's FY 1996 appropriations act and the entire welfare reform debate, including the debate over the Gramm Amendment to the Senate Welfare Reform bill, the Committee proposes this new definition as more accurately implementing the intent of Congress.

The proposed revised definition does not include the changes in the Child Support Enforcement Program provisions in Title III of the Personal Responsibility Act, because there are significant differences between these provisions and the other provisions in the Personal Responsibility Act. Congress intended to restrict participation in efforts to reform welfare systems, and the child support program is not a welfare program. The child support program is basically a law enforcement program conducted by the courts and administrative agencies which has two main activities: (1) Establishing paternity and support obligations, and (2) enforcing support orders. No public benefits are paid to families participating in the IV–D system. The only money that is paid to families is private support payments collected from noncustodial parents. In addition, more than half of the families participating in the IV–D system are non-welfare, working families, and 75% of child support collections made by the IV–D system go to non-welfare families. Finally, although the statutory provision refers to seeking relief from a welfare agency, in some states the child support program is run by the state attorney general's office or state revenue department, not by a welfare agency.

Before adopting a final rule, the Corporation specifically seeks comments on whether all of the provisions of the Personal Responsibility Act should be included within the definition of Federal or State welfare system and on the practical effect that including other provisions of the Personal Responsibility Act will have on the representation of eligible clients. Comments are solicited also on the proposal to exclude the Child Support provisions.

The revised definition continues to include State General Assistance, General Relief, Direct Relief, Home Relief or similar state means-tested programs for basic subsistence which operate with State funding or under State mandate, and new programs enacted by States to replace or modify these programs.

Federal or State welfare system does not include provisions in Federal programs which were not amended by the Personal Responsibility Act. Such programs as the Job Training Partnership Act, Medicaid, Medicare, Unemployment Insurance, Veterans Benefits, and Social Security would not be included within the definition of Federal or State welfare system under the proposed changes, since they were not amended by the Personal Responsibility Act.

This proposed version makes no changes to the definition of Reform of a Federal or State welfare system.

The term existing law was defined in the interim rule to include only Federal, State or local statutory laws or ordinances. Written comments on the interim rule generally supported this definition, although several pointed out that the definition did not make clear that laws or ordinances included within the definition were limited to those enacted to reform a Federal or State welfare system. The interim rule's definition also did not include regulations having the force and effect of law. This revised version provides that existing law includes regulations having the force and effect of law as well as laws and ordinances. It also clarifies that an existing law is one enacted to reform a Federal or State welfare system. The Corporation will consider comments on whether regulations should be included within the definition of existing law and the effect which the inclusion of regulations will have on the representation of eligible clients.

List of Subjects in 45 CFR Part 1639

Grant programs; Legal services; Welfare reform.

For reasons set forth in the preamble, LSC proposes to revise 45 CFR part 1639 to read as follows:

PART 1639—WELFARE REFORM

Sec.

Authority: 42 U.S.C. 2996g(e); Pub. L. 104–208, 110 Stat. 3009; Pub. L. 104–134, 110 Stat. 1321.

§ 1639.1 Purpose.

The purpose of this rule is to ensure that LSC recipients do not initiate litigation, challenge or participate in efforts to reform a Federal or State welfare system. The rule also clarifies when recipients may engage in representation on behalf of an individual client seeking specific relief from a welfare agency and under what circumstances recipients may use funds from sources other than the Corporation to comment on public rulemaking or respond to requests from legislative or administrative officials involving a reform of a Federal or State welfare system.

§ 1639.2 Definitions.

(a)(1) Federal or State welfare system as used in this part means:

(i) the Federal and State AFDC program under Title IV–A of the Social

Security Act as amended by the Personal Responsibility Work Opportunity Reconciliation Act of 1996, 110 Stat. 2105 (1996), and new programs or provisions enacted by Congress or the States to replace or modify these programs, including State AFDC programs conducted under Federal waiver authority;

(ii) all other provisions of the Personal Responsibility Work Opportunity Reconciliation Act of 1996, 110 Stat. 2105 (1996), except for the Child Support provisions of Title III; and

(iii) General Assistance or similar State means-tested programs conducted by States or by counties with State funding or under State mandates, and new programs or provisions enacted by States to replace or modify these programs;

(2) Federal or State welfare system does not include other public benefit programs, unless changes to such programs are part of a reform of the AFDC or General Assistance programs.

(b) Reform of a Federal or State welfare system as used in this part means a legislative or administrative effort to change key components of the Federal or State welfare system, including laws and regulations that implement the changes.

(c) Existing law as used in this part means Federal, State or local statutory laws, ordinances or regulations having the force and effect of law, which are enacted to reform a Federal or State welfare system.

§ 1639.3 Prohibition.

Except as provided in §§ 1639.4 and 1639.5, recipients may not initiate legal representation, or participate in any other way in litigation, lobbying or rulemaking involving efforts to reform a Federal or State welfare system. Prohibited activities include participation in:

(a) Litigation challenging laws or regulations enacted as part of a reform of a Federal or State welfare system.

(b) Rulemaking involving proposals that are being considered to implement a reform of a Federal or State welfare system.

(c) Lobbying or other advocacy before legislative or administrative bodies undertaken directly or through grassroots efforts involving pending or proposed legislation that is part of a reform of a Federal or State welfare system.

(d) Litigation or other advocacy undertaken with regard to the granting or denying of State requests for Federal waivers of Federal requirements for AFDC.

§ 1639.4 Permissible representation of eligible clients.

Recipients may represent an individual eligible client who is seeking specific relief from a welfare agency, if such relief does not involve an effort to amend or otherwise challenge existing law in effect on the date of the initiation of the representation.

§ 1639.5 Exceptions for public rulemaking and responding to requests with non-LSC funds.

Consistent with the provisions of 45 CFR 1612.6 (a)–(e), recipients may use non-LSC funds to comment in a public rulemaking proceeding or respond to a written request for information or testimony from a Federal, State or local agency, legislative body, or committee, or a member thereof, regarding an effort to reform a Federal or State welfare system.

§ 1639.6 Recipient policies and procedures.

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part.

Dated: March 21, 1997.

Victor M. Fortuno,

General Counsel.

[FR Doc. 97–7662 Filed 3–25–97; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 97–97, RM–9047]

Radio Broadcasting Services; Mt. Juliet and Belle Meade, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Mt. Juliet Broadcasting, Inc., permittee of Station WNPL(FM), Channel 294A, Mt. Juliet, Tennessee, proposing the reallotment of Channel 294A from Mt. Juliet to Belle Meade, Tennessee, and modification of Station WNPL(FM)'s construction permit to specify Belle Meade as its community of license. Channel 294A can be allotted to Belle Meade in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.6 kilometers. The coordinates for Channel 294A at Belle Meade are 36–11–08 NL and 86–45–15 WL.

DATES: Comments must be filed on or before May 12, 1997, and reply comments on or before May 27, 1997.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David E. Honig, Esq., Holland & Knight LLP, 2100 Pennsylvania Avenue, NW, Suite 400, Washington, DC 20037–3202 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 97–97, adopted March 12, 1997, and released March 21, 1997. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 97–7708 Filed 3–25–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1002 and 1108

[STB Ex Parte No. 560]

Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board

AGENCY: Surface Transportation Board (Board).

ACTION: Notice of proposed rulemaking.

SUMMARY: In this proceeding, the Board is seeking public comments on proposed rules recommended by the Railroad-Shipper Transportation Advisory Council (RSTAC) that would provide a means for the binding, voluntary arbitration of certain disputes subject to the statutory jurisdiction of the Board.

DATES: Written comments on the proposed rules must be filed with the Board no later than April 25, 1997.

ADDRESSES: An original and 10 copies of all documents must refer to STB Ex Parte No. 560 and must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Ex Parte No. 560, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001, and serve a copy on each member of the Railroad-Shipper Transportation Advisory Council, as follows:

Mr. Randy G. Craver, Manager of Transportation, Coastal Coal Sales, Inc., P.O. Box 1871, Roanoke, VA 24008

Mr. Jarvis Haugeberg, General Manager, BTR Farmers Co–Op, P.O. Box 158, Churches Ferry, ND 58325

Mr. Jim Johnson, Traffic Manager, Empire Wholesale Lumber Co., P.O. Box 249, 162 Gault Street, Akron, OH 44309

Mr. Kevin D. Kaufman, Vice President, Louis Dreyfus Corporation, 10 West Port Road, Wilton, CT 06897–0810

Mr. Ronald A. Lane, Vice President and General Counsel, Illinois Central Corporation, 455 N. Cityfront Plaza, Chicago, IL 60611

Mr. Anthony Lomangino, President, Waste Management of New York, 123 Varic Avenue, Brooklyn, NY 11237

Ms. Kimberly Madigan, Director, Emons Transportation Group, 122 C Street, NW., Suite 850, Washington, DC 20001

Mr. John H. Marino, President and COO, RailAmerica, Inc., 1800 Diagonal Road, Suite 150, Alexandria, VA 22314

Mr. James W. McClellan, Vice President-Strategic Planning, Norfolk Southern Corporation, 3 Commercial Avenue, Norfolk, VA 23510

Mr. J.C. ''Pete'' McIntyre, President and CEO, Dakota, Minnesota & Eastern Railroad Corporation, P.O. Box 178, Brookings Rd., SD 57066

Mr. Fred Simpson, Executive Vice President, Montana Rail Link, Inc., 101 International Way, P.O. Box 8779, Missoula, MT 59807

Mr. Gregory T. Swienton, Senior Vice President, Coal and Agriculture Commodities Business Unit, Burlington Northern Santa Fe Corporation, Fort Worth, TX 76161–0051

Mr. Edwin E. Vigneaux, Manager, Rail Transportation, Reagent Chemical & Research, Inc., 1300 Post Oak Blvd., Suite 680, Houston, TX 77056

Ms. Sheryl W. Washington, Vice President, United Parcel Service, 316 Pennsylvania Avenue, SE., Suite 300, Washington, DC 20003

Mr. Edward Wytkind, Executive Director of the Transportation Trades Department, AFL–CIO (TTD), 400 North Capitol Street, NW., Suite 861, Washington, DC 20001

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565–1613. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: On February 19, 1997, the RSTAC, which was established pursuant to section 726 of the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803, to advise the Chairman of the Surface Transportation Board, the Secretary of Transportation, and Congressional oversight committees with respect to rail transportation policy issues of particular importance to small shippers and small railroads,[1] recommended that the Board adopt rules providing for informal dispute resolution through arbitration. We agree with this recommendation and propose to adopt formal rules along the lines of those recommended to us by the RSTAC.

The proposed rules will provide an alternative for parties to use binding, voluntary arbitration to resolve certain disputes subject to the statutory jurisdiction of the Board. These procedures shall not be available to grant any license (e.g., construction, abandonment, purchase, trackage rights, merger, pooling) or exemption or to prescribe for the future any conduct, rules, or results of general, industry-wide applicability. These procedures are intended for the resolution of specific disputes between specific parties involving the payment of money or involving rates or practices related to rail transportation or service subject to the statutory jurisdiction of the Board.

We believe that the procedure will increase cost-savings and decrease litigation burdens on the parties. We are proposing these rules with the expectation that their adoption would enable parties to disputes that might otherwise have to be brought to the Board for formal resolution instead to resolve the disputes themselves informally with limited Board involvement.

Request for Comments

We invite comments on all aspects of the proposed regulations. We are proposing nominal filing fees of $75 for each complaint and answer filed under the proposed arbitration procedure and a filing fee of $150 for appeals to the Board of arbitration decisions. The proposed filing fee for appeals would be the same as the fee for labor arbitration appeals, appeals to Board decisions, and petitions to revoke. See 49 CFR 1002.2(f)(60) and (61). We encourage commenters to submit comments as computer data on a 3.5-inch floppy diskette formatted for WordPerfect 5.1, or formatted so that it can be readily converted into WordPerfect 5.1. Any such diskette submission (one diskette should be sufficient) should be in addition to the written submission (an original and 10 copies).

Small Entities

The Board preliminarily concludes that these rules, if adopted, would not have a significant economic effect on a substantial number of small entities. Nonetheless, the Board seeks comment on whether there would be effects on small entities that should be considered. If comments provide information that there would be significant effects on small entities, the Board will prepare a regulatory flexibility analysis at the final rule stage.

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

49 CFR Part 1108

Arbitration, Dispute resolution.

Decided: March 12, 1997.

[1] See *Notice of Establishment of Railroad-Shipper Transportation Advisory Council and Request for Recommendation of Candidates for Membership,* STB Ex Parte No. 526 (STB served and published Jan. 29, 1996) (61 FR 2866).

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, the Board proposes to amend part 1002 and to add a new part 1108 to title 49, chapter X, of the Code of Federal Regulations to read as follows:

PART 1002—FEES

1. The authority citation for part 1002 continues to read as follows:

Authority: 5 U.S.C. 552(a)(4)(A) and 553; 31 U.S.C. 9701; and 49 U.S.C. 721(a).

2. Section 1002.2(f) is amended by adding a new paragraph (87) to read as follows:

§ 1002.2 Filing fees.

* * * * *

(f) * * *

* * * * *

Part VI * * *

(87) Arbitration of Certain Disputes Subject to the Statutory Jurisdiction of the Surface Transportation Board under 49 CFR part 1108:

(i) Complaint	$75
(ii) Answer (per defendant)	75
(iii) Third Party Complaint	75
(iv) Third Party Answer (per defendant)	75
(v) Appeals of Arbitration Decisions	150

* * * * *

3. A new part 1108 is added to read as follows:

PART 1108—ARBITRATION OF CERTAIN DISPUTES SUBJECT TO THE STATUTORY JURISDICTION OF THE SURFACE TRANSPORTATION BOARD

Sec.

Authority: 49 U.S.C. 721(a).

§ 1108.1 Definitions.

(a) *Arbitrator* means an arbitrator appointed pursuant to these provisions.

(b) *ICA* means the Interstate Commerce Act administered by the ICC.

(c) *ICC* means the Interstate Commerce Commission.

(d) *ICCTA* means the ICC Termination Act of 1995, Pub. L. No. 104–88.

(e) *RSTAC* means the Rail-Shipper Transportation Advisory Council established by the ICCTA.

(f) *STB* means the Surface Transportation Board.

(g) *Statutory jurisdiction* means the jurisdiction conferred on the STB by the ICCTA, as amended from time to time, including jurisdiction over rail transportation or services that have been exempted from active regulation.

§ 1108.2 Statement of purpose, organization, and jurisdiction.

(a) These provisions are intended to provide a means for the binding, voluntary arbitration of certain disputes subject to the statutory jurisdiction of the STB, either between two or more railroads subject to the jurisdiction of the STB or between any such railroad and any other person.

(b) These procedures shall not be available to grant any license (e.g., construction, abandonment, purchase, trackage rights, merger, pooling) or exemption or to prescribe for the future any conduct, rules, or results of general, industry-wide applicability.

(c) These procedures are intended for the resolution of specific disputes between specific parties involving the payment of money or involving rates or practices related to rail transportation or service subject to the statutory jurisdiction of the STB.

(d) The alternative means of dispute resolution provided for herein are established pursuant to the authority of the STB to take such actions as are necessary and appropriate to fulfill its jurisdictional mandate and not pursuant to the Administrative Dispute Resolution Act, 5 U.S.C. 571, *et seq.*

(e) On January 1, 1996, the STB replaced the ICC and the ICCTA replaced the ICA. For purposes of these procedures, it is immaterial whether an exemption from active regulation was granted by the ICC or the STB.

§ 1108.3 Matters subject to arbitration.

(a) Any controversy between two or more parties, subject to resolution by the STB, and subject to the limitations in § 1108.2, may be processed pursuant to the provisions of part 1108, if all necessary parties voluntarily subject themselves to arbitration under these provisions after adequate notice as provided herein.

(b) Arbitration under these provisions is limited to matters over which the STB has statutory jurisdiction and may include disputes arising in connection with jurisdictional transportation, including service being conducted pursuant to an exemption. An Arbitrator should decline to accept, or to render a decision regarding, any dispute that exceeds the STB's statutory jurisdiction. Such Arbitrator may resolve any dispute properly before him/her in the manner and to the extent provided herein, but only to the extent of and within the limits of the STB's statutory jurisdiction. In so resolving any such dispute, the Arbitrator will not be bound by any rules or regulations adopted by the STB for the resolution of similar disputes, except as specifically provided in part 1108.

§ 1108.4 Relief.

(a) Subject to specification in the complaint, as provided in § 1108.7, an Arbitrator may grant the following types of relief:

(1) Monetary damages, with interest at a reasonable rate to be specified by the Arbitrator; and

(2) Specific performance of statutory obligations, but for a period not to exceed 3 years from the effective date of the Arbitrator's award.

(b) A party may petition an Arbitrator to modify or vacate an arbitral award in effect that directs future specific performance, based solely on materially changed factual circumstances.

(1) A petition to modify or vacate an award in effect should be filed with the STB. The petition will be assigned to the Arbitrator that rendered the award unless that Arbitrator is unavailable, in which event the matter will be assigned to another Arbitrator.

(2) Any such award shall continue in effect pending disposition of the request to modify or vacate. Any such request shall be handled as expeditiously as practicable with due regard to providing an opportunity for the presentation of the parties' views.

§ 1108.5 Fees and costs.

(a) Fees will be utilized to defray the costs of the STB in administering this program in accordance with 31 U.S.C. 9701. The fees for filing a complaint, answer, third party complaint, third party answer, and appeals of arbitration decisions will be as set forth in 49 CFR 1002.2(f)(87). All fees are non-refundable except as specifically provided and are due with the paying party's first filing in any proceeding.

(b) Each party will bear its own expenses, including, without limitation, fees of experts or counsel. The fees of the Arbitrator will be paid by the party or parties losing an arbitration entirely. If no party loses an arbitration entirely (as determined by the Arbitrator), the parties shall share equally (or pro rata if more than two parties) the fees and expenses, if any, of the Arbitrator. Any fees for petitions to modify or vacate an

arbitration award, as provided in § 1108.4(b), may be established by the STB and will be assessed against the party filing such petition at the time it is filed.

§ 1108.6 Arbitrators.

(a) Arbitration shall be conducted by a single arbitrator who shall be selected, as provided herein, from a roster of active or retired federal administrative law judges or other senior officials experienced in rail transportation or economic issues similar to those capable of arising before the STB. The roster of Arbitrators shall be established by the RSTAC in consultation with the Chairman of the STB and shall contain not fewer than 12 names. The RSTAC shall update the list of Arbitrators annually. In the event that the RSTAC fails to maintain the roster of Arbitrators, the STB shall do so.

(b) The Arbitrator shall be selected by the Chairman of the STB from the roster established under paragraph (a) of this section on a random basis, so far as is practicable.

(c) The process of selecting an Arbitrator pursuant to this paragraph (c) shall be conducted confidentially following the completion of the Arbitration Commencement Procedures set forth in § 1108.7. Each time the Chairman of the STB is called upon to select an Arbitrator, the nomination promptly shall be transmitted in writing to the parties. Upon receipt of such name, the parties shall have 7 calendar days to notify the Chairman of the STB whether the Arbitrator so nominated is acceptable to that party. If any party finds an Arbitrator to be unacceptable for the arbitration at hand, the Chairman of the STB shall repeat the nomination process. No party may find more than one Arbitrator to be unacceptable in any arbitration, except upon a showing that an Arbitrator nominee is likely to have views highly prejudicial to a party. The name of the Arbitrator finally agreed upon by the Chairman of the STB and the parties shall not be made public until this selection process is complete. Neither a party nor the Chairman of the STB shall identify publicly any party that has found an Arbitrator to be unacceptable.

(d) If, at any time during the arbitration process, a selected Arbitrator becomes incapacitated or unable to fulfill his/her duties, a replacement Arbitrator will be promptly selected under the process set forth in paragraphs (b) and (c) of this section.

(e) If all parties to a dispute agree among themselves on the selection of an Arbitrator from the roster, the parties shall submit in writing to the Chairman of the STB the name of the Arbitrator agreed to.

§ 1108.7 Arbitration commencement procedures.

(a) Each demand for arbitration shall be commenced with a written complaint. Because arbitration under these procedures is both voluntary and binding, the complaint must set forth in detail the nature of the dispute, the statutory basis of STB jurisdiction, a clear, separate statement of each issue as to which arbitration is sought, and the specific relief sought. Each complaint shall contain a sworn, notarized verification, by a responsible official of the complaining party, that the factual allegations contained in the complaint are true and accurate. Each complaint must contain a statement that the complainant is willing to arbitrate pursuant to these arbitration rules and be bound by the result thereof in accordance with those rules, and must contain a demand that the defendants likewise agree to arbitrate and be so bound.

(b) The complaining party shall serve, by overnight mail or hand delivery, a signed and dated original of the complaint on each defendant (through its legal representatives, if known, or on a responsible official at his or her usual place of business) and on the STB, accompanied by the filing fee prescribed under § 1108.5(a) and set forth in 49 CFR 1002.2(f)(87). Each complaint served on a defendant shall be accompanied by a copy of part 1108.

(c) Any defendant willing to enter into arbitration under these rules must, within 30 days of the date of a complaint, answer the complaint in writing. The answer must contain a statement that the defendant is willing to arbitrate each arbitration issue set forth in the complaint or specify which such issues the defendant is willing to arbitrate. If the answer contains an agreement to arbitrate some but not all of the arbitration issues in the complaint, the complainant will have 10 days from the date of the answer to advise the defendant and the STB in writing whether the complainant is willing to arbitrate on that basis. Upon the agreement of the parties to arbitrate, these rules will be deemed incorporated by reference into the arbitration agreement.

(d) The answer of a party willing to arbitrate shall also contain that party's specific admissions or denials of each factual allegation contained in the complaint, affirmative defenses, and any counterclaims or set-offs which the defendant wishes to assert against the complainant. The right of a defendant to advance any counterclaims or set-offs, and the capacity of an Arbitrator to entertain and render an award with respect thereto, is subject to the same jurisdictional limits as govern the complaint.

(e) A defendant's answer must be served on the complainant, other parties, and the STB in the same manner as the complaint.

(f) A defendant willing to enter into arbitration under these procedures only if it is able to obtain cross-relief against another defendant or a non-party may serve an answer containing an agreement to arbitrate that is conditioned upon the willingness of any such third party to enter into arbitration as a third party defendant. Simultaneously with the service of any such conditional answer, the defendant making such answer shall serve a complaint and demand for arbitration on the party whose presence that defendant deems to be essential, such complaint and demand to be drawn and served in the same manner as provided in paragraphs (a) and (b) of this section. A defendant receiving such a complaint and demand for arbitration and that is willing to so arbitrate shall respond in the same manner as provided in paragraphs (c), (d), and (e) of this section.

(g) Upon receipt of a complaint and demand for arbitration served by a complainant on a defendant, or by a defendant on a third-party defendant, the STB promptly will notify the parties serving and receiving such documents of any deficiencies, jurisdictional or otherwise, which the STB deems fatal to the processing of the complaint and will suspend the timetable for processing the arbitration until further notice. If the complainant is unwilling or unable to remedy such deficiencies to the satisfaction of the STB within such time as the STB may specify, the complaint shall be deemed to be withdrawn without prejudice and one-half of the complaint filing fee shall be refunded to the complainant. Upon satisfaction that two or more parties have unconditionally agreed to arbitrate under these procedures, the STB will so notify the parties and commence procedures for the selection of an Arbitrator.

(h) An agreement to arbitrate pursuant to these rules will be deemed a contract to arbitrate, subject to limited review by the STB pursuant to § 1108.11(c), for the purpose of subjecting the arbitration award to the provisions of 9 U.S.C. 9, allowing a judgment of a court to be entered upon an arbitration award, and 9 U.S.C. 10, allowing a court to vacate

an arbitration award on certain limited grounds.

§ 1108.8 Arbitration procedures.

(a) The Arbitrator will establish rules, including timetables, for each arbitration proceeding.

(1) The evidentiary process will be completed within 90 days from the start date established by the Arbitrator. The Arbitrator's decision will be issued within 30 days from the close of the record.

(2) Discovery will be permitted only with the agreement of the parties or as directed by the Arbitrator.

(b) Evidence will be submitted under oath. Evidence may be submitted in writing or orally, at the direction of the Arbitrator. Hearings for the purpose of cross-examining witnesses will be permitted at the sound discretion of the Arbitrator. The Arbitrator, at his/her discretion, may require additional evidence.

(c) Subject to alteration by the Arbitrator in individual proceedings, as a general rule where evidence is submitted in written form, the complaining party will proceed first, and the defendant will proceed next. The parties will then be given an opportunity to file simultaneous replies. At the discretion of the Arbitrator, argument may be submitted with each evidentiary filing or in the form of a brief after the submission of all evidence. Pagination limits will be set by each Arbitrator for all written submissions of other than an evidentiary nature.

(d) Any written document, such as a common carrier rate schedule, upon which a party relies should be submitted as part of that party's proof, in whole or in relevant part. The Arbitrator will not be bound by formal rules of evidence, but will avoid basing a decision entirely or largely on unreliable proof.

(e) Where proof submitted to an Arbitrator addresses railroad costs, such proof should be prepared in accordance with the standards employed by the STB in ascertaining the costs at issue.

(f) Where the Arbitrator is advised that any party to an arbitration proceeding wishes to keep matters relating to the arbitration confidential, the Arbitrator shall take such measures as are reasonably necessary to ensure that such matters are treated confidentially by the parties or their representatives and are not disclosed by the Arbitrator to non-authorized persons. If the Arbitrator regards any confidential submission as being essential to his/her written decision, such information may be included in the decision, but the Arbitrator will make every effort to omit confidential information from his/her written decision.

§ 1108.9 Decisions.

(a) Decisions of the Arbitrator shall be in writing and shall contain findings of fact and conclusions. All such Decisions shall be served by the Arbitrator by hand delivery or overnight mail on the parties and the STB.

(b) By agreeing to arbitrate pursuant to these procedures, each party agrees that the decision and award of the Arbitrator shall be binding and judicially enforceable in law and equity in any court of appropriate jurisdiction, subject to a limited right of appeal to the STB as provided below.

§ 1108.10 Precedent.

Arbitration decisions rendered pursuant to these procedures shall have no precedential value.

§ 1108.11 Enforcement and appeals.

(a) An arbitration decision rendered pursuant to these procedures may be appealed to the STB within 20 days of service of such decision. Any such appeal shall be served by hand delivery or overnight mail on the parties and the STB. Replies to such appeals may be filed within 20 days of service of the appeal. An appeal or a reply under this paragraph shall not exceed 20 pages in length. The filing fee for such appeal will be as set forth in 49 CFR 1002.2(f)(87).

(b) The filing of an appeal, as allowed in paragraph (a) of § 1108.11, automatically will stay an arbitration decision pending disposition of the appeal. The STB will decide any such appeal within 30 days of the date on which the reply is due. Such decision by the STB shall be served in accordance with normal STB service procedures.

(c) The STB will only review cases involving issues of general transportation importance. The STB may vacate or amend an arbitration award, in whole or in part, only on the grounds that such award:

(1) Exceeds the STB's statutory jurisdiction; or

(2) Does not take its essence from the ICCTA.

(d) Effective arbitration decisions rendered pursuant to these procedures, whether or not appealed to the STB, may only be enforced in accordance with 9 U.S.C. 9 and vacated by a court in accordance with 9 U.S.C. 10.

§ 1108.12 Additional matters.

Where an arbitration demand is filed by one or more plaintiffs against one or more defendants, the plaintiffs as a group and the defendants as a group shall be entitled to exercise those rights, with respect to the selection of arbitrators, as are conferred on individual arbitration parties.

[FR Doc. 97–7663 Filed 3–25–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 021097C]

New England Fishery Management Council; Mid-Atlantic Fishery Management Council; Reopening of Comment Period

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

ACTION: Public hearings; reopening of comment period.

SUMMARY: The New England and Mid-Atlantic Fishery Management Councils (Councils) held public hearings to receive comments on Amendment 9 to the Northeast Multispecies Fishery Management Plan (FMP). The Councils are reopening the comment period to allow additional time for all interested parties to submit written comments.

DATES: The comment period, which closed on March 14, 1997, is reopened through April 1, 1997.

ADDRESSES: Written comments or requests for copies of the public hearing document, draft Amendment 9 document, or the draft Supplemental Environmental Impact Statement should be directed to Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906; telephone 617–231–0422, or David Keifer, Executive Director, Mid-Atlantic Fishery Management Council, 300 South New Street, Suite 2115, Dover, DE 19901; telephone 302–674–2331.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, 617–231–0422.

SUPPLEMENTARY INFORMATION: On February 21, 1997 (62 FR 7991), NMFS published a notification of public hearings on Amendment 9 to the FMP and comments were solicited through March 14, 1997. The Councils are aware of the public interest in the management measures being proposed for the monkfish fishery and want to allow

interested parties additional time to comment.

Amendment 9 to the FMP would bring monkfish under Federal management authority through the Northeast region (Virginia to Maine). The Councils are considering two management areas for monkfish, a northern fishery management area and a southern fishery management area based on the differences in fisheries in the Gulf of Maine versus areas to the south. Total allowable landings targets already have been established for the two fishery management areas and are consistent with the monkfish overfishing definition and a rebuilding strategy adopted by the Councils.

A limited access program for vessels that target and land large volumes of monkfish would be based on historic participation in the fishery. These limited access vessels could target monkfish under a seasonal quota or under a limited number of days-at-sea, depending on the management measures in the final amendment. Trip limits would be used to control monkfish bycatch.

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

Dated: March 20, 1997.

George H. Darcy,

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

[FR Doc. 97–7719 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 62, No. 58

Wednesday, March 26, 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

Food Safety and Inspection Service

[Docket No. 97–023N]

National Advisory Committee on Microbiological Criteria for Foods; Meeting

The National Advisory Committee on Microbiological Criteria for Foods (NACMCF) will hold meetings on April 2, 1997, from 2:00 to 5:00 p.m., on April 3, from 8:00 a.m. to 5:00 p.m., and on April 4, from 8:00 a.m. to 12:00 p.m. Plenary sessions will be held on April 2 and 4, and concurrent meetings of six subcommittees will be held on April 3. The meetings will be held in the back of the cafeteria of the South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700.

NACMCF provides advice and recommendations to the Secretaries of Agriculture and Health and Human Services concerning the development of microbiological criteria by which the safety and wholesomeness of food can be addressed. This includes criteria pertaining to microorganisms that indicate whether food has been produced and transported using good manufacturing practices.

Topics to be discussed at the meetings include (1) new subcommittee assignments (2) the National Institute for Standards and Technology Accreditation Program for Food Microbiology Laboratories and Analysts, and (3) the President's National Food Safety Initiative.

The meetings are open to the public on a space available basis. Interested persons may file comments before and after the meeting. Comments should be addressed to: Dr. Bonnie Rose, Staff Officer, U.S. Department of Agriculture, Food Safety and Inspection Service, 311 Cotton Annex Building, 300 12th Street, SW., Washington, DC 20250–3700. Background materials and the meeting agenda are available for review by contacting Dr. Rose on (202) 205–0212.

Done at Washington, DC, on March 20, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–7582 Filed 3–25–97; 8:45 am]

BILLING CODE 3410–CM–P

National Agricultural Statistics Service

Notice of Intent to Request an Extension of a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub.L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the National Agricultural Statistics Service's (NASS) intention to request an extension of a currently approved information collection, the Honey Survey.

DATES: Comments on this notice must be received by May 30, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Rich Allen, Associate Administrator, National Agricultural Statistics Services, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 4117 South Building, Washington, D.C. 20250–2000, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Honey Survey.

OMB Number: 0535–0153.

Expiration Date of Approval: September 30, 1997.

Type of Request: To extend a currently approved information collection.

Abtract: The primary objective of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production. The Honey Survey collects information on the number of colonies and honey production, stocks and prices. The survey provides data needed by the U.S. Department of Agriculture and other government agencies to administer programs and to set trade quotas and tariffs. State universities and agriculture departments also use data from this survey. The Honey Survey has approval from OMB for a three year period. NASS intends to request that the survey be approved for another three years.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 11 minutes per response.

Respondents: Farms.

Estimated Number of Respondents: 6,100.

Estimated Total Annual Burden on Respondents: 1,100 hours.

Copies of this information collection and related instructions can be obtained without charge from Larry Gambrell, the Agency OMB Clearance Officer, at (202) 720-5778.

Comments

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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (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 those who are to respond, such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Larry Gambrell, Agency OMB Clearance Officer, U.S. Department of Agriculture, 1400 Independence Ave. SW, Room 4162 South Building, Washington, DC 20250–2000.

All responses to this notice will be summarized and included in the request for OMB approval.

All comments will also become a matter of public record.

Signed at Washington, D.C., March 10, 1997.

Donald M. Bay,

Administrator, National Agricultural Statistics Service.

[FR Doc. 97–7583 Filed 3–25–97; 8:45 am]

BILLING CODE 3410–20–M

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: U.S. Commission on Civil Rights.

DATE AND TIME: Friday, April 4, 1997, 9:30 a.m.

PLACE: U.S. Commission on Civil Rights, 624 Ninth Street, N.W., Room 540, Washington, DC 20425.

STATUS:

Agenda

I. Approval of Agenda
II. Announcements
III. Staff Report
IV. State Advisory Committee Reports
- Indiana Consultation: Focus on Affirmative Action
- Illinois Consultation: Focus on Affirmative Action
- Michigan Consultation: Focus on Affirmative Action
- Ohio Consultation: Focus on Affirmative Action
- Wisconsin Consultation: Focus on Affirmative Action

V. State Advisory Committee Appointments for Alabama, Colorado, Connecticut, Idaho, Kansas, Kentucky, Massachusetts, Minnesota, and New Jersey.
VI. Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination—The Miami Report
VII. Future Agenda Items

CONTACT PERSON FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications (202) 376–8312.

Stephanie Y. Moore,

General Counsel.

[FR Doc. 97–7823 Filed 3–24–97; 2:40 pm]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–559–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, and Singapore; Amended Final Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of amended final results of antidumping duty administrative reviews.

SUMMARY: On January 15, 1997, the Department of Commerce (the Department) published the final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom (62 FR 2801). The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). The period of review (the POR) is May 1, 1994, through April 30, 1995. Based on the correction of ministerial errors, we have changed the margins for BBs for 10 companies, CRBs for 5 companies, and SPBs for 2 companies. We are also amending the section of the published final results regarding sales below cost in the home market in order to correct a ministerial error.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Ross, Richard Rimlinger, or Kris Campbell, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On January 15, 1997, the Department published the final results of its administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom (62 FR 2081). The reviews covered 27 manufacturers/exporters and the POR May 1, 1994, through April 30, 1995.

After publication of our final results, we received timely allegations from the petitioner and several respondents that we had made ministerial errors in calculating the final results. We have corrected our calculations where we agree that we made ministerial errors in accordance with section 751(A) of the Tariff Act. In addition, we have corrected our calculations for ministerial errors that were not alleged by the petitioner or respondents but which we discovered after publication of the final results. See company-specific analysis memoranda for a description of the changes that we made to correct the ministerial errors.

We are also amending the section of the notice of final results of reviews regarding sales below cost in the home market in order to correct a ministerial error. In this section, we inadvertently listed Nachi as one of the companies for which we disregarded below-cost sales in the home market. Nachi was not subject to review and, therefore, should not have been listed in this section.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Amended Final Results of Reviews

As a result of our corrections for ministerial errors, we determine that the following weighted-average percentage margins exist for the period May 1, 1994, through April 30, 1995:

Company	Class or kind	Rate (percent)
France		
Intertechnique	BBs	[1] 1.55
SKF	BBs	16.61
SNR	BBs	5.99
	CRBs	5.19
Germany		
FAG	BBs	13.43
	CRBs	23.10
	SPBs	12.10
INA	BBs	19.50
	CRBs	18.36
SKF	BBs	2.53
	CRBs	9.50
	SPBs	6.63
Italy		
FAG	BBs	4.88
SKF	BBs	2.84
Japan		
Asahi Seiko	BBs	2.43
Koyo Seiko	BBs	18.60
	CRBs	3.65
Singapore		
NMB Singapore/ Pelmec Ind.	BBs	2.43

[1] This rate did not change as a result of the correction.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling and other simplification methods prevent entry-

by-entry assessments, we will calculate wherever possible an exporter/importer-specific assessment rate for each class or kind of AFBs.

We will direct the Customs Service to collect cash deposits of estimated antidumping duties on all appropriate entries in accordance with the procedures discussed in the final results of the reviews (62 FR 2081, 2082) and as amended by this determination.

The amended deposit requirements are effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a final 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 notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Failure to comply is a violation of the APO.

These administrative reviews and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.28.

Dated: March 14, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–7589 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–848]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Freshwater Crawfish Tail Meat From the People's Republic of China

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

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor, Elisabeth Urfer or Maureen Flannery, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0666, (202) 482–4052, or (202) 482–4733, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Rounds Agreements Act (URAA).

Preliminary Determination

We determine preliminarily that freshwater crawfish tail meat (crawfish tail meat) from the People's Republic of China (PRC) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (61 FR 54154, October 17, 1996), the following events have occurred:

On October 23, 1996, the Department of Commerce (the Department) sent a letter to the PRC's Ministry of Foreign Trade and Economic Cooperation (MOFTEC) requesting the identification of producers and exporters, and information regarding the production and sales of crawfish tail meat exported to the United States. On November 15, 1996, the Department sent a separate letter to the China Chamber of Commerce for Import & Export of Foodstuffs, Native Produce & Animal By-Products (the China Chamber of Commerce) requesting information regarding exports of the subject merchandise to the United States. We received no response to our inquiries from either MOFTEC or the China Chamber of Commerce, except for the March 10, 1997 letter noted below.

On November 4, 1996, the United States International Trade Commission (ITC) issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731–TA–752). The ITC found that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from the PRC of crawfish tail meat.

The Department issued an antidumping questionnaire to MOFTEC on November 8, 1996, with instructions to forward the document to all exporters of crawfish tail meat, and to inform these companies that they must respond by the due dates. We also sent courtesy copies of the antidumping questionnaire to all identified companies for which we had addresses.

The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. (Section B does not normally apply in antidumping proceedings involving the PRC.) Section D requests information on the factors of production of the subject merchandise.

On December 13, 1996 and December 19, 1996, fifteen PRC exporters submitted their section A and section C responses. On December 23, 1996, 23 PRC producer/supplier factories submitted section D questionnaire responses.

On December 23, 1996, we requested that interested parties provide publicly available published information for valuing the factors of production and for surrogate country selection. We received comments from those interested parties on January 17, 1997, and rebuttal comments on January 27, 1997.

On January 10, 1997, we issued supplemental questionnaires to five respondents and we sent a deficiency letter to three companies that had not previously submitted section D responses. We received section D questionnaire responses from those companies on January 17, 1997. On January 23, 1997, we issued a supplemental questionnaire to a sixth respondent, Lianyungang Yupeng Aquatic Products Co., Ltd. (Lianyungang Yupeng). We issued a second supplemental questionnaire on January 31, 1997 to the five largest respondents, and we received their responses on February 7, 1997.

On January 24, 1997, after receiving complete questionnaire responses from fifteen PRC crawfish exporters, we determined that we would only be able to analyze the responses of the six largest PRC crawfish exporters to the United States due to limited resources. (See Respondent Selection section below.)

On February 14, 1997, we postponed the preliminary determination until not later than March 19, 1997 (62 FR 6948), because we determined this investigation to be extraordinarily complicated within the meaning of section 733(c)(1)(B)(i) of the Act.

On February 18, 1997, we granted an additional period of time for interested parties to submit factual information and arguments with respect to the

question of surrogate values. We received comments on February 24, 1997 and rebuttals on February 27, 1997.

On March 10, 1997, respondents submitted a letter from the China Chamber of Commerce to the Department, providing some limited information with respect to the Chinese crawfish industry.

Scope of the Investigation

The product covered by this investigation is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the investigation are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 0306.19.00.10 and 0306.29.00.00. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is March 1, 1996 through August 31, 1996.

Non-Market-Economy Country Status

The Department has treated the PRC as a nonmarket-economy country (NME) in all past antidumping investigations and administrative reviews. See, e.g., Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide); and Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China, 60 FR 22545 (May 8, 1995) (Furfuryl Alcohol). Neither respondents nor petitioner has challenged such treatment. Therefore, in accordance with section 771(18)(C) of the Act, we will continue to treat the PRC as an NME in this investigation.

Surrogate Country

When investigating imports from an NME, section 773(c)(1) of the Act directs the Department in most circumstances to base normal value (NV) on the NME producers' factors of production, valued in a surrogate market-economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4), the Department, in valuing the factors of production, shall utilize, to the extent possible, the prices or costs of factors of production in one or more market-economy countries that are comparable in terms of economic development to the NME country and are significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the NV section below.

The Department has determined that India, Pakistan, Sri Lanka, Egypt and Indonesia are countries comparable to the PRC in terms of economic development. See Memorandum from David Mueller to Edward Yang, dated December 20, 1996.

Based upon the information on the record, we have found that none of these five countries are significant producers of the subject merchandise. However, the Department has determined that India is a significant producer of comparable merchandise, processed seafood. Since India's level of economic development is comparable to that of the PRC, we have calculated NV using Indian prices to value all of the PRC producers' factors of production except for the raw material input of whole, harvested crawfish. India does not have a crawfish industry, and we have determined that other forms of seafood processed in India are not sufficiently comparable to serve as surrogate values for the primary input. Therefore, we have considered other countries in which to value the crawfish input and have determined that Spain is a reasonable surrogate country. Although our research has revealed that Spain does not have a crawfish tail meat industry, we consider whole processed crawfish to be a comparable product within the meaning of section 773(c)(4)(B). Evidence on the record indicates that Spain is a significant producer of whole processed crawfish. We have therefore valued the crawfish input using 1996 Spanish import data, in conformance with our practice of obtaining and relying upon publicly available information wherever possible. For further discussion, see Concurrence Memorandum from the team to Joseph A. Spetrini: Preliminary Determination, Freshwater Crawfish Tail Meat from the People's Republic of China, dated March 18, 1997, on file in room B–099 of the Commerce Department (Concurrence Memorandum).

Respondent Selection

Because we do not have the administrative resources to analyze the responses of all participating exporters, we have determined that it is appropriate to limit our investigation to the analysis of the six largest PRC crawfish tail meat exporters to the United States, in accordance with section 777A(c)(2) of the Act. We identified the largest exporters based on the data supplied by those PRC companies which submitted a full questionnaire response. (See Memorandum from the team to Joseph A. Spetrini, dated January 24, 1997 (Respondent Selection Memorandum).) The following PRC exporters submitted full questionnaire responses in a timely manner: China Everbright Trading Company (China Everbright), Binzhou Prefecture Foodstuffs Import and Export Corp. (Binzhou), Yancheng Fengbao Aquatic Food Co., Ltd. (Yancheng Fengbao), Yancheng Foreign Trade Corp. (Yancheng FTC), Huaiyin Foreign Trade Corp. (Huaiyin FTC), Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp. (Jiangsu Cereals), Jiangsu Light Industrial Products Import & Export (Group) Yangzhou Co. (Jiangsu Light), Lianyungang Yupeng, Jiangsu Overseas Group Corp. (Jiangsu Overseas), Anhui Cereals, Oils and Foodstuffs Import & Export Corp. (Anhui Cereals), Qidong Baolu Aquatic Products Co., Ltd. (Qidong Baolu), Shandong Foodstuffs Import & Export parte. Corp. (Shandong), Nantong Delu Aquatic Food Co., Ltd. (Nantong Delu), Huaiyin Ningtai Fisheries Co., Ltd. (Huaiyin Ningtai), and Yancheng Baolong Aquatic Foods Co., Ltd (Yancheng Baolong). Four of these firms, Anhui Cereals, Qidong Baolu, Shandong, and Jiangsu Overseas, reported no shipments during the POI. The Department selected the following six companies to examine: (1) China Everbright; (2) Binzhou; (3) Huaiyin FTC; (4) Yancheng FTC; (5) Jiangsu Light; and (6) Lianyungang Yupeng.

Market-Oriented Industry (MOI) Status

Respondents in this investigation have claimed that their material inputs are acquired at market prices, and that, accordingly, the Department should find that the Chinese crawfish tail meat industry is a market-oriented industry (MOI). Thus, respondents claim, the Department should use respondents' actual PRC prices for valuing these inputs.

The Department's criteria for determining whether an MOI exists include, but are not limited to:

(1) For the subject merchandise, there must be virtually no government involvement in setting prices or amounts to be produced. For example, state-required production of the subject merchandise, whether for export or domestic consumption in the NME country, would be an almost insuperable barrier to finding an MOI;

(2) The industry producing the subject merchandise should be characterized by private or collective ownership. There may be state-owned enterprises in the industry, but substantial state ownership would weigh heavily against finding an MOI; and

(3) Market-determined prices must be paid for all significant inputs, whether material or non-material (*e.g.,* labor and overhead), and for all but an insignificant portion of all the inputs accounting for the total value of the subject merchandise. For example, an input price will not be considered market-determined if the producers of the merchandise under investigation pay a state-set price for the input or if the input is supplied to the producers at government direction. Moreover, if there is any state-required production in the industry producing the input, the share of state-required production must be insignificant.

Amendment to Final Determination of Sales at Less than Fair Value and Amendment to Antidumping Duty Order: Chrome-plated Lug Nuts from the People's Republic of China, 57 FR 15054 (April 24, 1992) (Lug Nuts Amended Final); Final Determination of Sales at Less than Fair Value: Sulfanilic Acid from the People's Republic of China, 57 FR 29705 (July 6, 1992); and Porcelain-on-Steel Cooking Ware from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review, 62 FR 4250, 4251 (January 29, 1997).

We have determined that the criteria outlined above have not been met in this case because we do not have complete information on the crawfish tail meat industry. We received questionnaire responses from only 25 percent of the 61 exporters named in the petition. As described above, the Department sent MOFTEC and the China Chamber of Commerce several requests for information regarding the crawfish tail meat industry, including a request that MOFTEC identify all of the exporters of crawfish tail meat to the United States. We also informed MOFTEC of the possibility that a request for MOI treatment could be made. MOFTEC failed to provide a complete list of Chinese crawfish tail meat exporters, nor did it respond to the Department's other requests for information. Analysis of the Port Import/Export Reporting Services (PIERS) import data, published by the Journal of Commerce, provides further evidence of the lack of complete information regarding the PRC crawfish tail meat industry available on the record in this case. PIERS statistics indicate that during the POI, crawfish tail meat was imported from several exporters who did not respond to our questionnaire. See Memorandum from Tamara Underwood to the File, dated March 19, 1997 (PIERS Data Memorandum). Without information for each Chinese exporter, we cannot determine that the criteria for establishing an MOI are met. Therefore, we preliminarily find that an MOI does not exist. We have calculated NV in accordance with section 773(c) of the statute. For further discussion regarding the MOI decision, see Concurrence Memorandum.

Separate Rates

All of the respondents have requested separate, company-specific rates. In their questionnaire responses, respondents state that they are independent legal entities. Of the eleven responding exporters in this investigation, seven have reported that they are collectively-owned enterprises, registered as ''owned by the whole people,'' and four have reported that they are licensed as PRC-foreign joint ventures. As stated in Silicon Carbide and Furfuryl Alcohol, ownership of a company by all the people does not require the application of a single rate. Accordingly, each of these respondents is eligible for consideration for a separate rate.

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under the test originally established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers), and amplified in Silicon Carbide. Under this test, the Department assigns separate rates in nonmarket-economy cases only if an exporter can affirmatively demonstrate the absence of both (1) *de jure* and (2) *de facto* governmental control over export activities. See Silicon Carbide and Furfuryl Alcohol.

1. De Jure Control

The respondents have placed on the administrative record a number of documents to demonstrate absence of *de jure* control. Respondents submitted the Civil Law of the People's Republic of China, issued on April 12, 1988 (the Civil Law) and the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted April 13, 1988 (the Industrial Enterprises Law). The Department has previously determined that the Civil Law does not confer *de jure* independence on the branches of government-owned and controlled enterprises. See *Sigma Corp.* v. *United States,* 890 F. Supp. 1077, 1080 (CIT 1995). However, the Industrial Enterprises Law has been analyzed by the Department in past cases and has been found to sufficiently establish an absense of *de jure* control of companies ''owned by the whole people,'' such as those participating in this case. (See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Partial-Extension Steel Drawer Slides with Rollers from the People's Republic of China, 60 FR 29571, 29573 (June 5, 1995); Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey from the People's Republic of China, 60 FR 14725, 14727 (March 20, 1995); and Furfuryl Alcohol. The Industrial Enterprises Law provides that enterprises owned by ''the whole people'' shall make their own management decisions, be responsible for their own profits and losses, choose their own suppliers, and purchase their own goods and materials. The Regulations of the People's Republic of China for Controlling the Registration of Enterprises as Legal Persons (Legal Persons Regulations), issued on July 13, 1988 by the State Administration for Industry and Commerce of the PRC, provide that, to qualify as legal persons, companies must have the ''ability to bear civil liability independently'' and the right to control and manage their business. These regulations also state that, as an independent legal entity, a company is responsible for its own profits and losses. See Notice of Final Determination of Sales at Less Than Fair Value: Manganese Metal from the People's Republic of China, 60 FR 56046 (November 6, 1995). Respondents have also submitted the ''Foreign Trade Law of the People's Republic of China,'' enacted May 12, 1994 (the Foreign Trade Law), which allows producers to export without using trading companies, and further demonstrates the absence of *de jure* control. See, *e.g.,* Final Determination of Sales at Less Than Fair Value: Bicycles from the People's Republic of China, 61 FR 19026 (April 30, 1996) (Bicycles); and Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Melamine Institutional Dinnerware Products from the People's Republic of China, 61 FR 43337 (August 22, 1996) (Melamine). In past PRC investigations, the ''Law of the People's Republic of China on Chinese Contractual Joint Ventures'' (April 13, 1988) has also been placed on the record as evidence of absence of *de jure* control with respect to Chinese-foreign joint venture corporations. See Concurrence Memorandum; and Notice of Preliminary Determination of Sales at

Less Than Fair Value and Postponement of Final Determinations: Brake Drums and Brake Rotors from the People's Republic of China, 61 FR 53190, 53192 (October 10, 1996) (Brake Drums and Rotors). The articles of this law authorize joint venture companies to make their own operational and managerial decisions. Respondents state that crawfish tail meat does not appear on any government lists regarding export provisions or export licensing, and that no quotas are imposed on crawfish tail meat.

In sum, in prior cases, the Department has analyzed the Chinese laws and regulations on the record in this case, and found that they establish an absence of *de jure* control. We have no new information in these proceedings which would cause us to reconsider this determination.

2. De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by or are subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. See, *e.g.*, Silicon Carbide and Furfuryl Alcohol.

Respondents have asserted the following: (1) They establish their own export prices; (2) they negotiate contracts, without guidance from any governmental entities or organizations; (3) they make their own personnel decisions; and (4) they retain the proceeds of their export sales, use profits according to their business needs, and have the authority to obtain loans. In addition, respondents' questionnaire responses indicate that company-specific pricing during the POI does not suggest coordination among exporters. There is no indication from the respondents' business licenses that the issuing authority imposes any type of restriction on respondents' businesses. Respondents state that no such restrictions exist. This information supports a preliminary finding that there is a *de facto* absence of governmental control of the export functions of these companies. (*See* the Concurrence Memorandum.)

Consequently, we preliminarily determine that these exporters have met the criteria for the application of separate rates. We will examine this matter further at verification.

China-Wide Rate

We are applying a single antidumping deposit rate—the China-wide rate—to all exporters in the PRC other than those firms that were fully responsive to our requests for information, and which we determined should be assigned separate rates. This determination is based on our presumption that the export activities of the companies that failed to respond are controlled by the PRC government. See, *e.g., Bicycles.*

Because we did not receive a response from MOFTEC, we do not know the universe of PRC crawfish tail meat exporters. The petition named 61 PRC producers and/or exporters of crawfish tail meat and we received responses from fifteen exporters. Furthermore, we have evidence on the record confirming that there are at least some additional exporters (*see* PIERS Data Memorandum). Therefore, we conclude that not all exporters of crawfish tail meat responded to our questionnaire.

Further, absent a response, we must presume government control of these and all other PRC companies for which we cannot make a separate rate determination. As discussed above, all PRC exporters that have not qualified for a separate rate have been treated as a single enterprise subject to government control. Because that single enterprise failed to respond to the Department's requests for information, that single enterprise is considered to be uncooperative.

Section 776(a)(2) of the Act provides that:

> If an interested party or any other person—(A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority * * * shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.

Accordingly, the Department based the China-wide antidumping rate on facts available. In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may draw an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Section 776(b) provides that such an adverse inference may be based on secondary information, including information drawn from the petition.

The non-responding exporters have failed to cooperate by not acting to the best of their ability to comply with the Department's request for information. Accordingly, consistent with section 776(b)(1) of the Act, we have drawn an adverse inference and applied, as total adverse facts available, the higher of the margin from the petition, as adjusted in accordance with the Memorandum from Elisabeth Urfer to Edward Yang, Corroboration of Petition, March 18, 1997) (Corroboration Memorandum), on file in Room B–099 of the Commerce Department, or the highest rate calculated for a respondent in the proceeding. In the present case, based on our comparison of the calculated margin for the other respondents in this proceeding to the estimated margins in the petition, we have concluded that the petition, as adjusted, is the most appropriate record information on which to form the basis for dumping calculations. The petition rate is 201.63 percent.

Section 776(c) of the Act provides that when the Department relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information with independent sources reasonably at the Department's disposal. The Statement of Administrative Action (SAA) accompanying the URAA clarifies that the petition is ''secondary information.'' See SAA at 870. The SAA also clarifies that ''corroborate'' means to determine whether the information used has probative value. *Id.*

In accordance with this requirement, we corroborated the margins in the petition to the extent practicable. (See Corroboration Memorandum.) The petitioner based export prices on actual FOB and CIF price quotations from exporters of Chinese crawfish tail meat. We compared the starting prices used by petitioner to prices derived from U.S. import statistics, and found that the similarity to the import statistics corroborated the starting prices in the petition. See, *e.g.*, Notice of Final Determination of Sales at Less Than Fair Value: Circular Welded Non-Alloy Steel Pipe from South Africa, 61 FR 24271, 24273 (May 14, 1996); and Brake Drums and Rotors. Petitioner made deductions to the export price for foreign inland freight, using the average distance between cities where crawfish tail meat

is processed in the PRC and the ports from which the majority of Chinese crawfish tail meat is exported. We could not corroborate the freight rate used by petitioner with other information on the record; therefore, we adjusted the freight rate used in the petition. We made no other adjustments to export price. Petitioner based NV on surrogate factor values obtained from Spanish import data and publicly available information from India. We confirmed the accuracy of petitioner's NV data by comparing the values used in the petition with values obtained from publicly available information collected in these and previous NME investigations. We adjusted petitioner's NV calculation using current Spanish import statistics. See Corroboration Memorandum.

Rate for Respondents Not Selected

As stated above, several PRC companies which reported shipments during the POI submitted full questionnaire responses in a timely manner and claimed eligibility for separate rates, but were not selected for analysis in this investigation. It would be inappropriate to assign these fully cooperative respondents a rate based on facts available, that would also apply to PRC exporters of crawfish tail meat who failed to cooperate in this investigation. Therefore, we have assigned these cooperative respondents a weighted-average dumping margin based on the calculated margins which were not zero or *de minimis,* of the six selected respondents that fully cooperated. (See *Brake Drums and Rotors.*)

Fair Value Comparisons

To determine whether sales of crawfish tail meat from the PRC, exported to the United States by the responsive exporters with shipments during the POI, were made at less than fair value, we compared the United States Price (USP) to the NV, as specified in the ''United States Price'' and ''Normal Value'' sections of this notice.

United States Price

We based USP on export price (EP) in accordance with section 772(a) of the Act, because crawfish tail meat was sold directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price was not warranted based on the facts on the record. In accordance with section 777A(d)(1)(A)(i) of the Act, we compared POI-wide weighted-average EPs to the NV of the subject merchandise calculated using the respondents' factors of production.

We calculated EP based on packed prices to unaffiliated purchasers in the United States. We made deductions from the starting price, where appropriate, for the following: Foreign inland freight, marine insurance (which includes foreign inland insurance), and ocean freight. The foreign inland freight, marine insurance, ocean freight, and foreign inland insurance were valued using Indian rates because these services were provided by a nonmarket-economy supplier.

To value foreign inland freight, we used public information regarding truck rates from an April, 1994 article published in the periodical, The Times of India. To value ocean freight, we obtained publicly available price quotes from Sea Land Services for shipping frozen crawfish tail meat from the PRC to the West Coast and the Gulf Coast of the United States. See memorandum to the file from Tamara Underwood, ''Ocean Freight Rates for the Antidumping Investigation of Crawfish Tail Meat from the People's Republic of China,'' dated March 12, 1997. Respondents stated in their supplemental questionnaire responses that they do not incur foreign brokerage and handling costs. Therefore, we have not included such costs in our calculation.

For marine insurance, we used public information reported in the Final Determination of Sales at Less Than Fair Value: Sulfur Dyes, Including Sulfur Vat Dyes from India, 58 FR 11835 (March 1, 1993) (Sulfur Dyes), and applied in both Brake Drums and Rotors and Preliminary Determination of Sales at Less Than Fair Value: Persulfates from the People's Republic of China 61 FR 53194 (December 27, 1996). See the Factors Valuation Memorandum from the team to Edward Yang, dated March 19, 1997 (Factors Memorandum).

Respondents have stated that their domestic inland freight cost includes insurance expenses; however, we do not have any evidence that our surrogate Indian freight rates include insurance. Since neither party submitted publicly available information regarding how to value foreign inland insurance, we have applied the same marine insurance rates obtained from the Sulfur Dyes investigation to value foreign inland insurance, as was done in the Final Determination of Sales at Less Than Fair Value: Coumarin from the People's Republic of China, 59 FR 66895 (December 2, 1994).

Normal Value

In accordance with section 773(c) of the Act, we calculated NV based on the factors of production reported by the factories in the PRC which processed crawfish tail meat for the six exporters selected for investigation. With the exception of the crawfish input, we valued the factors of production using publicly available information from India. For the crawfish input, we used Spanish import statistics for crawfish imported from Portugal, as discussed in the ''Surrogate Country'' section of this notice.

Factor Valuations

The selection of the surrogate values was based on the quality and contemporaneity of the data. We used import prices to value many factors. As appropriate, we adjusted input prices by adding freight expenses to make them delivered prices. For those values not contemporaneous with the POI, we adjusted for inflation using wholesale price indices or, in the case of labor rates, consumer price indices, published in the International Monetary Fund's International Financial Statistics. For a complete analysis of surrogate values, see the Factors Memorandum.

To value whole crawfish, we used the average Spanish import price for fresh (not frozen) crawfish imported from Portugal between January and November 1996. Spanish import data show insignificant amounts of crawfish from other countries at abberational prices and, therefore, it would not be appropriate to include this data in the calculation of the crawfish cost. This data is publicly available and is published by the Spanish Ministry of Customs in Madrid. This information is contemporaneous with the POI. See the Concurrence Memorandum and Factors Memorandum for further discussion.

To value the by-product of shells and body parts unfit for exportation (non-export quality crawfish), we used Indian import price data for the HTS category ''shells of mollusks, crustaceans, and echinoderms,'' from the April through August 1995 issues of Monthly Statistics of the Foreign Trade of India (Monthly Statistics).

To value coal and electricity we used data reported as the average Indian domestic prices within the categories of ''Steam Coal for Industry'' and ''Electricity for Industry,'' published in the International Energy Agency's publication, Energy Prices and Taxes, Second Quarter, 1996. We adjusted the cost of coal to include an amount for transportation. For water, we relied upon public information from the November 1993 Water Utilities Data Book: Asian and Pacific Region, published by the Asian Development Bank.

To value plastic bags, cardboard boxes, adhesive tape, paper, and labels, we relied upon Indian import data from the April through August 1995 issues of Monthly Statistics. We adjusted the values of packing materials to include the cost of transportation. Respondents did not provide distances between their suppliers of adhesive tape, paper and labels and their factories. Therefore, as facts available, we used the longest distance for either cardboard boxes or plastic bags.

To value labor, we used data from the United Nations'' publication, Yearbook of Labor Statistics (YLS). Data from the YLS is not differentiated by skill level, or by whether the labor is direct or indirect. Thus, following the method established in Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from the People's Republic of China, 60 FR 52647 (October 10, 1995), we applied a single labor value to all reported labor factors, including indirect labor.

To value factory overhead, selling, general, and administrative expenses (SG&A), and profit, we calculated simple average rates using publicly available financial statements of five Indian seafood processing companies submitted in the petition, and applied these rates to the calculated cost of manufacture. See Concurrence Memorandum.

Verification

As provided in section 782(i) of the Act, we will verify the information used in making our final determination.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the Customs Service to suspend liquidation of all entries of freshwater crawfish tail meat from the PRC that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Customs Service will require a cash deposit or posting of a bond equal to the estimated dumping margins by which the NV exceeds the USP, as shown below. These suspension of liquidation instructions will remain in effect until further notice.

The weighted-average dumping margins are as follows:

Manufacturer/Exporter	Weighted-average margin (percent)
China Everbright Trading Company	172.97
Binzhou Prefecture Foodstuffs Import and Export Corp	103.68
Huaiyin Foreign Trade Corp	85.50
Yancheng Foreign Trade Corp	87.16
Jiangsu Light Industrial Products Import & Export (Group) Yangzhou Co	102.54
Lianyungang Yupeng Aquatic Products Co., Ltd	110.50
Yancheng Fengbao Aquatic Food Co., Ltd.[1]	113.35
Jiangsu Cereals, Oils & Foodstuffs Import & Export Corp.[1]	113.35
Nantong Delu Aquatic Food Co., Ltd.[1]	113.35
Huaiyin Ningtai Fisheries Co., Ltd.[1]	113.35
Yancheng Baolong Aquatic Foods Co., Ltd.[1]	113.35
China-wide Rate[2]	201.63

[1] This rate is the weighted average margin of the top six exporters named above.
[2] The China-wide rate applies to all entries of the subject merchandise except for entries from exporters that are identified individually above.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports, or sales (or the likelihood of sales) for importation, of the subject merchandise.

Public Comment

In accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than May 12, 1997, and rebuttal briefs, no later than May 19, 1997. A list of authorities used and a summary of arguments made in the briefs should accompany these briefs. Such summary should be limited to five pages total, including footnotes. We will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. At this time, the hearing is scheduled for May 21, 1997, from 1:00–5:00 in Room 1414, at the U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. In accordance with 19 CFR 353.38(b), oral presentations will be limited to issues raised in the case briefs. If this investigation proceeds normally, we will make our final determination by June 2, 1997.

This determination is published pursuant to section 733(f) of the Act.

Dated: March 19, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–7590 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–428–810]

High-Tenacity Rayon Filament Yarn From Germany; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order

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

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order.

SUMMARY: In response to a request from the North American Rayon Corporation (petitioner and sole U.S. producer of high-tenacity rayon filament yarn), the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing a notice of intent to revoke the antidumping duty order on high-tenacity rayon filament yarn from Germany. The petitioner also requested that this revocation be retroactive to June 1, 1995. Based on the fact that the petitioner has expressed no interest in the continuation of the antidumping duty order on high-tenacity rayon filament yarn produced in Germany, we intend to revoke this order.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–5831.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On May 22, 1992 (57 FR 21770), the Department published the final determination in the LTFV investigation on high-tenacity rayon filament yarn from Germany, and subsequently published an antidumping duty order on June 30, 1992 (57 FR 29062). On January 7, 1997, the petitioner requested that the Department conduct a changed circumstances administrative review to determine whether to revoke the order. Petitioner states that it has no further interest in the order.

Scope of the Review

The product covered by this administrative review is high-tenacity rayon filament yarn from Germany. During the review period, such merchandise was classifiable under Harmonized Tariff Schedule (HTS) item number 5403.10.30.40. High-tenacity rayon filament yarn is a multifilament single yarn of viscose rayon with a twist of five turns or more per meter, having a denier of 1100 or greater, and a tenacity greater than 35 centinewtons per tex. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage. This changed circumstances administrative review covers all manufacturers/exporters of high-tenacity rayon filament yarn from Germany.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order

Pursuant to section 751(d) and 782(h) of the Act, the Department may revoke an antidumping duty order based on a review under section 751(b) of the Act (*i.e.*, a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances administrative review to be conducted upon receipt of a request containing sufficient information concerning changed circumstances.

The Department's regulations at 19 CFR 353.25(d)(2) permit the Department to conduct a changed circumstances administrative review under § 353.22(f) based upon an affirmative statement of no interest from the petitioner in the proceeding. Section 353.25(d)(1)(i) further provides that the Department may revoke the order if it determines that the order under review is no longer of interest to interested parties, as enumerated therein. In addition, in the event that the Department concludes that expedited action is warranted, section 353.22(f)(4) of the regulations permits the Department to combine the notices of initiation and preliminary results.

Therefore, in accordance with sections 751(b)(1) and 782(h) of the Act, 19 CFR 353.25(d), and 353.22(f), based on an affirmative statement of no interest in the proceeding by petitioner, we are initiating this changed circumstances administrative review and have determined that expedited action is warranted. Further, we have preliminarily determined that the order on high-tenacity rayon filament yarn, as described in petitioner's request for a changed circumstances review, no longer is of interest to domestic interested parties as of June 1, 1995. Because we concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke the antidumping duty order on high-tenacity rayon filament yarn from Germany, effective June 1, 1995.

If final revocation occurs, we intend to instruct the U.S. Customs Service (Customs) to liquidate without regard to antidumping duties and to refund any estimated antidumping duties collected for all unliquidated entries of the subject merchandise made on or after the effective date of revocation, June 1, 1995, in accordance with 19 CFR 353.25(d)(5). We will also instruct Customs to refund interest for entries made on or after June 1, 1995, in accordance with section 778 of the Act. The current requirement for a cash deposit of estimated antidumping duties will continue until publication of the final results of this changed circumstances review.

Public Comment

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held no later than 28 days after the date of publication of this notice, or the first working day thereafter. Case briefs and/or written comments from interested parties may be submitted no later than 14 days after the date of publication of this notice. Rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed no later than 21 days after the date of publication of this notice. All written comments shall be submitted in accordance with 19 CFR 353.31(e) and shall be served on all interested parties on the Department's service in accordance with 19 CFR 353.31(g). Persons interested in attending the hearing should contact the Department for the date and time of the hearing. The Department will publish the final results of this changed circumstances review, including the results of its analysis of issues raised in any written comments.

This initiation, preliminary results of review and notice are in accordance with section 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 CFR 353.22(f)(4).

Dated: March 18,1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–7588 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–433–807]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Open-End Spun Rayon Singles Yarn From Austria

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

EFFECTIVE DATES: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Russell Morris, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2786.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act'') are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act (''URAA'').

Preliminary Determination

We preliminarily determine that open-end spun rayon singles yarn from Austria is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

Since the initiation of this investigation (Notice of Initiation of Antidumping Duty Investigations: Open-End Spun Rayon Singles Yarn from Austria (61 FR 48472, September 13, 1996)), the following events have occurred. On October 4, 1996, the United States International Trade Commission (''ITC'') issued an affirmative preliminary injury determination in this case (see ITC Investigation No. 731–TA–751; 61 FR 53760, October 15, 1996).

On October 4, 1996, the Department issued an antidumping duty questionnaire to the following companies identified by petitioners as possible exporters of the subject merchandise: Linz Textil GmbH (Linz) and G. Borckenstein und Sohn A.G. (Borckenstein). The questionnaire is divided into four sections. Section A requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the sales of the merchandise in all of its markets. Sections B and C request home market sales listings and U.S. sales listings, respectively. Section D requests information on the cost of production (''COP'') of the foreign like product and constructed value (''CV'') of the subject merchandise.

Borckenstein submitted its response to section A of the questionnaire on November 8, 1996 and to sections B and C on December 3, 1996. As a result of our analysis of Borckenstein's submissions to our original questionnaire, we determined that we required additional information as well as clarification of the information submitted in the responses, and thus we issued a supplemental request for information on December 19, 1996, and requests for additional supplemental information on January 29, 1997. We received the responses to these requests on January 9, 1997, and February 6, 1997 respectively.

Linz submitted its questionnaire response to section A on October 25, 1996 and sections B and C on November 26, 1996. As a result of our analysis of Linz's response to our original questionnaire, we determined that we required additional information as well as clarification of the information submitted in the responses. We issued a supplemental request for information on December 12, 1996 and requests for additional supplemental information on January 29, 1997 and February 10, 1997. We received responses to these requests on January 6, 1997, and February 6 and 24, 1997, respectively.

Pursuant to section 733(c)(1)(B) of the Act, as amended, we postponed the date of the preliminary determination of whether sales of open-end spun rayon singles yarn from Austria have been made at less than fair value until not later than March 18, 1997 (see 62 FR 3003, January 21, 1997). We postponed the preliminary determination because this investigation is extraordinarily complicated, and because of the novel legal and methodological issues in this investigation.

In their questionnaire responses to Section A, both respondents argued that particular market conditions of this case render the home market non-viable as a comparison market. Borckenstein argued that because there is no demand in the home market for all the same yarn counts which it sells in the United States, a third country market, Italy, is a more appropriate comparison market. Borckenstein also argued that a majority of its sales in the home market were of black rayon yarn which is generally a higher-cost, higher-priced product compared to the raw white product sold in the United States. Linz also argued that because there is no demand in the home market for the same yarn counts that Linz sells in the United States, a third country market, France, is the more appropriate comparison market. Linz also noted that French sales are more appropriate as the comparison market for U.S. sales because the customers are similar, the yarns are used in a similar fashion, there are similar quantities of sales, and similar channels and methods of distribution.

On November 14, 1996, we determined that the home market was viable for each of the respondents. Under section 773(a)(1) of the Act, the Department normally considers sales in the home market to be of sufficient quantity if they represent five percent of the aggregate quantity of sales of the subject merchandise in the United States. Both the home market sales of Borckenstein and Linz met that requirement. If the sales in the home market met the five percent requirement, the Department will only resort to a third country market when unusual situations renders the home market inappropriate. The fact that the home market may not have identical sales to compare to the sales of the subject merchandise in the United States is not an unusual situation and thus does not render the home market inappropriate. (For further explanation, see the memoranda from Barbara E. Tillman, Director, Office of CVD/AD Enforcement VI, Import Administration dated November 14, 1996, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

On December 10, 1996, petitioner objected to the use of date of invoice as the date of sale. Petitioner argued that given the actual sales processes of both respondents, the appropriate date of sale is the date of contract and not the date on which the sale is invoiced. Petitioner noted that there are no changes in the basic terms of each sale after the negotiation of the sales contract, and there is a significant lag time between the date of the sales contract and the date of the invoice. After a careful review of the petitioner's comments and the method by which sales are made in

both the home market and U.S. market by both Borckenstein and Linz, we determined that the date of invoice is the appropriate date of sale in this investigation.

In the proposed regulations (61 FR 7308), section 351.401(i) states that the Department will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. On March 29, 1996, the change in the date of sale methodology specified in the proposed regulations was implemented as policy by the Department for all investigations initiated after February 1, 1996, and for all reviews initiated after April 1, 1996. Therefore, for purposes of deciding the appropriate date of sale for this investigation, the new date of invoice policy is to be used.

This new policy still provides the Department with flexibility in situations involving certain long-term contracts or situations in which there is an exceptionally long lag time between date of invoice and date of shipment. Our review of the sales processes of both Borckenstein and Linz indicate that sales are made using short-term contracts. We also found that there is little lag time between the date of shipment and the date of invoice. Also, there is no other circumstance present to warrant making an exception to the general rule of using date of invoice as the date of sale for both companies for purposes of this investigation. Therefore, we determined that the date of invoice used by both Borckenstein and Linz is the appropriate date of sale for both companies. (For further information, see the memoranda from Barbara E. Tillman dated February 24, 1996, (public versions) on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

On December 12, 1996, the petitioner alleged that both Borckenstein and Linz had made sales in the home market at prices that were below the cost of production, pursuant to section 773(b) of the Act. After analyzing the petitioner's allegation, the Department determined that there were reasonable grounds to believe or suspect that home market sales had been made by Linz at prices below Linz's cost of production. Therefore, on January 17, 1997, the Department initiated a cost of production (COP) investigation of Linz for sales-below-cost. (See, memorandum from Barbara E. Tillman dated January 17, 1997, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.) The Department declined to initiate a cost of production investigation of Borckenstein. See, *Id*.

On January 23, 1997, petitioner submitted comments stating that the Department made clerical errors in its determination that there was no reason to believe or suspect that Borckenstein made sales in the home market below COP. We reviewed petitioner's comments and determined that additional adjustments were warranted. Based on these additional adjustments, we determined that there were reasonable grounds to believe or suspect that home market sales had been made by Borckenstein at prices below Borckenstein's COP. Therefore, on March 12, 1997, we initiated a COP investigation of Borckenstein. (See, memorandum from Barbara E. Tillman dated March 12, 1997, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.) Our final determination will include a COP analysis of Borckenstein's home market sales.

As a result of the Department's cost of production investigation, the Department requested that Linz answer Section D of the original questionnaire; Linz submitted its response to section D of the questionnaire on February 18, 1997. We determined that we required additional information as well as clarification of the information provided in this response, and thus we issued a supplemental questionnaire on February 24, 1997. We received a response to this request on March 3, 1997. This preliminary determination includes a COP analysis of Linz's home market sales.

Postponement of Final Determination and Extension of Provisional Measures

Pursuant to section 735(a)(2)(A) of the Act, on March 14 and 17, 1997, Linz and Borckenstein requested that in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until not later than 135 days after the publication of an affirmative preliminary determination in the **Federal Register**. In accordance with 19 CFR 353.20(b) (1995), inasmuch as our preliminary determination is affirmative, Borckenstein and Linz account for a significant proportion of exports of the subject merchandise, and we are not aware of the existence of any compelling reasons for denying this request, we are granting the request and postponing the final determination. Suspension of liquidation will be extended accordingly. See, Preliminary Determination of Sales at Less Than Fair Value: Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled from Japan, 61 FR 8029 (March 1, 1996).

Scope of Investigation

The product covered by this investigation is open-end spun singles yarn containing 85% or more rayon staple fiber. Such yarn is classified under subheading 5510.11.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and for Customs purposes, our written description of the scope of this investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 1995 through June 30, 1996.

Fair Value Comparisons

To determine whether sales of the subject merchandise by respondents to the United States were made at less than fair value, we compared the Export Price (EP) to the Normal Value (NV), described in the ''Export Price'' and ''Normal Value'' sections of notice. In accordance with section 777A(d)(1)(A)(i), we compared the weighted average EPs to weighted-average NVs during the POI. In determining averaging groups for comparison purposes, we considered the appropriateness of such factors as physical characteristics and level of trade.

(i) Physical Characteristics

In accordance with section 771(16) of the Act, we considered all products covered by the description in the ''Scope of Investigation'' section of this notice, produced in Austria by the respondents and sold in the home market during the POI, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in the Department's antidumping questionnaire. In making the product comparisons, we relied on the following criteria (listed in order of preference): weight, percentage of rayon fiber, color, denier, finish, and luster. All comparisons were based on the same grade of yarn. (For further explanation, see the memorandum from Barbara E. Tillman dated September 23, 1996, on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

(ii) Level of Trade

Neither Borckenstein nor Linz claimed a difference in level of trade. Based upon our review of the responses submitted by each of the companies, we determine that each company performed essentially the same selling activities for all reported home market and U.S. sales. Accordingly, we find that no level of trade differences exist between any sales in either the home market or U.S. market for either company. Therefore, all price comparisons are at the same level of trade and an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

Export Price

We calculated EP, in accordance with subsections 772(a) and (c) of the Act, for each of the respondents, where the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and use of constructed export price (CEP) was not otherwise warranted based on the facts of record.

We made company-specific adjustments as follows:

1. Borckenstein

For Borckenstein, we calculated EP based on packed, CIF, U.S. port prices to an unaffiliated customer in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for international freight (which included freight from the plant to port of export and ocean freight) and marine insurance, in accordance with section 772(c)(2)(A). We also made a deduction, where appropriate, for rebates that had been reported as commissions by the respondent. We reclassified the commissions as rebates because the commission agent is affiliated with the U.S. customer.

We have preliminarily rejected petitioner's request to use CEP because we do not find the record to indicate that the sole U.S. importer and Borckenstein are affiliated parties. The petitioner alleged Borckenstein and its U.S. importer were related because both parties had entered into a joint venture to establish a production facility in the United States and because of a close supplier relationship. Pursuant to section 771(33) of the Act, we reviewed Borckenstein's relationship with its U.S. importer and have determined, subject to verification, that petitioner's claim is unwarranted. There is no joint venture between Borckenstein and its U.S. importer. In addition, the evidence indicates that there is no affiliation between the two companies.

With respect to petitioner's claim of a close supplier relationship, section 771(33)(G) of the Act provides, *inter alia*, that parties will be considered affiliated when one controls the other. A person controls another person ''if the person is legally or operationally in a position to exercise restraint or direction over the other person.'' The SAA further states that a company may be in a position to exercise restraint or direction through, among other things, ''close supplier relationships in which the supplier or buyer becomes reliant upon the other.'' SAA at 838. However, we find no close supplier relationship to exist between Borckenstein and its U.S. importer. Borckenstein reported in its supplemental response that it negotiated prices with the importer, that the importer is free to purchase rayon yarn from sources other than Borckenstein, that Borckenstein is free to sell to any customer in the United States, and that Borckenstein's sales to its U.S. importer constitute a small percentage of its overall sales. Borckenstein has also stated that there is no exclusive long-term sales contract between itself and its U.S. importer.

In sum, Borckenstein and the U.S. importer have not entered into a joint venture nor does a close supplier relationship exist between the two parties. Therefore, we preliminarily determine the companies are not affiliated. (For further explanation, see the memorandum from Barbara E. Tillman dated March 17, 1997, (public version) on file in the Central Records Unit, Room B–099 of the Department of Commerce.)

2. Linz

We calculated EP based on packed, delivered/duty paid and f.o.b. prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for the following charges: Austrian inland freight (which included brokerage), insurance (which included inland and marine insurance), ocean freight, U.S. duty, clearing charges, bond expenses, and U.S. freight, in accordance with section 772(c)(2).

Linz reported that it did not borrow in U.S. dollars during the POI. In accordance with the Department's policy (see, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Certain Cut-to-Length Carbon Steel Plate from Sweden, (61 FR 15780, April 9, 1996)), we recalculated the U.S. imputed credit expense using the average short-term lending rates published by the Federal Reserve as surrogate U.S. interest rates, for purposes of making the circumstance of sale adjustment for this expense.

Normal Value

1. Borckenstein

We calculated NV based on packed, delivered prices to unaffiliated customers. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight in accordance with section 773(a)(6)(B)(ii) of the Act and early payment discounts. We also adjusted for differences in circumstances of sale for credit expenses and export credit insurance pursuant to section 773(a)(6)(C)(iii) of the Act. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no cases did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing. In addition, in accordance with section 773(a)(6)(A) and (B) of the Act, we deducted home market packing costs and added U.S. packing costs.

Borckenstein also reported an amount upon which to base an adjustment for differences in quantities sold in the U.S. and Austrian markets, pursuant to 19 CFR 353.55(a). Although Borckenstein claimed that it incurred differing manufacturing costs based on quantities produced, it was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Our review of the submitted prices indicated that prices did not vary based upon the quantity sold. Accordingly, we have not made the requested adjustment.

As noted in the ''Case History'' section of this notice, we initiated a COP investigation of Borckenstein on March 12, 1997. Because the COP investigation was just recently initiated, we are unable to include a COP analysis of Borckenstein's home market sales in this preliminary determination, however, the final determination will include a COP analysis of Borckenstein's home market sales.

2. Linz

a. Cost of Production Analysis

As noted in the ''Case History'' section above, based on the petitioner's allegations, the Department found reasonable grounds to believe or suspect that Linz made sales in the home market at prices below the cost of producing the merchandise. As a result, the Department initiated an investigation to determine whether Linz made home market sales during the POI at prices below the COP in accordance with section 773(b)(1) of the Act.

Before making any fair value comparisons, we conducted the COP analysis described below.

Calculation of COP

We calculated the COP based on the sum of Linz's reported cost of materials and fabrication for the foreign like product, plus amounts for home market general and administrative expenses (''G&A'') and packing costs in accordance with section 773(b)(3) of the Act. Indirect selling expenses are included in the reported G&A expenses.

Test of Home Market Prices

We used the respondent's adjusted weighted-average COP for the POI. We compared the weighted-average COP figures to home market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at below-cost prices within an extended period of time in substantial quantities, and whether the below-cost prices would permit recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges and direct selling expenses.

Results of COP Test

In determining whether to disregard home-market sales made at prices below COP, we examine: (1) Whether, within an extended period of time, such sales were made in substantial quantities, and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent (by quantity) of a respondent's sales of a given product were at prices less than the COP, we do not disregard any below-cost sales of that product. Where 20 percent (by quantity) or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determine such sales to have been made in substantial quantities within an extended period; where we determine that such sales were also not made at prices that permit recovery of cost within a reasonable period, we disregard the below-cost sales.

Based on our COP test, we found that less than 20 percent (by quantity) of Linz's sales of a given product were at prices less than COP. Thus, we did not disregard any below-cost sales. Therefore for matching purposes, export prices were compared to home market prices for all comparisons, and constructed value (CV) was not required.

b. Adjustments to Prices

We calculated NV based on packed, delivered prices to unaffiliated customers and prices to affiliated customers where the sales were made at arm's length. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight and inland insurance, in accordance with section 773(a)(6)(B). In addition, where appropriate, we adjusted for differences in circumstances of sale for credit expenses, post-sale warehousing, and commissions, in accordance with section 773(a)(6)(C). Linz did not report home market indirect selling expenses, therefore, we were unable to offset commissions paid in the U.S. with home market indirect selling expenses.

We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. In no case did the difference in merchandise adjustment for the comparison product exceed 20 percent of the U.S. product's cost of manufacturing. In addition, in accordance with section 773(a)(6)(A) and (B), we deducted home market packing costs and added U.S. packing costs.

Linz also reported for purposes of the difference in merchandise adjustment, different manufacturing cost for identical yarns based on the machine which produced the yarn. We have recalculated this adjustment based on the weighted-average cost for manufacturing identical yarns for the POI.

Linz also reported an amount upon which to base an adjustment for differences in quantities sold in the U.S. and Austrian markets. Although Linz claimed that it incurred differing costs based on quantities produced, it also stated in its January 6, 1997 supplemental response that the application of its small quantity price adjustment is flexible, made on a case-by-case basis, and is meant only as a guideline. Therefore, Linz was unable to demonstrate, based on information on the record, that pricing differences were related to quantity. Accordingly, we have not made the requested adjustment.

Linz was instructed to provide sales made to affiliated weaving mills in Austria. Sales not made at arm's-length were excluded from our LTFV analysis. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, and packing. We utilized the 99.5 percent benchmark ratio used in the 1993 carbon steel investigations (see below). Where no related customer price ratio could be constructed because identical merchandise was not sold to unrelated customers, we were unable to determine that these sales were made at arm's-length and, therefore, excluded them from our LTFV analysis. See, Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina (58 FR 37062, 37077 (July 9, 1993.))

Currency Conversion

We made currency conversions into U.S. dollars based on the official exchange rates in effect on the dates of the U.S. sales. The official rates are based on rates certified by the Federal Reserve Bank.

Section 773A(a) of the Act directs the Department to convert foreign currencies based on the dollar exchange rate in effect on the date of sale of the subject merchandise, except if it is established that a currency transaction on forward markets is directly linked to an export sale. When a company demonstrates that a sale on forward markets is directly linked to a particular export sale in order to minimize its exposure to exchange rate losses, the Department will use the rate of exchange in the forward currency sale agreement.

Section 773A(a) also directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars unless the daily rate involves a fluctuation. It is the Department's practice to find that a fluctuation exists when the daily exchange rate differs from the benchmark rate by 2.25 percent. The benchmark is defined as the moving average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark rate for the daily rate, in accordance with established practice. Further, section 773A(b) directs the Department to allow a 60-day adjustment period when a currency has undergone a sustained movement. A sustained movement has occurred when the weekly average of actual daily rates exceeds the weekly average of benchmark rates by more than five percent for eight consecutive weeks. (For an explanation of this method, see Policy Bulletin 96–1: Currency Conversions (61 FR 9434, March 8, 1996.)) Such an adjustment period is required only when a foreign currency is appreciating against the U.S. dollar. The use of an adjustment period was not warranted in this case because the Austrian schilling did not undergo a sustained appreciation.

Verification

As provided in section 782(i) of the Act, we will verify all information determined to be acceptable for use in making our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the Customs Service to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the export price, as indicated in the chart below. These suspension of liquidation instructions will remain in effect until further notice.

Exporter/Manufacturer	Weighted-average margin percentage
G. Borckenstein und Sohn	4.77
Linz Textil GmbH	10.83
All Others	7.93

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final determination is affirmative, the ITC will determine, before the later of 120 days after the date of this preliminary determination or 45 days after our final determination, whether these imports are materially injuring, or threatening material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary for Import Administration no later than June 16, 1997, and rebuttal briefs no later than June 23, 1997. A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. Such summary should be limited to five pages total, including footnotes. In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. Tentatively, the hearing will be held on June 26, 1997, at 2:00 p.m. in room 1414 at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination no later than 135 days after the publication of this notice in the **Federal Register**.

This determination is published pursuant to section 733(f) of the Act.

Dated: March 18, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–7591 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 032097B]

Endangered Species; Permits

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

ACTION: Receipt of three applications for scientific research permits (P632, P638, P642).

SUMMARY: Notice is hereby given that the State of California, Department of Transportation, District 4, in Oakland, CA (CalTrans 4), Michael H. Fawcett in Bodega Bay, CA, and the University of California, Davis, Bodega Marine Laboratory in Bodega Bay, CA (BML) have applied in due form for permits authorizing takes of a threatened species for scientific research purposes.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before April 25, 1997.

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

Protected Species Division, NMFS, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404–6528 (707–575–6066).

Written comments or requests for a public hearing should be submitted to the Protected Species Division in Santa Rosa, CA.

SUPPLEMENTARY INFORMATION: CalTrans 4, Michael Fawcett, and BML request permits 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 217–227).

CalTrans 4 (P632) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies throughout Sonoma, Marin, San Francisco, and San Mateo Counties. The studies consist of three assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, and (3) habitat quality evaluation. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released or captured and sacrificed. Indirect mortalities associated with research activities are also requested.

Michael Fawcett (P638) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with fish population and habitat studies in the Russian River and Salmon Creek drainages of Sonoma County. The studies consist of three assessment tasks for which ESA-listed fish are proposed to be taken: (1) Presence/absence, (2) population estimates, and (3) habitat quality evaluation. ESA-listed fish are proposed to be observed or captured, anesthetized, handled, allowed to recover from the anesthetic, and released. Indirect mortalities associated with research activities are also requested.

BML (P642) requests a five-year permit for takes of adult and juvenile, threatened, central California coast coho salmon (*Oncorhynchus kisutch*) associated with ongoing genetic population inventories throughout the Evolutionarily Significant Unit. ESA-listed adult carcasses are proposed to be sampled for small (less than ½ cu. cm) tissues wherever the carcasses are found. ESA-listed juvenile fish are proposed to be collected for the acquisition of small (less than 1 sq. mm) non-lethal caudal fin tissue samples, in conjunction with the California Department of Fish and Game's population surveys. ESA-listed juveniles will be captured, anesthetized, handled, allowed to recover from the anesthetic, and released. ESA-listed

juvenile indirect mortalities are also requested.

Those individuals requesting a hearing on any of the requests for a permit should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: March 20, 1997.

Joseph R. Blum,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–7718 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

March 20, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: March 27, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–6704. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for special shift and traditional folklore products made from handloomed fabrics.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 64505, published on December 5, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 20, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on March 27, 1997, you are directed to adjust the limits for the following categories, under the terms of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
219	8,448,450 square meters.
313	15,516,753 square meters.
314	54,099,000 square meters.
317/617/326	23,566,026 square meters of which not more than 3,527,368 square meters shall be in Category 326.
331/631	1,821,018 dozen pairs.
334/335	210,930 dozen.
336/636	557,702 dozen.
340/640	1,443,002 dozen.
341	843,718 dozen.
342/642	331,965 dozen.
347/348	1,460,645 dozen.
350/650	162,026 dozen.
351/651	455,911 dozen.
625/626/627/628/629–O [2]	25,000,086 square meters.
634/635	280,561 dozen.
641	2,138,856 dozen.
647/648	3,058,483 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

[2] Categories 625/626/627/628; Category 629–O: all HTS numbers except 5408.34.9085 and 5516.24.0085.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.97–7657 Filed 3–25–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0129]

Proposed Collection; Comment Request Entitled Cost Accounting Standards Administration

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0129).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Cost Accounting Standards Administration. This OMB clearance currently expires on May 31, 1997.

DATES: Comment Due Date: May 27, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0129 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Jeremy Olson, Federal Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

FAR 30.6 and 52.230–5 include pertinent rules and regulations related to the Cost Accounting Standards along with necessary administrative policies and procedures. These administrative policies require certain contractors to submit cost impact estimates and descriptions in cost accounting practices and also to provide information on CAS-covered subcontractors.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.05* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *500;* responses per respondent, *50;* total annual responses, *25,000;* preparation hours per response, *.05;* and total response burden hours, *1,250.*

Dated: March 21, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–7623 Filed 3–25–97; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Disposal and Reuse of Land and Facilities at Naval Air Station Barbers Point, Hawaii

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the proposed disposal and reuse of land and facilities at Naval Air Station (NAS) Barbers Point, Hawaii. The Navy is the lead agency for the NEPA documentation, and the U.S. Department of Transportation, Federal Aviation Administration (FAA) is the cooperating agency. The EIS will be prepared in compliance with the 1993 Base Realignment and Closure (BRAC) directive from Congress to close NAS Barbers Point. The property will be disposed of in accordance with the provisions of the Defense Base Closure and Realignment Act (Public Law 101–510) of 1990 as amended, and applicable federal property disposal regulations. NAS Barbers Point will close in July 1999.

The proposed action is the disposal of approximately 2,100 acres of property on NAS Barbers Point. The EIS will address long-term plans for reuse of this property. Potential long-term reuse alternatives have been identified by the Local Reuse Authority (LRA), i.e., the State of Hawaii, through a planning process carried out by the NAS Barbers Point Redevelopment Commission. The reuse plan was approved by the Governor of Hawaii on January 23, 1997.

Excluded from consideration in this EIS are the areas being retained by the Navy, Coast Guard, National Guard, and the Federal Aviation Administration. The Navy is retaining family housing and support facilities, the commissary, the Public Works Center compound, the biosolids treatment and disposal facility, the golf course, and portion of the beach recreation areas.

The EIS will analyze potentially significant impacts of the LRA's reuse plan and reasonable alternatives. The LRA's reuse plan features a general reliever airport with a crosswind runway and large areas devoted to park and recreation use. Sites are provided to the Department of Hawaii Home Lands for residential, commercial, and industrial uses. Commercial activities would include a raceway complex, marine park, and festival center. Lands are also set aside to accommodate homeless providers. Various infrastructure improvements would be required to support the redevelopment, including roadways, water distribution, sanitary sewer, storm drainage, telephone, and electrical systems.

During its planning process, the LRA considered numerous scenarios and narrowed them down to three options: two with a general reliever airport and one without an airport. The basic difference between the two airport scenarios is size. The ''maximum airport'' alternative has a cross-runway configuration on more than 800 acres, while the ''minimum airport'' scenario calls for a single runway airport on approximately 550 acres. The no airport scenario designates the majority of land (more than 1,000 acres) to park and recreation use. The ''no action'' alternative assumes no reuse improvements and continued closure of the lands to the public.

Environmental issues to be addressed will include, but not be limited to, land use conflicts and constraints such as noise, air quality, traffic, aviation operations, potentially contaminated sites, functional compatibility of operations, potential impacts of redevelopment on cultural and natural resources, adequacy of infrastructure and public services, and socioeconomic impacts. Direct, indirect, and cumulative impacts will be analyzed. Mitigation measures will be developed as required.

ADDRESSES: The Navy will initiate a scoping process to identify potentially significant issues to be studied in the EIS, and to identify and notify interested and affected parties relative to this action. Two public scoping meetings will be held, one on Wednesday, April 16, 1997 at Washington Intermediate School Cafeteria, 1633 South King Street, Honolulu, HI 96826; and a second on Thursday, April 17, 1997 at the Lauhala Room, Paradise West Club, NAS Barbers Point. Both meetings will start at 7:00 pm. Each meeting will open with a short presentation on the purpose of the action and the alternatives to be evaluated, followed by a period for public comment. It is important that interested agencies, individuals, and organizations take this opportunity to clearly describe specific issues or topics that the EIS should address. To allow time for all views to be shared, each speaker will be limited to three minutes. Written statements may also be submitted at the meetings.

FOR FURTHER INFORMATION CONTACT: Written statements and/or questions regarding the scoping process should be mailed no later than Wednesday, April 30, 1997 to Mr. Fred Minato (Code 231), Pacific Division, Naval Facilities Engineering Command, Pearl Harbor, HI 96860–7300, telephone (808) 471–9338; fax (808) 474–4890.

Dated: March 20, 1997.

D.E. Koenig,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–7614 Filed 3–25–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 25, 1997.

ADDRESSES: Written comments 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, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

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 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: March 20, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.
Title: List of Hearing Officers—Recordkeeping.
Frequency: On occasion.
Affected Public: State, local or Tribal Gov't SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 1,600
Burden Hours: 1,600

Abstract: Under Part B of the Individuals with Disabilities Education Act, each local educational agency receiving Part B funds must keep a list of persons who serve as hearing officers along with their qualifications. The list serves to provide interested parties of the background of hearing officers.

[FR Doc. 97–7584 Filed 3–25–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Solicitation for Financial Assistance Number DE–PS07–97ID13520—Geothermal Power Initiative

AGENCY: Idaho Operations Office, DOE.

SUMMARY: The U.S. Department of Energy (DOE), Idaho Operations Office (ID) is seeking cost shared applications that promote the commercialization of geothermal energy and result in a near-term increase in the amount of electrical power generated from geothermal energy in the United States. Applications are being solicited in two areas: (1) Projects that will result in new geothermal power production either from new plants or from retrofits to existing plants; or (2) research and development of technologies that will improve performance or reduce the costs associated with geothermal power plants. Approximately $1,100,000 in federal funds is available to fund the selected project(s) under this solicitation. DOE anticipates making one or more cooperative agreement awards for projects with durations of three years or less. A minimum of 50% non-federal cost share is required for new or retrofit power plant power production projects. A minimum of 20% non-federal cost share is required for geothermal research and development projects. Collaborations between industry, national laboratory, and university participants are encouraged.

FOR FURTHER INFORMATION CONTACT: Trudy Thorne, Contract Specialist; Procurement Services Division; U.S. DOE, Idaho Operations Office, 850 Energy Drive, MS 1221, Idaho Falls, ID 83401–1563; telephone (208) 526–9519; E-mail thorneta@inel.gov.

SUPPLEMENTARY INFORMATION: The statutory authority for the program is Geothermal Energy Research, Development and Demonstration (Pub. L. 93–410), and the Energy Policy Act of 1992 (Pub. L. 102–486, as amended by Pub. L. 103–437 on November 2, 1994). The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 81.087. The solicitation text is expected to be posted on the DOE–ID Procurement Services Division home page on or about March 25, 1997, and may be accessed using Universal Resource Locator address http://www.inel.gov/doeid/solicit.html. Application package forms will not be included on the home page and should be requested from the contract specialist. Requests for application packages must be written. Include company name, mailing address, point of contact, telephone number, and fax number. Write to the contract specialist at the address above, via fax number (208) 526–5548, or via E-mail to thorneta@inel.gov.

Issued in Idaho Falls, Idaho, on March 19, 1997.

Brad G. Bauer,

Acting Director, Procurement Services Division.

[FR Doc. 97–7608 Filed 3–25–97; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Department of Energy, Los Alamos National Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Los Alamos National Laboratory.

DATES: Tuesday, April 8, 1997: 6:30 p.m.–9:30 p.m.; 8:00 p.m. to 8:15 p.m. (public comment session).

ADDRESSES: Northern New Mexico Community College, 1002 North Oñate Street, Española, New Mexico 87532.

FOR FURTHER INFORMATION CONTACT: Ms. Ann DuBois, Los Alamos National Laboratory Citizens' Advisory Board Support, Northern New Mexico Community College, 1002 Onate Street, Espanola, NM 87352, (800)753–8970, or (505)753–8970, or (505)262–1800.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Advisory Board is to make recommendations to DOE and its

regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Tuesday, April 8, 1997.

6:30 p.m. Call to Order and Welcome
7:00 p.m. Old Business
8:00 p.m. Public Comment
8:15 p.m. New Business
9:30 p.m. Adjourn

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ms. Ann DuBois, at (800) 753–8970. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that needed to be resolved prior to publication.

Minutes: The minutes of this meeting will be available by writing to Herman Le-Doux, Department of Energy, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87185–5400.

Issued at Washington, DC on March 20, 1997

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–7611 Filed 3–25–97; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, April 3, 1997; 6:00 pm–9:30 pm.

ADDRESSES: Westminster City Hall (Lower-level Multi-purpose Room), 4800 West 92nd Avenue, Westminster, CO.

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

(1) The Board will discuss several topics at this meeting, including privatization of work at Rocky Flats, and radioactive waste transportation issues.

(2) Board members will consider approval of a recommendation that the Department of Energy perform an assessment of the new management contract in use at the site.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am to 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on March 21, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–7612 Filed 3–25–97; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Monticello Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Board Committee Meeting: Environmental Management Site-Specific Advisory Board, Monticello Site.

DATE AND TIME: Tuesday, April 15, 1997, 7:00 p.m.–9:00 p.m.

ADDRESSES: San Juan County Courthouse, 2nd Floor Conference Room, 117 South Main, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Audrey Berry, Public Affairs Specialist, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO, 81502 (303) 248–7727.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to advise DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: Update on Millsite remediation; noise, lights, and dust issues; reports from subcommittees on local training and hiring, health and safety, and future land use.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Audrey Berry's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available by writing to Audrey Berry, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO 81502, or by calling her at (303) 248–7727.

Issued at Washington, DC on March 21, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–7613 Filed 3–25–97; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

[Case No. DH–009]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Vented Home Heating Equipment Test Procedure to Hunter Energy and Technology Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. DH–009) granting a Waiver to Hunter Energy and Technology Inc. (Hunter) from the existing Department of Energy (DOE or Department) test procedure for vented home heating equipment. The Department is granting Hunter's Petition for Waiver regarding the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE) for its models FI25H, HDS2000, HDV30E, HDV2500, PW20, PW35, PW50, HFI30, HFS40, HWF15, and HWF30 manually controlled vented heaters.

FOR FURTHER INFORMATION CONTACT:

Mr. William W. Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585–0121, (202) 586–9145; or

Mr. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Hunter has been granted a Waiver for its models FI25H, HDS2000, HDV30E, HDV2500, PW20, PW35, PW50, HFI30, HFS40, HWF15, and HWF30 manually controlled vented heaters, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on March 19, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

Department of Energy

Office of Energy Efficiency and Renewable Energy

In the matter of: Hunter Energy and Technology Inc. (Case No. DH–009).

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94–163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions, and will determine whether a product complies with the applicable energy conservation standard. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding Title 10 CFR 430.27 to create a waiver process, 45 FR 64108 (September 26, 1980). Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures, 51 FR 42823 (November 26, 1986).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Hunter filed a ''Petition for Waiver,'' dated October 22, 1996, in accordance with section 430.27 of Title 10 CFR Part 430. The Department published in the **Federal Register** on January 29, 1997, Hunter's Petition and solicited comments, data and information respecting the Petition, 62 FR 4274 (January 29, 1997). Hunter also filed an ''Application for Interim Waiver'' under section 430.27(b)(2), which DOE granted on January 22, 1997, 62 FR 4274 (January 29, 1997).

No comments were received concerning either the ''Petition for Waiver'' or the ''Interim Waiver.'' The Department consulted with The Federal Trade Commission (FTC) concerning the Hunter Petition. The FTC does not have any objections to the issuance of the waiver to Hunter.

Assertions and Determinations

Hunter's Petition seeks a waiver from the DOE test provisions regarding the use of pilot light energy consumption in calculating the AFUE. The DOE test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O require measurement of energy input rate to the pilot light (Q_P) with an error no greater than 3 percent for vented heaters, and use of this data in section 4.2.6 for the calculation of AFUE using the formula:

$$AFUE = [4400\eta_{SS}\eta_u Q_{in\text{-}max}]/[4400\eta_{SS}Q_{in\text{-}max} + 2.5(4600)\eta_u Q_P].$$

Hunter requests that, in essence, it be allowed to delete Q_P and, accordingly, the $[2.5(4600)^h{}_u Q_P]$ term in the calculation of AFUE. Hunter states that its models FI25H, HDS2000, HDV30E, HDV2500, PW20, PW35, PW50, HFI30, HFS40, HWF15, and HWF30 manually controlled vented heaters are designed with a transient pilot which is to be turned off by the user when the heater is not in use.

The control knob on the combination gas control in these heaters has three positions: ''OFF,'' ''PILOT,'' and ''ON.'' Gas flow to the pilot is obtained by rotating the control knob from ''OFF'' to ''PILOT,'' depressing the knob, holding in, pressing the piezo igniter. When the pilot heats a thermocouple element, sufficient voltage is supplied to the combination gas control for the pilot to remain lit when the knob is released and turned to the ''ON'' position. The main burner can then be ignited by moving an ON/OFF switch to the ''ON'' position. Instructions to users to turn the gas control knob to the ''OFF'' position when the heater is not in use, which automatically turns off the pilot, are provided in the User's Instruction Manual and on a label affixed to the appliance. If the manufacturer's instructions are observed by the user, the pilot light will not be left on. Since the current DOE test procedure does not

address this issue, and since others have received the same waiver under the same circumstances, Hunter asks that the Waiver be granted. Previous Petitions for Waiver under the same circumstances have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711 (October 15, 1991); Valor Inc., 56 FR 51714 (October 15, 1991); CFM International Inc., 61 FR 17287 (April 19, 1996); Vermont Castings, Inc., 61 FR 17290 (April 19, 1996); Superior Fireplace Company, 61 FR 17885 (April 23, 1996); Vermont Castings, Inc., 61 FR 57857 (November 8, 1996); and Heat-N-Glo, 61 FR 64519 (December 5, 1996).

Based on DOE's review of how Hunter's models FI25H, HDS2000, HDV30E, HDV2500, PW20, PW35, PW50, HFI30, HFS40, HWF15, and HWF30 manually controlled vented heaters operate and the fact that if the manufacturer's instructions are followed, the pilot light will not be left on, DOE grants Hunter its Petition for Waiver to exclude the pilot light energy input in the calculation of AFUE.

This decision is subject to the condition that the heaters shall have an easily read label near the gas control knob instructing the user to turn the valve to the off-position when the heaters are not in use.

It is, therefore, ordered That:

(1) The ''Petition for Waiver'' filed by Hunter Energy and Technology Inc. (Case No. DH–009) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix O of Title 10 CFR Part 430, Subpart B, Hunter Energy and Technology Inc. shall be permitted to test its models FI25H, HDS2000, HDV30E, HDV2500, PW20, PW35, PW50, HFI30, HFS40, HWF15, and HWF30 manually controlled vented heaters on the basis of the test procedure specified in Title 10 CFR Part 430, with modifications set forth below:

(i) Delete paragraph 3.5 of Appendix O.

(ii) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual Fuel Utilization Efficiency (AFUE) as a percent and defined as:

$AFUE = \eta_u$

Where η_u is defined in section 4.2.5 of this appendix.

(iii) With the exception of the modification set forth above, Hunter Energy and Technology Inc. shall comply in all respects with the test procedures specified in Appendix O of Title 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to models FI25H, HDS2000, HDV30E, HDV2500, PW20, PW35, PW50, HFI30, HFS40, HWF15, and HWF30 manually controlled vented heaters manufactured by Hunter Energy and Technology, Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that a factual basis underlying the Petition is incorrect.

(5) Effective March 19, 1997, this Waiver supersedes the Interim Waiver granted Hunter Energy and Technology, Inc. on January 22, 1997, 62 FR 4274 (January 29, 1997). (Case No. DH–009).

Issued in Washington, DC, on March 19, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–7610 Filed 3–25–97; 8:45 am]

BILLING CODE 6450–01–P

[Case No. DH–010]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Vented Home Heating Equipment Test Procedure to Wolf Steel Ltd.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and order.

SUMMARY: Notice is given of the Decision and Order (Case No. DH–010) granting a Waiver to Wolf Steel Ltd. (Wolf Steel) from the existing Department of Energy (DOE or Department) test procedure for vented home heating equipment. The Department is granting Wolf Steel's Petition for Waiver regarding the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE) for its models GD22, GD27, GD3200, GD3200B, GD40, GI3014B, GI3014, GI3600, GS3500, GDS3700, GDS50, GS50, GDI50, and GD45 manually controlled vented heaters.

FOR FURTHER INFORMATION CONTACT:

Mr. William W. Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9145; or

Mr. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, Wolf Steel has been granted a Waiver for its models GD22, GD27, GD3200, GD3200B, GD40, GI3014B, GI3014, GI3600, GS3500, GDS3700, GDS50, GS50, GDI50, and GD45 manually controlled vented heaters, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on March 19, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order

Department of Energy

Office of Energy Efficiency and Renewable Energy

In the Matter of: Wolf Steel Ltd. (Case No. DH–010)

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94–163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions, and will determine whether a product complies with the applicable energy conservation standard. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding Title 10 CFR 430.27 to create a waiver process, 45 FR 64108 (September 26, 1980). Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have

petitioned DOE for a waiver of such prescribed test procedures, 51 FR 42823 (November 26, 1986).

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

Wolf Steel filed a ''Petition for Waiver,'' dated December 3, 1996, in accordance with section 430.27 of Title 10 CFR Part 430. The Department published in the **Federal Register** on January 29, 1997, Wolf Steel's Petition and solicited comments, data and information respecting the Petition, 62 FR 4747 (January 31, 1997). Wolf Steel also filed an ''Application for Interim Waiver'' under section 430.27(b)(2), which DOE granted on January 27, 1997, 62 FR 4747 (January 31, 1997).

No comments were received concerning either the ''Petition for Waiver'' or the ''Interim Waiver.'' The Department consulted with the Federal Trade Commission (FTC) concerning the Wolf Steel Petition. The FTC does not have any objections to the issuance of the waiver to Wolf Steel.

Assertions and Determinations:

Wolf Steel's Petition seeks a waiver from the DOE test provisions regarding the use of pilot light energy consumption in calculating the AFUE. The DOE test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O require measurement of energy input rate to the pilot light (Q_P) with an error no greater than 3 percent for vented heaters, and use of this data in section 4.2.6 for the calculation of AFUE using the formula:

$$AFUE = [4400\eta_{SS}\eta_u Q_{in\text{-}max}]/[4400\eta_{SS}Q_{in\text{-}max} + 2.5(4600)\eta_u Q_P].$$

Wolf Steel requests that, in essence, it be allowed to delete Q_P and, accordingly, the $[2.5(4600)\eta_u Q_P]$ term in the calculation of AFUE. Wolf Steel states that its models GD22, GD27, GD3200, GD3200B, GD40, GI3014B, GI3014, GI3600, GS3500, GDS3700, GDS50, GS50, GDI50, and GD45 manually controlled vented heaters are designed with a transient pilot which is to be turned off by the user when the heater is not in use.

The control knob on the combination gas control in these heaters has three positions: ''OFF,'' ''PILOT,'' and ''ON.'' Gas flow to the pilot is obtained by rotating the control knob from ''OFF'' to ''PILOT,'' depressing the knob, holding in, pressing the piezo igniter. When the pilot heats a thermocouple element, sufficient voltage is supplied to the combination gas control for the pilot to remain lit when the knob is released and turned to the ''ON'' position. The main burner can then be ignited by moving an ON/OFF switch to the ''ON'' position. Instructions to users to turn the gas control knob to the ''OFF'' position when the heater is not in use, which automatically turns off the pilot, are provided in the User's Instruction Manual and on a label adjacent to the gas control valve. If the manufacturer's instructions are observed by the user, the pilot light will not be left on. Since the current DOE test procedure does not address this issue, and since others have received the same waiver under the same circumstances, Wolf Steel asks that the Waiver be granted. Previous Petitions for Waiver under the same circumstances have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711 (October 15, 1991); Valor Inc., 56 FR 51714 (October 15, 1991); CFM International Inc., 61 FR 17287 (April 19, 1996); Vermont Castings, Inc., 61 FR 17290 (April 19, 1996); Superior Fireplace Company, 61 FR 17885 (April 23, 1996); Vermont Castings, Inc., 61 FR 57857 (November 8, 1996); and Heat-N-Glo, 61 FR 64519 (December 5, 1996).

Based on DOE's review of how Wolf Steel's models GD22, GD27, GD3200, GD3200B, GD40, GI3014B, GI3014, GI3600, GS3500, GDS3700, GDS50, GS50, GDI50, and GD45 manually controlled vented heaters operate and the fact that if the manufacturer's instructions are followed, the pilot light will not be left on, DOE grants Wolf Steel its Petition for Waiver to exclude the pilot light energy input in the calculation of AFUE.

This decision is subject to the condition that the heaters shall have an easily read label near the gas control knob instructing the user to turn the valve to the off-position when the heaters are not in use.

It is, therefore, ordered That:

(1) The ''Petition for Waiver'' filed by Wolf Steel Ltd. (Case No. DH–010) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix O of Title 10 CFR Part 430, Subpart B, Wolf Steel Ltd. shall be permitted to test its models GD22, GD27, GD3200, GD3200B, GD40, GI3014B, GI3014, GI3600, GS3500, GDS3700, GDS50, GS50, GDI50, and GD45 manually controlled vented heaters on the basis of the test procedure specified in Title 10 CFR Part 430, with modifications set forth below:

(i) Delete paragraph 3.5 of Appendix O.

(ii) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual Fuel Utilization Efficiency (AFUE) as a percent and defined as:

$AFUE = \eta_u$

where η_u is defined in section 4.2.5 of this appendix.

(iii) With the exception of the modification set forth above, Wolf Steel Ltd. shall comply in all respects with the test procedures specified in Appendix O of Title 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to models GD22, GD27, GD3200, GD3200B, GD40, GI3014B, GI3014, GI3600, GS3500, GDS3700, GDS50, GS50, GDI50, and GD45 manually controlled vented heaters manufactured by Wolf Steel Ltd.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that a factual basis underlying the Petition is incorrect.

(5) Effective March 19, 1997, this Waiver supersedes the Interim Waiver granted Wolf Steel Ltd. on January 31, 1997, 62 FR 4747 (January 31, 1997). (Case No. DH–010).

Issued in Washington, DC, on March 19, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–7609 Filed 3–25–97; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP97–99–001]

Algonquin LNG, Inc., Notice of Request for Waiver

March 20, 1997.

Take notice that on January 6, 1997, Algonquin LNG, Inc. (Algonquin LNG) filed a request for waiver of Section

154.107(b) of the Commission's regulations so that it may be allowed to use rates for Capacity Reservation and Authorized Overrun Charge stated in Dollars per Barrel per Day.

Algonquin LNG states that the Per Barrel rate most accurately reflects the use of the storage facility. In addition, Algonquin LNG states that it is also the basis upon which the rates were designed and that its storage Per Barrel rates do not contravene the intent of Order No. 582.

Algonquin LNG's waiver request is in response to the Commission's Letter Order of December 20, 1996, accepting certain tariff sheets filed November 26, 1996, in Docket No. RP97–99–000, to comply with the Commission's Order Nos. 581 and 582. The December 20 Letter Order also required Algonquin LNG to submit an explanation as to why it has not filed to reflect all rates on a thermal basis or to request a waiver of Section 154.107(b) of the Commission's regulations.

Any person desiring to protest said failing should file a protest with Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedures. All such protests should be filed on or before March 27, 1997. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7575 Filed 3–25–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–127–000]

Cove Point LNG Limited Partnership; Notice of Proposed Changes in FERC Gas Tariff

March 20, 1997.

Take notice that on March 14, 1997, Cove Point LNG Limited Partnership (Cove Point) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to be effective April 16, 1997:

Second Revised Sheet No. 7

Coce Point states that the listed tariff sheets sets forth the restatement and adjustment to its retainage percentages, pursuant to the Section 1.27 of the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1.

Cove Point states that copies of the filing were served upon Cove Point affected 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, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Cove Point's filings are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7576 Filed 3–25–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–321–003]

El Paso Natural Gas Company; Notice of Compliance Filing

March 20, 1997.

Take notice that on March 10, 1997, El Paso Natural Gas Company (El Paso), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective April 9, 1997:

Second Revised Volume No. 1

Fourth Revised Sheet No. 22
Eleventh Revised Sheet No. 24
Fourth Revised Sheet No. 111
Third Revised Sheet No. 112

El Paso states that the purpose of this filing is to comply with ordering paragraph (B) of the Commission's order (Order) issued on December 23, 1996 in Docket No. CP96–727–000. In the instant filing, El Paso is tendering tariff sheets to place in effect the Havasu Facilities Reservation Charge which was approved by the Order.

Any person desiring to be heard or to make any protest with reference to said filing should on or before April 10, 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 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests 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 a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7572 Filed 3–25–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–352–006]

Transwestern Pipeline Company; Notice of Compliance Filing

March 20, 1997.

Take notice that on March 17, 1997, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, the following tariff sheets, proposed to be effective April 1, 1997.

Second Revised Volume No. 1.

Substitute 14 Revised Sheet No. 48
Substitute 12 Revised Sheet No. 80

Transwestern states that it is complying with the Commission's February 28, 1997 order in this docket by removing from its tariff Section 8 of its General Terms and Conditions (GT&C) entitled ''Experimental Pilot Program Relaxing the Price Cap for Sending Market Transactions,'' as well as any other tariff provisions that referenced the experimental pilot program.

Transwestern states that copies of the filing were served upon Transwestern's customers and interested State Commissions.

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 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 in this proceeding, but will not serve to make Protestant a party to the proceeding. Copies of this filing are on file with the

Commission and are available for inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7573 Filed 3–25–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP97–93–001]

Young Gas Storage Company Ltd.; Notice of Tariff Compliance Filing

March 20, 1997.

Take notice that on March 17, 1997, Young Gas Storage Company Ltd. (Young), tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective May 1, 1997.

Young states the tariff sheets are filed in compliance with Order No. 587, and the order issued February 13, 1997 in Docket No. RP97–93–000, as well as Section 154.203 of the Commission's regulations. Young further states the tariff sheets filed are the same as the pro forma tariff sheets filed by Young on November 21, 1996 to comply with Order No. 587 except (1) the tariff sheets have been revised to reflect tariff filings made between the November 21, 1996 filing and the date of this filing, (2) changes have been made to comply with the requirements of the order issued February 13, 1997 in Docket No. RP97–93–000 and certain minor clarifications and, (3) as required in Order No. 587–B issued January 30, 1997, Young is incorporating by reference into its tariff the Electronic Delivery Mechanism (EDM) standards adopted in that rule.

Young has further requested any waivers necessary to change its Gas Day to the GISB Standard effective April 7, 1997.

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 Regulations. 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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7574 Filed 3–25–97; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Tendered for Filing With the Commission

March 17, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* P–11289–002.

c. *Date Filed:* February 27, 1997.

d. *Applicant:* Village of Potsdam, New York.

e. *Name of Project:* West Dam Hydro Project.

f. *Location:* On the Raquette River in St. Lawrence County, New York.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Frank O. Christie, Christie Engineering, 8 East Main St., Malone, NY 12953.

Hon. Ruth Garner, Mayor, Village of Potsdam, P.O. Box 5168, Potsdam, NY 13676.

i. *FERC Contact:* Bill Guey-Lee (202) 219–2808.

j. *Comment Date:* 60 days from the filing date in paragraph c.

k. *Description of Project:* The proposed project would utilize the water in excess of that used by the Village of Potsdam's existing exempted Project No. 2869. Project No. 2869 consists of the East Dam and West Dam separated by an island, a 300-acre reservoir, and an 800-kW powerhouse at the East Dam. The proposed Project No. 11289 would consist of an intake and powerhouse at the West Dam with a capacity of 700 kW.

l. With this notice, we are initiating consultation with the New York State Historic Preservation Officer (SHPO), as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR, at 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7615 Filed 3–25–97; 8:45 am]

BILLING CODE 6717–01–M

Notice of Application Tendered for Filing With the Commission

March 19, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* P–11600–000.

c. *Date Filed:* February 27, 1997.

d. *Applicant:* North Central Power Co., Inc.

e. *Name of Project:* Grimh Hydroelectric Project.

f. *Location:* On the Couderay River in Sawyer County, and Radisson Township, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:*

John E. Dahlberg, Secretary/Treasurer, North Central Power Co, Inc., 104 South Pine Street, P.O. Box 167, Grantsburg, WI 54840–1067

Mark Dahlberg, President, North Central Power Co, Inc., 104 South Pine Street, P.O. Box 167, Grantsburg, WI 54840–1067

i. *FERC Contact:* Patrick K. Murphy (202) 219–2659.

j. *Comment Date:* 60 days from the filing date in paragraph c.

k. *Description of Project:* The existing run-of-river project consists of: (1) Two dams (right and left); (2) powerhouse; (3) overflow spillway; and (4) tainter gate spillway. The powerhouse houses two turbine-generator units (one 250-kilowatt[kw] unit and a second 125-kw unit) totaling a 375-kw generating capacity. The Grimh Project reservoir has a surface area of 76 acres with a storage volume of approximately 330 acre-feet. The project was constructed in about 1930, and future operation will maintain the current configuration. There is no new construction proposed.

l. With this notice, we are initiating consultation with the Wisconsin State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36, CFR at 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and

serve a copy of the request on the applicant.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–7616 Filed 3–25–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–140257; FRL–5597–5]

Mathtech; TSCA Confidential Business Information Storage Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's contractor, Eastern Research Group (ERG), of Lexington, Massachusetts is requesting approval of its subcontractor Mathtech (MAT) of Falls Church, Virginia, to store Toxic Substances Control Act (TSCA) confidential business information (CBI) at the Falls Church, Virginia site.

DATES: Access at the storage site to the confidential data submitted to EPA will occur no sooner than April 8, 1997.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD: (202) 554–0551; e-mail TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In a previous notice published in the **Federal Register** of December 11, 1996 (61 FR 65209) (FRL–5576–4), ERG and subcontractor MAT were authorized for access under contract number 68–W6–0022 to CBI review submitted to EPA under TSCA. EPA is issuing this notice to announce that MAT will need authorized access to TSCA CBI at their facility under the *TSCA Confidential Business Information Security Manual.* Before access to TSCA CBI is authorized at MAT's site, EPA will approve their security certification statement and ensure that the facility is in compliance with the manual. Upon completing review of the CBI materials, MAT will return all materials to EPA.

List of Subjects

Environmental protection, Access to confidential business information.

Dated: March 17, 1997.

Allan S. Abramson,

Director, Information Management Division, Office of Pollution and Prevention and Toxics.

[FR Doc. 97–7631 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[FRL–5802–7]

Common Sense Initiative Council, Iron and Steel Sector Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting of the Public Advisory Common Sense Initiative Council, Iron and Steel Sector Subcommittee.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is given that the Iron and Steel Sector Subcommittee of the Common Sense Initiative Council will meet on Wednesday and Thursday, April 16 and 17, 1997, in Chicago, Illinois. The purpose of this meeting is for the Subcommittee to discuss, amend and approve a proposed general sector work plan based on the ideas generated at its February meeting, and to begin its implementation.

OPEN MEETING NOTICE: Notice is hereby given that the Environmental Protection Agency is convening an open meeting of the Iron and Steel Sector Subcommittee on Wednesday, April 16, 1997 from 10:00 a.m. CDT to 5:00 p.m. CDT and on Thursday, April 17, 1997 from 8:00 a.m. CDT to 4:00 p.m. CDT. The meeting will be held both days at the Metcalf Federal Building, Great Lakes Conference Center, 12th floor, 77 West Jackson Boulevard, Chicago, Illinois 60604. Seating will be available on a first-come basis. Limited time will be provided for public comment.

At its February meeting, the Subcommittee decided to move onto issues of major concern to the different stakeholder groups, and identified a list of such issues. A general sector work plan is being developed and at the April meeting, the Subcommittee will review, amend and approve this work plan. Additionally, it will establish appropriate task forces to carry out the work plan, discuss Subcommittee protocols and decision making procedures, and have status reports on the few on-going projects which the Subcommittee is overseeing (Brownsfields, Iron and Steel Web Site, Community Advisory Committee, Consolidated Reporting, and Alternative Compliance Strategy) and on EPA's Sector Facility Indexing Project. Several hours will also be devoted to allowing the newly formed task forces time to organize and begin work on a project work plan.

INSPECTION OF SUBCOMMITTEE DOCUMENTS: Documents relating to the above topics will be publicly available at the meeting. Thereafter, these documents and the minutes of the meeting will be available for public inspection in room 2821 of EPA Headquarters, 401 M Street, SW, Washington, D.C. 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically through contacting Daria Willis at willis.daria@epamail.gov.

FOR FURTHER INFORMATION: For more information about this meeting, please call either Ms. Judith Hecht on 202–260–5682 in Washington, D.C., Ms. Uylaine McMahan on 312–886–4454, or Dr. Mahesh Podar on 202–260–5387.

Dated: March 20, 1997.

Robert English,

Acting Designated Federal Official.

[FR Doc. 97–7629 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–P

[OPP–30433; FRL–5596–2]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by April 25, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30433] and the file symbols 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: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., 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 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–30433]. No ''Confidential Business Information'' (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (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 address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Connie B. Welch, Product Manager (PM) 21, 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: Rm. 227, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)–305–6226; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 352-LOR. Applicant: E.I. duPont de Nemours & Company, Agricultural Products, Walker's Mill, Barley Plaza, P.O. Box 80038, Wilmington, DE 19880–0038. Product name: Cymoxanil Technical. Fungicide. Active ingredient: Cymoxanil 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide at 96.8 percent. For formulation into end-use products for potatoes.

2. File Symbol: 100-IRR. Applicant: Ciba Crop Protection, Ciba-Geigy Corporation, P.O. Box 18300, Greensboro, NC 27419–8300. Product name: Cyprodinil Technical. Fungicide. Active ingredient: Cyprodinil *N*-(4-cyclopropyl-6-methyl-pyrimidin-2-yl)-aniline at 99 percent. For formulation into end-use products.

3. File Symbol: 100-IRG. Applicant: Ciba Crop Protection, Ciba-Geigy Corp. Product name: Vangard WP. Fungicide. Active ingredient: Cyprodinil *N*-(4-cyclopropyl-6-methyl-pyrimidin-2-yl)-aniline at 75 percent. For control of certain diseases in almonds, grapes, pome fruit, and stone fruit.

4. File Symbol: 100-IRE. Applicant: Ciba Crop Protection, Ciba-Geigy Corp. Product name: Vangard PZ. Fungicide. Active ingredients: Vangard 75WP, Cyprodinil *N*-(4-cyclopropyl-6-methyl-pyrimidin-2-yl)-aniline at 75 percent and Propiconazole 45WP, Propiconazole (1-[[2-(2,4-dichlorophenyl)-4-propyl-1,3-dioxolan-2-yl)methyl]-1*H*-1,2,4-triazole) at 45 percent. For control of certain diseases in stone fruit.

5. File Symbol: 100-IEI. Applicant: Ciba Crop Protection, Ciba-Geigy Corp. Product name: Vangard WG. Fungicide. Active ingredient: Cyprodinil *N*-(4-cyclopropyl-6-methyl-pyrimidin-2-yl)-aniline at 75 percent. For control of certain diseases in almonds, grapes, pome fruit, and stone fruit.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP–30433] (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 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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703–305–5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: March 18, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs

[FR Doc. 97–7630 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[OPP–66237; FRL 5594–3]

Notice of Receipt of Requests to Voluntarily Cancel 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 requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by September 22, 1997, orders will be issued cancelling all of these registrations.

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 the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 35 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000100–00631	Larvadex Premix	*N*-Cyclopropyl-1,3,5-triazine-2,4,6-triamine
000100–00724	Torus	Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000100–00751	Torus WP	Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000100–00787	Fenoxycarb Flea and Tick Household Spray	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl- Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000100–00788	Fenoxycarb Flea and Tick Spray for Dogs	(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20% Pyrethrins Cyclopropanecarboxylic acid, 3-(2,2-dichloroethenyl)-2,2-dimethyl- Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000100–00808	Fenoxycarb Indoor/outdoor Flea and Roach Concentrate	Ethyl 2-(*p*-phenoxyphenoxy)ethyl carbamate
000241 FL–91–0013	Cythion Insecticide the Premium Grade Malathion	*O,O*-Dimethyl phosphorodithioate of diethyl mercaptosuccinate
000402–00096	No. 157 Pyneco Disinfectant	Isopropanol 2-Benzyl-4-chlorophenol Pine oil Soap
000402–00113	Lemon-Cide	2-Benzyl-4-chlorophenol 4-tert-Amylphenol *o*-Phenylphenol
000538–00135	Stop Insects Before They Start	*O,O*-Dimethyl *S*-((methylcarbamoyl)methyl) phosphorodithioate
000618 CA–95–0013	Avid 0.15 EC Miticide/insecticide	Avermectin B1
000869–00066	Green Light 50% Sevin Sprayable Powder	1-Naphthyl-*N*-methylcarbamate
000869–00134	Green Light Liquid Flowable Sevin	1-Naphthyl-*N*-methylcarbamate
000869–00211	Green Light Sevin Brand Carbaryl Insecticide Granules	1-Naphthyl-*N*-methylcarbamate
000869–00227	Green Light Lawn & Garden Insect Control Granules	1-Naphthyl-*N*-methylcarbamate
001352–00063	Walnut Grove 4x4 Pasture Lick Mo Fli-Kil	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
002935–00421	Wilbur-Ellis Methyl Parathion 7.5 Spray	*O,O*-Dimethyl *O*-*p*-nitrophenyl phosphorothioate
002935–00482	Ethyl-Methyl Parathion 6-3 Spray	*O,O*-Dimethyl *O*-*p*-nitrophenyl phosphorothioate *O,O*-Diethyl *O*-*p*-nitrophenyl phosphorothioate
003125–00035	Nitrox 80 for Manufacturing Use Only	*O,O*-Dimethyl *O*-*p*-nitrophenyl phosphorothioate
003125–00257	Mesurol 75% Concentrate	4-(Methylthio)-3,5-xylyl methylcarbamate
003125–00258	Mesurol Technical Insecticide	4-(Methylthio)-3,5-xylyl methylcarbamate
003125 AZ–91–0006	Monitor 4	*O,S*-Dimethyl phosphoramidothioate
004822–00109	Expose Phenolic Cleaner	2-Benzyl-4-chlorophenol 4-tert-Amylphenol *o*-Phenylphenol
009198–00077	Tee Time Sprayable Herbicide with Team	Trifluralin (α,α,α-trifluro-2,6-dinitro-*N,N*-dipropyl-p-toluidine) (Note: α = alpha) *N*-Butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-p-toluidin e (Note: α = alpha)

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
009198–00078	Tee Time Sprayable Herbicide II with Team	Trifluralin (α,α,α-trifluro-2,6-dinitro-*N,N*-dipropyl-p-toluidine) (Note: α = alpha) *N*-Butyl-*N*-ethyl-α,α,α-trifluoro-2,6-dinitro-p-toluidin e (Note: α = alpha)
010163 AZ–86–0008	Gowan Dimethoate W-25 Insecticide	*O,O*-Dimethyl *S*-((methylcarbamoyl)methyl) phosphorodithioate
011715–00202	Drive with Equitrol	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
011715–00203	Farnam Equibloc with Equitrol	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
011715–00208	Farnam Horse Lice Duster II	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
011715–00217	Equivite with Equitrol	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
011715–00284	Farnam Equibloc with Equitrol II	2-Chloro-1-(2,4,5-trichlorophenyl)vinyl dimethyl phosphate
056490 FL–76–0013	Baytex Liquid Concentrate Insecticide	*O,O*-Dimethyl *O*-(4-(methylthio)-m-tolyl) phosphorothioate
056872–00001	A-Maizing Lawn	Glutens, corn
057125–00009	Borax Disinfectant Bathroom Cleaner	2-Benzyl-4-chlorophenol
062719 AZ–87–0006	Lorsban 50W	*O,O*-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 90–day period.

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 VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000100	Novartis Crop Protection, Inc., Box 18300, Greensboro, NC 27419.
000241	American Cyanamid Co., Agri Research Div - U.S. Regulatory Affairs, Box 400, Princeton, NJ 08543.
000402	Hill Mfg. Co., Inc., 1500 Jonesboro Rd., SE., Atlanta, GA 30315.
000538	The Scotts Co., 14111 Scottslawn Rd., Marysville, OH 43041.
000618	Merck & Co Inc., Box 450, Three Bridges, NJ 08887.
000869	Green Light Co., Box 17985, San Antonio, TX 78217.
001352	Cargill, Inc.,/Nutrena Feed Division, Attn: Sue Miller, Box 5614, Minneapolis, MN 55440.
002935	Wilbur Ellis Co., 191 W. Shaw Ave., Fresno, CA 93704.
003125	Bayer Corp., Agriculture Division, 8400 Hawthorn Rd., Box 4913, Kansas City, MO 64120.
004822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
009198	The Andersons Lawn Fertilizer Division, DBA/Free Flow Fertilizer, Box 119, Maumee, OH 43537.
010163	Gowan Co, Box 5569, Yuma, AZ 85366.
011715	Speer Products Inc., Box 18993, Memphis, TN 38181.
056490	Lee County Mosquito Control District, Box 60005, Fort Myers, FL 33906.
056872	Gardens Alive! Inc., 5100 Schenley Place, Lawrenceburg, IN 47025.
057125	Dial Corp., Technical Center, 15101 North Scottsdale Rd., Scottsdale, AZ 85254.
062719	DowElanco, 9330 Zionsville Rd., 308/3E, Indianapolis, IN 46268.

III. Loss of Active Ingredients

Unless the requests for cancellation are withdrawn, one pesticide active ingredient will no longer appear in any registered products. Those who are concerned about the potential loss of this active ingredient for pesticidal use are encouraged to work directly with the registrant(s) to explore the possibility of withdrawing their request for cancellation. The active ingredient is listed in the following Table 3, with the EPA Company and CAS Number.

TABLE 3. — ACTIVE INGREDIENTS WHICH WOULD DISAPPEAR AS A RESULT OF REGISTRANTS' REQUESTS TO CANCEL

CAS No.	Chemical Name	EPA Company No.
66071–96–3	Glutens, Corn	056872

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before September 22, 1997. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

V. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: March 13, 1997.

Linda A. Travers,

Director, Program Management and Support Division, Office of Pesticide Programs.

[FR Doc. 97–7064 Filed 3–25–97; 8:45 am]

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[OPP–340108; FRL 5593–7]

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 September 22, 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 five 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 September 22, 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
000769–00874	Pratt Benomyl 50 W Systemic Fungicide	Benomyl	Turf uses
000769–00921	Science Benomyl 50 W Systemic Fungicide	Benomyl	Turf uses
005481–00138	Alco Systemic Fungicide	Benomyl	Turf uses
008660–00075	Vertagreen Systemic Disease Control	Benomyl	Lawn uses
034704–00602	Clean Crop Benomyl 50% DF	Benomyl	Turf & lawn grass uses

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
000769	SURECO, Inc., 10012 Dale Mabry, Suite 221, Tampa, FL 33618.
005481	AMVAC Chemical Corp., 4100 East Washington Blvd., Los Angeles, CA 90023.
008660	Pursell Industries, Inc., P.O. Box 540, Sylacauga, AL 35150.
034704	Platte Chemical Co., 419 18th Street, P.O. Box 667, Greeley, CO 80632.

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: March 13, 1997.

Linda A. Travers,

Director, Program Management Support Division, Office of Pesticide Programs.

[FR Doc. 97–7063 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[PF–724; FRL–5594–7]

American Cyanamid Company; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of a pesticide petition proposing the establishment of a tolerance for residues of dimethomorph [(E,Z)4-[3-(4-chlorophenyl)-3-(3,4-dimethoxyphenyl)-1-oxo-2-propenyl]-morpholine] in or on the raw agricultural commodity potatoes and grape commodities. This notice contains a summary of the petition that was prepared by the petitioner, American Cyanamid Company.

DATES: Comments, identified by the docket control number [PF–724], must be received on or before April 25, 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 in ASCII file format. All comments and data in electronic form must be identified by docket control number [PF–724]. Electronic comments on this notice 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 a 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: Connie B. Welch, Product Manager (PM) 21, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6226; e-mail: welch.connie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP 7F4816) from American Cyanamid Company, Agricultural Products Research Division, P.O. Box 400 Princeton, NJ 08543-0400 proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. section 346a, to amend 40 CFR part 180 by establishing tolerances for residues of the fungicide, dimethomorph [(E,Z)4-[3-(4-chlorophenyl)-3-(3,4-dimethoxyphenyl)-1-oxo-2-propenyl]-morpholine] in or on the raw agricultural commodity potato at 0.05 parts per million (ppm) and a time-limited tolerance for residues of dimethomorph in or on the raw agricultural commodity grape at 2.0 ppm. The proposed analytical method for determining residues is a High Performance Liquid Chromatography (HPLC) method (FAMS 002-04). A confirmatory method (FAMS 022-03) also is available which provides for analysis by either Gas Chromatography/ Nitrogen-Phosphorus Detection or by HPLC/UV Detection. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2); 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, (Pub. L. 104-170), American Cyanamid 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 American Cyanamid; EPA is in the process of evaluating the petition. As required by section 408(d)(3), 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 Prepared by American Cyanamid Company

A. Residue Chemistry

1. *Plant metabolism*. American Cyanamid believes that the results of the potato metabolism study show only negligible residues in tubers, 0.01-0.02 ppm total radioactive residues (TRR). This is in contrast to the aerial portions of the plant which were found to have up to 23.5 parts per million (ppm) TRR, thus demonstrating that translocation of dimethomorph within the plant was not significant. Almost all of the radioactive residue (97.8%) was extractable from the plant at harvest. In the aerial portion of the plant, approximately 70% of the TRR was identified as dimethomorph. No metabolites were identified that require regulation. There was no concentration of residue in the peel or tuber. The latter point indicates that during processing dimethomorph is not expected to concentrate to a level greater than that of the proposed tolerance for the raw agricultural commodity, potato tubers.

The results of the grape metabolism study showed that the TRR in/on grapes harvested 35 days following the last of four applications (0.8 lb active ingredient/application (ai/A) for 4 consecutive weeks) for a total rate of 3.2 lb ai/A (3x the proposed maximum seasonal rate) was 14.6 ppm. Unmetabolized dimethomorph accounted for 87.3% of the TRR (12.7 ppm). No metabolites were identified that require regulation.

2. *Analytical method*. A reliable method for the determination of dimethomorph residues in potatoes and grapes exists. This method (FAMS 002-04) is appropriate for enforcement purposes. FAMS 002-04 is a HPLC method. A confirmatory method (FAMS 022-03) also is available which provides for analysis by either Gas Chromatography with Nitrogen-Phosphorus Detection or by HPLC with UV Detection.

3. *Magnitude of residues*. The residue data for potato submitted to support this tolerance petition were collected from studies conducted in several European countries; these countries are representative of potato growing regions of the U.S. Dimethomorph residues observed in these field residue studies ranged from <0.01 ppm (the Limit of Quantitation of the method) to 0.04 ppm; however, most residues were <0.01 ppm. These trials were conducted using multiple applications (5-12) with a maximum seasonal rate of up to 2.56 lb ai/A. The proposed U.S. use pattern is five applications at a maximum treatment rate of 0.203 lb ai/A and a maximum seasonal use rate of 1.015 lb ai/A. Residue levels in domestic potatoes would be expected to be similar or lower (< 0.01 ppm) than that observed in the European trials. Therefore, a tolerance of 0.05 ppm is appropriate.

The residue data for grape submitted to support this tolerance petition were collected from studies conducted in various regions of France; these sites are representative of grape growing regions of Europe. Dimethomorph residues observed in these field residue studies ranged from <0.01 ppm (the Limit of Quantitation of the method) to 1.81 ppm. These trials were conducted using multiple applications (3-11) with a maximum seasonal rate of up to 2.94 lb ai/A. In six studies conducted on the magnitude of residue in grape processed commodities, residues of dimethomorph did not concentrate in grape juice or wine. Therefore, a time-limited tolerance of 2.0 ppm in/on grape commodities is appropriate.

B. Toxicological Profile

American Cyanamid believes that the toxicity of dimethomorph has been studied extensively and there is a complete data base to address the acute and chronic effects, effects on genetic material, the potential for carcinogenicity or teratogenicity, and effects on reproductive performance or growth of offspring.

The toxicological data submitted to support the petition for a tolerance for dimethomorph on potatoes and for a time-limited tolerance on grape include:

1. *Acute toxicity*. i. An acute oral toxicity study in the Sprague-Dawley rat for dimethomorph technical with a LD_{50} of 4,300 milligrams/kilograms (mg/kg) body weight (bwt) for males and 3,500 mg/kg bwt for females. Based upon EPA toxicity criteria, the acute oral toxicity category for dimethomorph technical is Category III or slightly toxic.

ii. Oral LD_{50} studies were conducted on the two isomers (E and Z) alone:

a. An acute oral toxicity study in the Wistar rat for the E-isomer with a LD_{50} greater than 5,000 mg/kg bwt for males and approximately 5,000 mg/kg bwt for females.

b. An acute oral toxicity study in the Wistar rat for the Z-isomer with a LD_{50} greater than 5,000 mg/kg bwt for both males and females.

iii. An acute dermal toxicity study in the Wistar rat for dimethomorph technical with a dermal LD_{50} greater than 5,000 mg/kg bwt for both males and females. Based on the EPA toxicity category criteria, the acute dermal toxicity category for dimethomorph is Category IV or relatively non-toxic.

iv. A 4-hour inhalation study in Wistar rats for dimethomorph technical with a LC_{50} greater than 4.2 mg/L for both males and females. Based on the EPA toxicity category criteria, the acute inhalation toxicity category for dimethomorph technical is Category IV or relatively non-toxic.

2. *Genotoxicity*. i. Salmonella reverse gene mutation assays (2 studies) were negative up to a limit dose of 5,000 µg/plate. Chinese hamster lung cells were negative in V79 cells up to toxic doses in 2 studies.

ii. Two Chinese hamster lung structural chromosomal studies were reportedly positive for chromosomal aberrations at the highest dose tested (HDT) (160 µg/ml/-S9; 170 µg/ml/+S9). Dimethomorph induced only a weak response in increasing chromosome aberrations in this test system. These results were not confirmed in two micronucleus tests under *in vivo* conditions.

iii. Structural Chromosomal Aberration studies were weakly positive, in human lymphocyte cultures, but only in S9 activated cultures treated at the HDT (422 µg/ml) which was strongly cytotoxic. Dimethomorph was negative in the absence of activation at all doses. Furthermore, the positive clastogenic response observed under the *in vitro* conditions was not confirmed in two *in vivo* micronucleus assays.

iv. Micronucleus assay (2 studies) indicated that dimethomorph was negative for inducing micronuclei in bone marrow cells of mice following i.p. administration of doses up to 200 mg/kg or oral doses up to the limit dose of 5,000 mg/kg. Thus, dimethomorph was found to be negative in these studies for causing cytogenic damage *in vivo*.

v. Dimethomorph was negative for inducing unscheduled DNA synthesis, in cultured rat liver cells, at doses up to 250 µg/ml, a weakly cytotoxic level.

vi. Dimethomorph was negative for transformation in Syrian hamster embryo cells treated, in the presence and absence of activation, up to cytotoxic concentrations (265 µg/ml/+S9; 50 µg/ml/-S9).

3. *Reproductive and developmental toxicity*. i. A rat developmental toxicity study with a maternal toxicity Lowest-Observed-Effect Level (LOEL) of 160 mg/kg/day and a maternal toxicity No-Observed-Effect Level (NOEL) of 60 mg/kg/day. The NOEL for developmental toxicity is 60 mg/kg/day. Dimethomorph is not teratogenic in the Sprague-Dawley rat.

ii. A rabbit development toxicity study with maternal toxicity LOEL of 650 mg/kg/day and a NOEL of 300 mg/kg/day. The NOEL for developmental

toxicity is 650 mg/kg/day, the highest dose tested. Dimethomorph is not teratogenic in the New Zealand white rabbit.

iii. A multi-generational rat reproduction study with parental LOEL for systemic toxicity of 80 mg/kg/day and a NOEL of 24 mg/kg/day. The NOEL for fertility and reproductive function was 80 mg/kg/day, the highest dose tested.

4. *Subchronic toxicity*. i. A 90–day dietary study in Sprague-Dawley rats with a NOEL of greater than or equal to 73 mg/kg/day in males and 82 mg/kg/day in females, the highest doses tested.

ii. A 90–day dog dietary study with a NOEL 15 mg/kg/day and a LOEL 43 mg/kg/day.

5. *Chronic toxicity*. i. A 2–year chronic toxicity study in Sprague-Dawley rats with a NOEL 9 mg/kg/day for males and 12 mg/kg/day for females. The LOEL for systemic toxicity is 36 mg/kg/day for males and 58 mg/kg/day for females.

ii. A 1–year chronic toxicity study in dogs with a NOEL of 14.7 mg/kg/day and a LOEL of 44.6 mg/kg/day.

iii. A 2–year oncogenicity study in Sprague-Dawley rats with a NOEL for systemic toxicity of 9 mg/kg/day for males and 11 mg/kg/day for females. The LOEL for systemic toxicity was 34 mg/kg/day for males and 46 mg/kg/day for females. There was no evidence of increased incidence of neoplastic lesions in treated animals. The NOEL for oncogenicity is 95 mg/kg/day for males and 132 mg/kg/day for females, the highest dose tested.

iv. A 2–year oncogenicity study in mice with a NOEL for systemic toxicity of 100 mg/kg/day and a LOEL of 1,000 mg/kg/day. There was no evidence of increased incidence of neoplastic lesions in treated animals. The NOEL for oncogenicity is 1,000 mg/kg/day, the highest dose tested.

6. *Animal metabolism*. Results from the livestock and rat metabolism studies show that orally administered dimethomorph was rapidly excreted by the animals. The principal route of elimination is the feces.

7. *Metabolite toxicology*. There were no metabolites identified in potatoes or animal commodities which require regulation.

8. *Endocrine effects*. There is no evidence of effects of dimethomorph on the endocrine system. There were no changes noted in organ weights for the pituitary, thyroid, ovaries or testes. There was no increased incidence of mammary tumors observed. No effects on fertility or reproduction were noted and there was no evidence of related histopathological changes in reproductive or endocrine system organs.

C. Aggregate Exposure

1. *Dietary (food) exposure*. Dietary exposure should be based solely upon the Theoretical Maximum Residue Concentration (TMRC) from the tolerance of 0.05 ppm dimethomorph in or on potato and the time-limited tolerance of 2.0 ppm dimethomorph in or on grape. The goat metabolism study demonstrates that there is no reasonable expectation of transfer of residues of dimethomorph to meat or milk from potatoes or from grapes. There are no potato or grape feed commodities fed to poultry. Therefore, no consumption data associated with meat, milk, poultry or eggs should be included in the calculation of the TMRC. There are no other established U.S. tolerances for dimethomorph, and there are no registered uses for dimethomorph on food or feed crops in the United States.

2. *Dietary (drinking water) exposure*. There is no available information about dimethomorph exposure via drinking water. However, exposure to dimethomorph from drinking water is not likely to occur as a result of use on potatoes. Dimethomorph dissipated fairly rapidly under field conditions with half lives ranging from 14 to 57 days. Laboratory and field studies demonstrate that dimethomorph is not mobile in soil. No movement below the top 4 inches was observed in the field studies. Laboratory leaching studies result in the classification of dimethomorph as having medium to high adsorption onto soil.

3. *Non-dietary exposure*. There are no other registered uses of dimethomorph in the U.S. Thus, there is no potential for non-dietary exposure.

D. Cumulative Effects

There is no information to indicate that any toxic effects produced by dimethomorph would be cumulative with those of any other chemical. The fungicidal mode of action of dimethomorph is unique; dimethomorph inhibits cell wall formation only in *Oomycete* fungi. The result is lysis of the cell wall which kills growing cells and inhibits spore formation in mature hyphae. This unique mode of action and limited pest spectrum suggest that there is little or no potential for cumulative toxic effects in mammals. In addition, the toxicity studies submitted to support this petition do not indicate that dimethomorph is a particularly toxic compound. No toxic end-points of potential concern were identified.

E. Safety Determination

1. *U.S. population*. The proposed reference dose (RfD) is 0.1 mg/kg bwt/day, based on a NOEL of 10 mg/kg bwt/day from a 2–year dietary toxicity study in rats that demonstrated decreased body weight and liver *foci* in females. The proposed RfD is also based on an uncertainty factor of 100. For potatoes, the TMRC from this proposed action is estimated at 0.000057 mg/kg bwt/day. This represents an aggregate exposure to the general population of the United States of 0.063 percent of the RfD. The TMRC for the most highly exposed group, children ages 1 to 6 is estimated at 0.000113 mg/kg bwt/day. This represents 0.125 percent of the RfD. Establishment of a tolerance for residues in/on grape commodities is not expected to significantly change the exposure estimate to the most highly exposed group since the commodity which is most extensively imported is wine. Since EPA generally has no concern for exposures below 100 percent of the RfD, EPA should conclude that there is a reasonable certainty that no harm will result from aggregate exposure to dimethomorph residues in or on potato and grape commodities.

2. *Infants and children*. American Cyanamid believes that the results of the studies submitted to support this package provide no evidence that dimethomorph caused reproductive, developmental or fetotoxic effects. No such effects were noted at dose levels which were not maternally toxic. The NOELs observed in the developmental and reproductive studies were 6 to 65 times higher than the NOEL used to establish the proposed RfD (10 mg/kg bw/day). There is no evidence to indicate that children or infants would be more sensitive than adults to toxic effects caused by exposure to dimethomorph.

F. International Issues

No Codex maximum residue levels (MRLs) have been established for dimethomorph to date.

II. Public Record

A record has been established for this notice under docket control number [PF–724] (including comments and data submitted electronically as described below). A public version of the 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 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.

Dated: March 18, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–7494 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[PF–722; FRL–5592–8]

DowElanco; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Filing.

SUMMARY: This notice is a summary announces the filing of a pesticide petition proposing the establishment of a regulation for residues of cloransulam-methyl in or on soybeans. This notice contains a summary was prepared by the petitioner, DowElanco.

DATES: Comments, identified by the docket number [PF–722], must be received on or before April 25, 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 in ASCII file format. All comments and data in electronic form must be identified by docket control number [PF–722]. 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 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: Philip Errico, Product Manager (PM) 25, Registration Division, (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M. St., SW., Washington, D.C. Office location, telephone number and e-mail address: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 703–305–6027. e-mail: errico.phillip@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP 5F4560 from DowElanco, 9330 Zionsville Road, Indianapolis, IN 46268-1054 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. section 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the herbicide *N*-(2-carboxymethyl-6-chlorophenyl)-5-ethoxy-7-fluoro[1,2,4] triazolo[1,5c]pyrimidine-2-sulfonamide, (cloransulam-methyl) in or on the raw agricultural commodity soybeans at 0.02 ppm, soybean forage at 0.1 part per million (ppm) and soybean hay at 0.2 ppm. The proposed analytical method is gas chromatography coupled with a mass selective detector (GC-MSD).

EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficieny 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.

Availability of the analytical method: The proposal analytical method of enforcement which measures residues of cloransulam-methyl in soybeans, and soybean forage and hay discussed below has not been validated by the Agency. Public versions of the analytical method can be obtained from the Pesticide Docket, U.S. Environmental Protection Agency, Office of Pesticide Programs, 401 M. St., SW., Washington, D.C. 20460, (703) 305–5805.

As required by section 408(d) of the FFDCA, as recently amended by the Food Quality Protection Act, DowElanco 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 DowElanco; EPA, as mentioned above, is in the process of evaluating the petition. As required by section 408(d)(3) EPA is including the summary as a part of this notice of filing. EPA may have made minor edits to the summary for the purpose of clarity.

I. Petition Summary

A. Residue Chemistry

1. *Plant metabolism*. Nature of residue studies demonstrated that residues of cloransulam-methyl and its metabolites would not be expected to accumulate to significant levels in soybeans treated either pre-plant or post-emergence, and that it was appropriate to base the magnitude of total terminal residues and proposed tolerances only on residues of the parent compound, cloransulam-methyl. A rotational crop study showed no significant level of cloransulam-methyl or any structurally-related metabolite in any crop, or crop fractions, grown in rotation 120 days after soil treatment.

2. *Analytical method*. Residue analytical methods were validated based upon gas chromatography coupled with a mass selective detector (GC- MSD). The limit of detection of the methods is 0.005 ppm and a level of quantitation is 0.01 ppm.

3. *Magnitude of residues.* No detectable residues of cloransulam-methyl resulted in soybeans from either preplant incorporated or post emergence applications, in soybean forage or hay

following preplant applications, and in the majority of cases, in soybean forage or hay following postemergence applications. No residues of cloransulam-methyl were detected in the soybeans or processed fractions above the analytical method limit of detection of 0.005 ppm following 5× the proposed maximum postemergence application rate.

B. Toxicological Profile

1. *Acute toxicity.* Cloransulam-methyl acute toxicity is low. Acute oral LD_{50} in the rat is >5,000 mg/kg in both males and females and the acute dermal LD_{50} in the rabbit is >2,000 mg/kg. The inhalation LC_{50} in the rat is >3.77 mg/l of air, which is the highest obtainable respirable aerosol concentration. Cloransulam-methyl produced no indications of dermal irritation in rabbits or sensitization in the guinea pig, and only slight transient eye irritation in the rabbit following acute exposure.

2. *Genotoxicity.* In a battery of short-term genotoxicity tests, cloransulam-methyl showed no evidence of a mutagenic potential. These tests included a bacterial reverse mutation assay (Ames test), an *in vitro* cytogenic assay in Chinese hamster ovary cells (CHO/HGPRT assay), an *in vitro* chromosomal aberration assay in rat lymphocytes, and an *in vivo* cytogenetic assay in mouse bone marrow cells.

3. *Reproductive and developmental toxicity.* Cloransulam-methyl exhibited no effects on reproduction or fetal development. In a multigeneration reproduction study in rats, no effects on reproductive performance or neonatal survival were seen at the highest dose tested.

In a developmental toxicity study in rats, no maternal or developmental toxicity was seen at the highest dose tested (limit test at 1,000 mg/kg).

In a developmental toxicity study in rabbits, the maternal NOEL was 100 mg/kg/day and the developmental NOEL was at least 300 mg/kg/day.

4. *Subchronic toxicity.* In a 21-day repeated dermal application study in rabbits, cloransulam-methyl when given at a dose of 1,000 mg/kg/day produced only slight anemia in female rabbits while male rabbits were unaffected at the highest dose tested. The NOEL was 500 mg/kg/day for females and 1,000 mg/kg/day in males. Cloransulam-methyl was evaluated in 13-week dietary studies in rats, mice and dogs. The primary target organs identified in these studies were the kidneys (rat), the liver (mouse and dog), and thyroid (rat). An NOEL was not determined in the rat base upon minor histopathological changes in the kidney (males) and the liver (females). In the mouse, the NOEL was 50 mg/kg/day in male mice and 100 mg/kg/day in female mice based upon hepatocellular hypertrophy. An NOEL was not established in the dog based upon slightly lower body weights at the lowest dose tested, 40 mg/kg/day.

5. *Chronic toxicity.* In a 2-year combined chronic toxicity/oncogenicity study in the rat, the NOEL for chronic toxicity was 10 mg/kg/day based upon kidney and thyroid effects: hypertrophy of collecting duct epithelial cells and vacuolation consistent with fatty change in the proximal tubules of males and females, and an increase in the incidence of mineralization of the renal pelvis in males. Thyroid changes were confined to the high dose males and consisted of hyperplasia and hypertrophy of follicular epithelium. In a 2- year dietary feeding study in B6C3F1 mice, the NOEL for chronic toxicity was also 10 mg/kg/day base upon the liver as he primary target organ. There were increased liver weights and histologic changes consisting of centrilobular hypertrophy in males. Kidney weights were decreased in males and females, and depletion of the normal ctyoplasmic vacuoles and decreases in the incidence of renal mineralization and renal tubular degeneration were noted in males. All of these histologic changes were interpreted to be non-adverse. There was no evidence of an oncogenic response in either male or female mice or rats. In a 1-year chronic toxicity study in dogs, the NOEL was 5 mg/kg/day based upon an increase in accumulation of pigment in Kuppfer cells and hepatocytes with changes in hepatic-related serum chemistry parameters.

6. *Animal metabolism.* Metabolism studies conducted on cloransulam-methyl indicated over 90 percent of a single or repeated dose was absorbed at 5 mg/kg and at 1,000 mg/kg/day, there was incomplete absorption of cloransulam-methyl, with only 28-30 percent of the dose absorbed. Urinary elimination was rapid with half-lives of approximately 6-9 hours. Sex dependent differences in disposition of the 5 mg/kg dose were traced to more efficient elimination of unchanged cloransulam-methyl in the female versus male kidney but are of no known toxicologic significance. Due to its rapid elimination, cloransulam-methyl has little potential to accumulate upon repeated administration.

7. *Metabolite toxicology.* The residue of concern for tolerance setting purposes is the parent material (cloransulam-methyl). Thus there is no need to address metabolite toxicity.

C. Aggregate Exposure

1. Dietary Exposure

a. Food. For Purpose of assessing the potential dietary exposure from use of cloransulam-methyl on soybeans, a conservative estimate of aggregate exposure is determined by TMRC assuming that 100 percent of the soybean crop has a residue of cloransulam-methyl at the tolerance level of 0.02 ppm. This results in an extremely conservative estimate of exposure for cloransulam-methyl, because no residues were detected in soybeans at a level 4× lower than the proposed tolerance level based upon applications made either at the proposed maximum label rate, or at a rate 5× higher than the proposed maximum application rate in an exaggerated rate residue study. The potential dietary exposure is obtained by multiplying the tolerance residue level on soybeans (0.02 ppm) by the consumption data which estimates the amount of soybean products consumed by various population subgroups. The maximum potential average daily dose (ADD) of cloransulam-methyl values determined for various populations are clearly significant overestimates compared with actual exposure. When ADDs are compared to the Reference Dose (RfD), which used the lowest NOEL of 5 mg/kgBW/day from the 1-year dog chronic toxicity study and an uncertainty factor of 100, the ADD for the average U.S. consumer utilizes only about 0.01 percent of the RfD, and even the highest risk group, non-nursing infants, would theoretically be exposed to less than 0.07 percent of the RfD. If the margin of safety (MOS) or safety factor approach is used, the calculated MOSs are 7,600 for the average U.S. population and 1,500 for non-nursing infants. DowElanco believes it is evident from these very conservative estimates that cloransulam-methyl poses no significant dietary risk to any human population.

b. *Drinking water.* Another potential source of dietary exposure are residues in drinking water. Base upon the available environmental studies conducted with cloransulam-methyl wherein it's properties show little potential for mobility in soil and extremely rapid photolysis in water, DowElanco concludes, there is no anticipated exposure to residues of cloransulam-methyl in drinking water.

2. *Non-dietary exposure.* There are no other uses currently registered for cloransulam-methyl. The proposed use in on soybeans involves application of cloransulam-methyl to crop grown in an agricultural environment. Thus, the

potential for non-occupational, non-dietary exposure to the general population is not expected to be significant.

D. Cumulative Effects

There is no reliable information to indicate that cloransulam-methyl has a common mechanism of toxicity with any other chemical compound or that potential toxic effects of cloransulam-methyl would be cumulative with those of any other pesticide chemical. Thus DowElanco believes it is appropriate to consider only the potential risks of cloransulam-methyl in its exposure assessment.

E. Safety Determination

1. *U.S. population.* Using the conservative exposure assumptions described above, and based on the completeness and reliability of the toxicity data, DowElanco has concluded that aggregate exposure to cloransulam-methyl will utilize only about 0.01 percent of the RfD for the U.S. population. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Therefore, DowElanco concludes that there is a reasonable certainty that no harm will result from aggregate exposure to cloransulam-methyl residues (<0.02 ppm) on soybeans. The complete toxicology profile for cloransulam-methyl shows no evidence of physiological effects characteristic of the disruption of the hormone estrogen. Based upon this observation, cloransulam-methyl does not meet the criteria for an estrogenic compound.

2. *Infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of cloransulam-methyl, data from developmental toxicity studies in rats and rabbits and a multigeneration reproduction study in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability and potential systemic toxicity of mating animals and on various parameters associated with the well-being of offspring.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base. Base on the current toxicological data requirements, the data base for cloransulam-methyl relative to pre- and post-natal effects for children is complete. Further, for cloransulam-methyl, the NOEL in the chronic feeding study which was used to calculate the RfD (0.05 mg/kg/day) is already lower than the NOELs from the developmental studies in rats and rabbits by a factor of more than 60 to 200–fold.

Concerning the reproduction study in rats, there were no effects on reproduction or fetal development, even at a dose 100× the NOEL used to establish the RfD. Therefore, DowElanco concludes that an additional uncertainty factor is not needed and that the RfD at 0.05 mg/kg/day is appropriate for assessing risk to infants and children.

Using the conservative exposure assumptions previously described, the percent RfD utilized by the aggregate exposure to residues of cloransulam-methyl on soybeans is 0.07 percent for non-nursing infant, the most sensitive population subgroup. Thus, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, DowElanco concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to cloransulam-methyl on soybeans.

F. International Tolerances

There are no Codex maximum residue levels established for residues of cloransulam-methyl on soybeans or any other food or feed crop.

II. Public Record

Interested persons are invited to submit comments on this notice of filing. Comments must bear a notation indicating the docket control number, [PF–722]. All written comments filed in response to this petition will be available in the Public Response and Program Resources Branch, at the address given above from 8:30 a.m. to 4 p.m., Monday through Friday, except legal holidays.

A record has been established for this notice under docket control number [PF–722] 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 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 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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Authority: 21 U.S.C. 346a.

List of Subjects

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

Dated: March 13, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–7496 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[PF–718; FRL–5590–3]

Novartis; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing.

SUMMARY: This notice is a summary of a pesticide petition (PP) 6F4621 proposing the establishment of a regulation for residues of the herbicide norflurazon and its desmethyl metabolite in or on bermudagrass forage and bermudagrass hay. This summary was prepared by the petitioner, Novartis. The original petitioner, Sandoz Agro, Inc., merged with Ciba-Geigy Corp., to form a new corporation, Novartis Crop Protection, Inc., on January 1, 1997, thus the name of the Petitioner has been changed.

DATES: Comments, identified by the docket control number [PF–718], must be received on or before, April 25, 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 by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in 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: Joanne Miller, Product Manager (PM) 23, Registration Division (7505C), Office of Pesticide Programs. Environment Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 305–6224, e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition (PP) 6F4621 from Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419, proposing to amend 40 CFR part 180, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), by establishing tolerances for combined residues of the herbicide norflurazon, (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone) and its desmethyl metabolite (4-chloro-5-(amino)-2-alpha, alpha alpha-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone) in or on bermudagrass forage at 3.0 ppm and bermudagrass hay at 2.0 ppm. The proposed analytical method of determining residues was gas chromatography. The initial notice of filing was published previously in the **Federal Register** of February 1, 1995 (61 FR 3698)(FRL–4994–3). The current notice of filing is required by EPA to fulfill FQPA requirements. Tolerances requested are the same as those proposed in the initial filing.

Pursuant to the section 408(d)(2)(A)(i) of the FFDCA, as amended, Novartis Crop Protection Inc., has submitted the following summary information, data and arguments in support of their pesticide petition. This summary was prepared by Novartis and EPA has not fully evaluated the merits of the petition. EPA edited the summary to clarify the summary and to remove certain extraneous material and that the conclusions and arguments are the petitioners and not necessarily the EPA's.

I. Petition Summary

A. Chemical Uses

Norflurazon, (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone), is a selective, pre-emergent herbicide used to control germinating annual grasses and broadleaf weeds.

Norflurazon is noncorrosive and is stable under alkaline and acid conditions, but is sensitive to light. Norflurazon is only slightly soluble in water (<40 parts per million (ppm)).

B. Norflurazon Safety

Novartis has submitted over 70 separate toxicology studies in support of tolerances for Norflurazon. EPA has classified norflurazon as a non-quantifiable Group C, possible human carcinogen. According to Novartis, norflurazon is not a mutagen and has low oral and dermal toxicity to mammals. (Updated studies have recently been submitted to the EPA.) Risk assessment calculations indicate margins of safety for agricultural workers and the population in general far exceed the EPA required level of 100.

The following mammalian toxicity studies have been conducted to support the tolerances of Norflurazon:

Acute Oral, Rat (Male) LD_{50}: 9.3 g/kg (Tox Category IV)

Acute Dermal, Rabbit: LC_{50} ≥20,000 mg/kg (Tox Category IV)

Acute Inhalation, Rat: LC_{50} > 2.4 mg/l (Tox Category III)

Primary Eye Irritation, Rabbit: non-irritating (Tox Category IV)

Primary Dermal Irritation, Rabbit: no irritation (Tox Category IV)

Dermal Sensitization, in male Guinea Pig: technical norflurazon at 0.1 percent did not cause sensitization (Tox Category IV)

90–day rat feeding study: The systemic no-observable-effect-level (NOEL) was considered to be 12.50 mg/kg/day in male rats, and 25.0 mg/kg/day in female rats.

A 6–month dog feeding study: The systemic NOEL was determined to be 1.53 mg/kg/day for males, and 1.58 mg/kg/day for females. The systemic LEL was determined to be 5.02 mg/kg/day for males, and 4.77 mg/kg/day for females.

A 3–week rabbit dermal study: The systemic NOEL was 375 mg/kg/day for males and females. The dermal NOEL was also 375 mg/kg/day for both sexes.

A 28–day rat feeding study: NOEL of 50.0 mg/kg/day.

A 28–day mouse feeding study: NOEL of 63.0 mg/kg/day.

A rat dermal absorption study: No more than 0.1 percent of applied dose was absorbed at doses up to 10 mg/rat.

Gene mutation assays: Negative. There was no evidence of cytotoxicity in any of the strains at any of the dose concentrations used. In an *in vitro* unscheduled DNA synthesis assay, norflurazon failed to induce unscheduled DNA synthesis in primary rat hepatocytes. In an *in vitro* chromosomal aberration assay, norflurazon did not cause a clastogenic response in the presence of liver S–9 or in the absence of S–9.

A developmental study in rats: No maternal or developmental effects at 400 mg/kg/day. Maternal NOEL was <100 mg/kg/day; maternal LEL was 100 mg/kg/day, based on reductions in body weight for the period of dosing and for the dosing plus post-dosing period.

A developmental study in rabbits: The NOEL for maternal toxicity was 30 mg/kg/day based on maternal body weight decreases at 60 mg/kg/day. The NOEL for developmental toxicity was 30 mg/kg/day. Developmental effects seen at 60 mg/kg/day were decreased fetal weight and incomplete ossification of the skull, fore and hind limb middle phalanx, metacarpal, and proximal epiphysis of the tibia.

A three generation reproduction study in rats showed no apparent effects on reproductive performance at any dose level tested.

A chronic toxicity and carcinogenicity study in Sprague-Dawley rats: No significant effects of technical norflurazon were evident for survival, body weight, body weight gain, or food consumption in male or female rats at any dose level tested. The systemic NOEL was determined to be 18.75 mg/kg/day for both sexes.

A carcinogenicity study in mice: No significant effects were observed on body weight, body weight gain, and

food consumption at any dose. The systemic NOEL was determined to be 12.8 mg/kg/day for male mice, and 58.7 mg/kg/day for female mice.

A rat metabolism study: A rat metabolism study at single oral doses of 2 or 110 mg/kg, a single i.v. dose of 2.0 mg/kg, or a single oral dose at 2 mg/kg after animals had ingested 0.1 mg/kg for 14 days showed that less than 1.0 percent of the administrated dose remained 96 hours after dosing. Thirteen metabolites were isolated. Norflurazon appears to be metabolized by *N*-demethylation, displacement of the chlorine atom by glutathione, glutatione attack on the aromatic ring, and replacement of the chlorine atom with hydrogen. Norflurazon appears to be rapidly absorbed from the gastrointestinal tract and extensively metabolized.

C. Threshold Effects

Chronic effects: Based on the available chronic toxicity data, EPA has set the Reference Dose (RfD) for norflurazon at 0.02 mg/kg/bwt/day. The RfD for norflurazon is based on the 6-month dog feeding study with a threshold NOEL of 1.53 mg/kg/day and an uncertainty factor of 100.

Acute toxicity: Because developmental effects were seen in the rabbit developmental study, the Agency assessed acute dietary risk from developmental effects for the subgroup females (13+ years) the only appropriate group of acute dietary concern. The Margin of Exposure (MOE), a measure of how closely the high-end exposure comes to the NOEL, was calculated as the ratio of the NOEL to the exposure and determined to be 3,000. The Agency is not generally concerned unless the MOE is below 100 when based upon data generated in animal studies.

D. Non-threshold Effects

Carcinogenicity: The EPA's Health Effects Division Peer Review Committee classified norflurazon as a Group C, possible human carcinogen, based on the criteria in the Agency's Guideline for the Classification of Carcinogens published in the **Federal Register** of September 24, 1986, (51 FR 33992–34003), and the statistically significant increase in comparison to controls in hepatocellular adenomas and combined hepatocellular adenomas and carcinomas in male CD–1 mice as well as the statistically significant positive trend for hepatocellular adenomas and combined adenomas and carcinomas.

That committee also recommended that for the purposes of risk characterization the RfD approach should be used for the quantification of human risk. This recommendation was supported by the presence of only benign tumors in only one sex of one species at one dose level, and adequate but negative mutagenicity data and no positive analogues. EPA believes norflurazon poses a negligible cancer risk to humans.

E. Aggregate Exposure:

For the purposes of assessing the potential dietary exposure, Novartis has estimated the aggregate exposure based on the Theoretical Maximum Residue Contribution (TMRC) from the tolerances for all crops on which norflurazon-based products are labeled. The TMRC from the established and the proposed tolerances is 0.002041 and utilizes 10.2 percent of the RfD for the overall U.S population. The exposure of the most highly exposed subgroup in the population, non-nursing infants, is 0.009356 mg/kg/bwt/day and utilizes 46.8 percent of the RfD.

No norflurazon-based products are labeled for residential use. Non-occupational exposure for norflurazon has not been estimated since the current registrations for norflurazon-based products are limited to commercial crop production. The potential for non-occupational exposure to the general population is, therefore, insignificant.

EPA consideration of a common mechanism of toxicity is not appropriate at this time because Sandoz and EPA do not have information to indicate that toxic effects produced by norflurazon would be cumulative with those of any other chemical compounds.

F. Determination of Safety for US population

Reference Dose (RfD): Using a 100-fold safety factor and the NOEL of 1.53 mg/kg/day determined by the most sensitive species (the 6-month dog feeding study), the RfD is 0.02 mg/kg/bwt/day. The TMRC from the established and the proposed tolerances is 0.002041 and utilizes 10.2 percent of the RfD for the overall U.S population. Based on the completeness and reliability of the toxicity data and the conservative exposure assessment, Sandoz concludes that there is a reasonable certainty that no harm will result from the aggregate exposure of residues of norflurazon including all anticipated dietary exposure.

G. Determination of Safety for Infants and Children

The exposure of the most highly exposed subgroup in the population, non-nursing infants, is 0.009356 mg/kg/bwt/day and utilizes 46.8 percent of the RfD. Based on the completeness and reliability of the toxicity data and the conservative exposure assessment, Sandoz concludes that there is a reasonable certainty that no harm will result to infants and children from the aggregate exposure of residues of norflurazon including all anticipated dietary exposure.

H. Estrogenic Effects

No specific tests have been conducted with norflurazon to determine whether the pesticide may have an effect in humans that is similar or an effect produced by a naturally occurring estrogen or other endocrine effects.

I. Chemical Residue

The nature of the residue is adequately understood, and an adequate analytical method, gas chromatography using electron capture detection, is available for enforcement purposes.

Tolerances have been established for norflurazon in almonds, hulls and nutmeat; apples; apricots; asparagus; avocados; blackberries; blueberries; cattle, fat, meat, and meat-by-products (mbyp); cherries; citrus fruit; cottonseed; cranberries; filberts; goats, fat, meat and mbp; grapes; hogs, fat, meat, and mbp; hops, green; horses, fat, meat, and mbp; milk; nectarines; peaches; peanuts; peanut hay, hulls and vines; pecans; pears; plums (fresh prunes); poultry, fat, meat and mbp; raspberries; sheep, fat, meat and mbp; soybeans, forage and hay; and walnuts. The metabolism of norflurazon in plants is adequately understood. Metabolism of norflurazon in livestock has been studied and tolerances for livestock commodities have been established. A ruminant study adequately identified the metabolites in milk, liver and kidney. Norflurazon was not detected in ruminant milk or tissue, and total radioactive residues in fat and muscle were <0.01 ppm.

J. Environmental Fate

The environmental fate of norflurazon is adequately understood. Norflurazon is persistent and may be mobile. Norflurazons primary route of dissipation appears to be photodegradation in water and on soil to desmethyl norflurazon with a half-life of 2–3 days and 12–15 days respectively. Norflurazon is stable to hydrolysis and degrades slowly under aerobic soil conditions with a half-life of 130 days. In an anaerobic aquatic study, norflurazon degrades to desmethyl norflurazon with a half-life of about 8 months.

Fish accumulation data show that norflurazon has low potential to bioaccumulate in bluegill sunfish.

Norflurazon is not currently regulated under the Safe Drinking Water Act (SWDA). Therefore, no MCL has been established and water systems are not required to sample and analyze for it. Novartis is currently performing groundwater monitoring studies to better evaluate the leaching potential of norflurazon.

Norflurazon is practically non-toxic to avian species on an acute oral and subacute dietary basis. Norflurazon is also practically nontoxic to mammals and insects (honeybees).

K. International Tolerances

No international tolerances have been established under CODEX. Therefore, there is no need to ensure consistency.

II. Public Record

A record has been established for this notice under docket control number [PF–718] (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 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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

Authority: 21 U.S.C. 346a.

List of Subjects

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

Dated: March 11, 1997.

Stephen L. Johnson,

Director, Registration Division Office of Pesticide Programs.

[FR Doc. 97–7065 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[PF–727; FRL–5595–6]

Novartis Crop Protection, Inc.; Pesticide Tolerance Petition Filing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing.

SUMMARY: This notice is a summary of a pesticide petition proposing the establishment of a regulation for the residues of CGA–248757, acetic acid [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1*H*,3*H*-[1,3,4]thiadiazolo[3,4-α]pyridazin-1-ylidene) amino]phenyl]thio]-methyl ester in or on soybeans. This summary was prepared by the petitioner.

DATES: Comments, identified by the docket control number [PF-727], must be received on or before April 25, 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 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 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PF–727]. Electronic comments on this notice 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 notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). No 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: Joanne Miller, Product Manager (PM) 23, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–6224, e-mail: miller.joanne@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: A notice of filing of pesticide petition 6F4614 was published in the **Federal Register** of June 12, l996 (61 FR 29752) (FRL–5354–7). The Notice stated that Ciba Crop Protection, Ciba-Geigy Corporation had proposed to amend 40 CFR part 180 by establishing a tolerance for residues of the herbicide, acetic acid [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1*H*,3*H*-[1,3,4]thiadiazolo[3,4-α]pyridazin-1-ylidene) amino]phenyl]thio]-methyl ester in or on the raw agricultural commodity soybeans at 0.02 part per million (ppm). The proposed analytic method for determining residues was gas chromatographic. On January 1, l997, Ciba Crop Protection merged with Sandoz, Inc. to form a new corporation, Novartis Crop Protection, Inc.

EPA has received a second notice of filing of (PP) 6F4614, from Novartis Crop Protection, Inc., P.O. Box 18300, Greensboro, NC 27419, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C section 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the herbicide CGA–248757, acetic acid [[2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1*H*,3*H*-[1,3,4]thiadiazolo[3,4-α]pyridazin-1-ylidene) amino]phenyl]thio]-methyl ester in or on the raw agricultural commodity soybeans at 0.01 ppm. The proposed analytical method is gas chromatography using a nitrogen phosphorus detector and a large-bore fused silica column.

Pursuant to section 408(d)(2)(A)(i) of the FFDCA, as amended, Novartis Crop Protection, Inc. has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Novartis and EPA has not fully evaluated the merits of the

petition. EPA edited the summary to clarify that the conclusions and arguments were the petitioner's and not necessarily EPA's and to remove certain extraneous material.

I. Novartis Petition Summary

1. *CGA–248757 uses.* CGA–248757, acetic acid [(2-chloro-4-fluoro-5-[(tetrahydro-3-oxo-1*H*,3*H*-[1,3,4]thiadiazolo [3,4-α]pyridazin-1-ylidene)amino]phenyl]thio]-methyl ester, is a new herbicide active ingredient in the imide chemistry class. It will be formulated as a 4.75% wettable powder, packaged in water-soluble bags, and sold under the trade name Action® Herbicide. Action is a highly selective herbicide for use in soybeans postemergence, and is particularly effective in controlling velvetleaf. Control of other broadleaf weeds in soybeans is enhanced and the spectrum of control is broadened when Action is tank mixed with other postemergence herbicides registered for use in soybeans.

Action offers effective weed control at extremely low use rates. The maximum use rate per season is 0.0089 lb. active ingredient (3 ounces (oz). of formulated product) per acre consisting of a maximum of two applications. There is a wide application window extending from the first trifoliate stage of soybean development through the full flowering stage, and the amount of Action to apply depends on the weed species and weed height. Tank mixing Action with other postemergence herbicides further reduces the amount required to control target weeds.

The purpose of this petition is to establish a tolerance for CGA–248757 in soybeans. The tolerance proposed is: Soybeans—0.01 ppm.

2. *CGA–248757 safety*. In support of the petition for tolerance in soybeans, Novartis submitted a full battery of toxicology studies including, acute effects, chronic feeding, oncogenicity, teratogenicity, mutagenicity, and reproductive toxicity tests. The studies indicate that CGA–248757 has a low order of acute toxicity with acute effects in catgegory III and IV, is not neurotoxic, does not pose a genotoxicity hazard, and is not a reproductive toxicant or a teratogen.

Potential exposure to CGA–248757 *via* the diet or drinking water and through handling is very limited. Because of rapid environmental degradation, extremely low residues in food crops, and water-soluble packaging, considerable margins of safety exist for dietary exposure for all subgroups of the population and for worker exposure as well.

The following mammalian toxicity studies have been conducted to support the proposed tolerance for CGA–248757:

- A rat acute oral study with an LD_{50} > 5,000 milligram/kilogram (mg/kg).
- A rabbit acute dermal study with an LD_{50} 2,000 mg/kg.
- A rat inhalation study with an LC_{50} 5.05 mg/liter.
- A primary eye irritation study in the rabbit showing moderate eye irritation.
- A primary dermal irritation study in the rabbit showing no skin irritation.
- A primary dermal sensitization study in the Guinea pig showing no sensitization.
- Twenty-eight day dermal toxicity study in rats with a no-observed effect level (NOEL) equal to or higher than the limit dose of 1,000 mg/kg.
- Six-week dietary toxicity study in dogs with a NOEL of 6,500 ppm in males and 2,000 ppm in females based on decreased body weight gain and modest hematological changes.
- Ninety-day subchronic dietary toxicity study in rats with a NOEL of 100 ppm based on liver changes and hematological effects.
- Twenty-four-month combined chronic toxicity/carcinogenicity study in rats with a NOEL of 50 ppm. Based on reduced body weight development and changes in bone marrow, liver, pancreas and uterus the MTD was exceeded at 3,000 ppm.
- A positive trend of adenomas of the pancreas in male rats treated at 3,000 ppm and above may be attributable to the increased survival of the rats treated at high doses.
- Eighteen-month oncogenicity study in mice with a NOEL of 1 ppm. Based on liver changes, the MTD was reached at 10 ppm. The incidence of hepatocellular tumors was increased in males treated at 100 ppm and 300 ppm.
- Teratology study in rats with a maternal and developmental NOEL equal to or greater than 1,000 mg/kg/day.
- Teratology study in rabbits with a maternal NOEL greater than or equal to 1,000 mg/kg/day and a fetal NOEL of 300 mg/kg based on a slight delay in fetal maturation.
- Two-generation reproduction study in rats with a NOEL of 500 ppm, based on liver lesions in parental animals and slightly reduced body weight development in parental animals and pups. The treatment had no effect on reproduction or fertility.
- Acute neurotoxicity study in rats.
- Neurotoxic effects were not observed. The NOEL was 2,000 mg/kg.
- Ninety-day subchronic neurotoxicity study in rats. The NOEL was 10 ppm based on reduced body weight gain. No clinical or morphological signs of neurotoxicity were detected at any dose level.
- *In vitro* gene mutation tests: Ames test--negative; Chinese hamster V79 test--negative; rat hepatocyte DNA repair test--negative; *E. Coli* letal DNA damage test--negative.
- *In vitro* chromosomal aberration tests: Chinese hamster ovary--positive at cytotoxic doses; Chinese hamster lung--positive at cytotoxic doses; human lymphocyes--positive at cytotoxic doses.
- *In vivo* chromosome aberration tests: Micronucleus assays in rat liver--negative; mouse bone marrow test--negative.

3. *Threshold effects*. Using the Guidelines for Carcinogenic Risk Assessment published September 24, 1986 (51 FR 33992), Novartis believes the Agency will classify CGA–248757 as a Group ''C'' carcinogen (possible human carcinogen) based on findings of benign and malignant liver tumors in male mice. These tumors most likely resulted from a chronic regenerative and proliferative response of the affected epithelial cells. This response is a non-genotoxic, threshold effect which is due to the accumulation of cytotoxic porphyrins. A positive trend of proliferative pancreatic changes in male rats is likely attributable to the increased survival of the rats in the high dose groups. The lesions observed are not uncommon in the rat strain used.

Because the effects observed are threshold effects, Novartis believes that exposure to CGA–248757 should be regulated using a margin of exposure approach. The reference dose (RfD) for CGA–248757 can be defined at 0.0014 milligram/kilogram/day (mg/kg) based on an 18–month feeding study in mice with a NOEL of 0.14 mg/kg/day and an uncertainty factor of 100.

4. *Non-threshold effects*. Based on the results of an extensive program of genotoxicity studies, CGA–248757 is not mutagenic *in vivo*. As outlined above, effects observed in toxicology studies are attributable to an epigenetic, cytotoxic mechanism, resulting in degenerative and inflammatory changes in the target organs. It is therefore justified that exposure to CGA–248757 should be regulated using a margin of exposure approach.

5. *Aggregate exposure*. In this assessment, Novartis has conservatively assumed that 100% of all soybeans used for human consumption would contain residues of CGA–248757 and all residues would be at the level of the tolerance. The potential dietary exposure to CGA–248757 was calculated on the basis of the proposed

tolerance of the LOQ, 0.01 ppm, in soybeans. The proposed tolerances is set at the limit of detection in the respective commodity because, with the available methodology, there are no detectable residues of CGA–248757 in soybeans. Residues in milk, meat, and eggs due to the feeding of soybean commodities are not expected and tolerances for milk, meat, and eggs are not required. Calculated on the basis of the proposed tolerance, the dietary exposure of the U.S. population to CGA–248757 would correspond to 0.24% of its RfD.

Other potential sources of exposure of the general population to residues of pesticides are residues in drinking water. Although CGA–248757 has a slight to medium leaching potential; the risk of the parent compound to leach to deeper soil layers is negligible under practical conditions in view of the fast degradation of the product. For example, the soil metabolism half-life was extremely short, ranging from 1.1 days under aerobic conditions to 1.6 days under anaerobic conditions. Even in the event of very heavy rainfalls immediately after application, which could lead to a certain downward movement of the parent compound, parent CGA–248757 continues to be degraded during the transport into deeper soil zones. Considering the low application rate of CGA–248757, the strong soil binding characteristics of CGA–248757 and its degradates, and the rapid degradation of CGA–248757 in the soil, there is no risk of ground water contamination with CGA–248757 or its metabolites. Thus, aggregate risk of exposure to CGA–248757 does not include drinking water. CGA–248757 is not registered for any other use and is proposed for use only on agricultural crops. Thus, there is no potential for non-occupational exposure other than consumption of treated commodities containing CGA–248757 residue.

Novartis also considered the potential for cumulative effects of CGA–248757 and other substances. However, a cumulative exposure assessment is not appropriate at this time because there is no information available to indicate that effects of CGA–248757 in mammals would be cumulative with those of another chemical compound. Thus Novartis is considering only the potential risk of CGA–248757 in its aggregate exposure assessment.

6. *Safety to the U.S. population*. Using the very conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data for CGA–248757, Novartis has calculated that aggregate exposure to CGA–248757 will utilize 0.24% of the RfD for the U.S. population. Thus, even a worst case exposure estimate results in human exposure to CGA–248757 which is 40,000-fold below the NOEL in the most sensitive species. As anticipated residues are below tolerance levels and the market share of CGA–248757 will not approach 25% of planted soybeans, the safety margin is likely to be at least 20 times greater. Exposures below 100 percent of the RfD are generally not of concern because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

Also the acute dietary risk to consumers will be far below any significant level: The lowest NOEL from a short-term exposure scenario comes from the teratology study in rabbits with a NOEL of 300 mg/kg. This NOEL is 2,000-fold higher than the chronic NOEL which provides the basis for the RfD (see above). Because chronic exposure estimates did not result in any significant exposure, it is anticipated that the acute dietary risk will also be negligible with margins of acute exposure in the hundred thousands (margins of exposure of 100 or more are generally considered satisfactory). Therefore, Novartis concludes that there is a reasonable certainty that no harm will result from aggregate exposure to CGA–248757 residues.

7. *Safety to infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of CGA–248757, Novartis considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. A slight delay in fetal maturation was observed in a teratology study in rabbits at a daily dose of 1,000 mg/kg. In a 2-generation reproduction study, CGA–248757 did not affect the reproductive performance of the parental animals or the physiological development of the pups. The NOEL was 500 ppm for maternal animals and their offspring, which is 50,000 fold higher than the RfD.

Using the same conservative exposure assumptions as for the determination in the general population, the percent of the RfD that will be utilized by aggregate exposure to residues of CGA–248757 is 0.28% for nursing infants less than 1 year old, 1.16% for non-nursing infants, 0.45% for children 1 to 6 years old and 0.35% for children 7 to 12 years old. Novartis concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to residues of CGA–248757.

8. *Estrogenic effects*. Based on the results of short-term, chronic, and reproductive toxicity studies there is no indication that CGA–248757 might interfere with the endocrine system. Considering further the low environmental concentrations and the lack of bioaccumulation, there is no risk of endocrine disruption in humans or wildlife.

9. *Chemical residue*. The nature of the residues in soybeans and animals (goat and hen) is adequately understood following application of CGA–248757. Residues do not concentrate in processed commodities. There are no Codex maximum residue levels established for residues of CGA–248757 on soybeans. Ciba has submitted a practical analytical method for detecting and measuring the level of CGA–248757 in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set for the proposed tolerance. The limit of quantification of the method is 0.01 ppm. The analytical method involves extraction, filtration, and solid phase clean up. Residue levels of CGA–248757 are determined by gas chromatographic analysis utilizing a nitrogen phosphorus detector and a fused-silica column. EPA can provide information on this method to FDA. The method will be available to anyone who is interested in pesticide residue enforcement from the Field Operations Division, EPA's Office of Pesticide Programs.

The residue of concern in soybeans is CGA–248757 *per se*. Twenty field residue studies were conducted with soybeans grown in 18 states. Residues of CGA–248757 in treated soybeans were less than the method LOQ (0.01 ppm) which is the proposed tolerance. The proposed tolerance level is adequate to cover residues likely to occur when Action herbicide is applied as directed.

Livestock feeding studies have not been submitted and tolerances for residues of CGA–248757 in livestock commodities have not been requested. Results of hen and goat metabolism studies wherein CGA–248757 was fed at exaggerated rates indicated that CGA–248757 is poorly absorbed. Based upon the exaggerated feeding levels in the goat and hen metabolism studies, the results of soybean metabolism studies, the requested tolerance level of 0.01 ppm for soybeans, and the maximum dietary exposure of beef and dairy cattle and poultry to CGA–248757, detectable residues of CGA–248757 or its metabolite, CGA–300403 (> 0.01 ppm) are unlikely to occur in meat, milk, poultry, or eggs.

In studies with processed soybean fractions, concentration of CGA–248757 was not found and tolerances in processed commodities will not be

required. In addition, confined rotational crop studies indicated that CGA–248757 will not be taken up by rotational crops.

Novartis analytical Method AG–603A has been independently validated for collection of residues of CGA–248757 in soybeans and processed fractions and this method has been provided to the FDA. Residue levels of CGA–248757 are determined by gas chromatography and the limit of detection for the method is 0.01 ppm.

10. *Environmental fate*. Action degraded rapidly under laboratory and field conditions. Laboratory hydrolysis under basic conditions was T1/2 ~ 5 hours at pH 9 and stable under acidic conditions (T1/2 ~ 485 days at pH 5).The soil metabolism half-life was extremely short, ranging from 1.1 days under aerobic conditions to 1.6 days under anaerobic conditions. Photodegradation was rapid in soil (T1/2 ~ 0.5 days) and moderate in solution at pH 5 (5 days). Because of the extremely low use rate and very short half-life in the field, field dissipation experiments were conducted with radiolabeled chemical. After bare-ground application, the half-life of Action was 1 day in sandy loam and 1.8 days in clay loam. All degradates identified in the field were also identified in the laboratory studies. Parent and aged leaching laboratory experiments showed that the mobility of Action ranged from slight to medium by soil type. Based on estimates of relative mobility (K_{oc}), Action was classified as having medium mobility in sand and low mobility in loam, silt loam and clay. The major degradation products of Action were found to have high to low mobility classifications based on K_{oc} estimations. Although the data suggest that some of the degradates are highly mobile, a high degree of soil binding is expected based on results of the laboratory and the field experiments. Because weeds and crop will intercept the majority of this product when it is applied, and given the extremely low use rate and high degree of soil binding, Action herbicide is not expected to leach into groundwater.

II. Public Record

Interested persons are invited to submit comments on this notice of filing. Comments must bear a notation indicating the docket control number, [PF–727]. A record has been established for this document under docket control number [PF–727] (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 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 may 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 notice record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia 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: March 12, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–7222 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[OPP–181039; FRL–5594–5]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to nine States listed below. Six crisis exemptions were initiated by various States and one by the United States Department of Agriculture. These exemptions, issued during the months of July, August, September, October, November, and December 1996 and January and February 1997, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS 1B1, 2800 Jefferson Davis Highway, Arlington, VA (703–308–8417); e-mail: group.ermus@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arkansas State Plant Board for the use of metolachlor on spinach to control weeds; December 2, 1996, to February 2, 1997. (Margarita Collantes)

2. California Department of Pesticide Regulations for the use of bifenthrin on broccoli and cauliflower to control the silverleaf whitefly; January 30, 1997, to February 30, 1997. (Margarita Collantes)

3. California Department of Pesticide Regulations for the use of imidacloprid on beets and turnips to control aphids; January 29, 1997, to Auqust 4, 1997. California had initiated a crisis exemption for this use. (Margarita Collantes)

4. Minnesota Department of Agriculture for the use of triclopyr on infested water bodies to control purple loosestrife; July 31, 1996, to September 15, 1996. (Margarita Collantes)

5. New Jersey Department of Environmental Protection for the use of tebufenozide on apples to control tufted apple bud moth; August 1, 1996, to September 30, 1996. (Pat Cimino)

6. New Mexico Department of Agriculture for the use of tebufenozide on chile peppers to control beet armyworms; December 17, 1996, to December 30, 1997. (Margarita Collantes)

7. Oklahoma Department of Agriculture for the use of metolachlor on spinach to control weeds; December 2, 1996, to March 31, 1997. (Margarita Collantes)

8. Texas Department of Agriculture for the use of metolachlor on spinach to control weeds; December 2, 1996, to August 15, 1997. (Margarita Collantes)

9. Texas Department of Agriculture for the use of propiconazole on grain sorghum to control northern leaf blight; November 6, 1996, to October 31, 1997. Texas had initiated a crisis exemption for this use. (Pat Cimino)

10. Virginia Department of Agriculture for the use of metolachlor

on spinach to control weeds; December 2, 1996, to November 30, 1997. (Margarita Collantes)

11. Washington Department of Agriculture for the use of zinc phosphide on timothy, timothy clover, and timothy alfalfa to control voles; February 6, 1997, to April 30, 1997. (Libby Pemberton)

Crisis exemptions were initiated by the:

1. California Department of Pesticide Regulations on August 6, 1996, for the use of imidacloprid on beets and turnips to control aphids. This program is expected to last until August 4, 1997. (Margarita Collantes)

2. California Department of Pesticide Regulations on January 8, 1997, for the use of methyl bromide on carrots to control nematodes. This program is expected to last until December 13, 1997. (Libby Pemberton)

3. California Department of Pesticide Regulations on January 8, 1997, for the use of methyl bromide on watermelons to control nematodes and weeds. This program is expected to last until April 30, 1997. (Libby Pemberton)

4. California Department of Pesticide Regulations on February 6, 1997, for the use of methyl bromide on sweet potatoes to control nematodes. This program is expected to last until February 5, 1998. (Libby Pemberton)

5. Georgia Department of Agriculture on September 4, 1996, for the use of tebufenozide on peppers to control beet armyworms. This program has ended. (Margarita Collantes)

6. Kansas Department of Agriculture on September 31, 1996, for the use of trichlorphon on ornamental trees to control Japanese beetles. This program has ended. (Margarita Collantes)

7. U.S. Department of Agriculture on October 2, 1996, for the use of quaternary ammonium on soil and plant debris on field equipment exposed to equipment, clothing, shoes, vehicles, and tires taken into infested fields to control citrus canker. This program is expected to last until October 1999. (Libby Pemberton)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: March 12, 1997.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 97–7223 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–400109; FRL–5596–6]

Notice of Workshops on EPCRA Section 313 Reporting Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a series of 3–day training courses on the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). The training course consists of a series of presentations covering the requirements of EPCRA and the sections of the Pollution Prevention Act of 1990 (PPA) that relate to the EPCRA requirements. The training course will also address the EPCRA and PPA reporting requirements as they apply to Federal agencies as a result of Presidential Executive Order 12856, ''Federal Compliance with Right-to-Know Laws and Pollution Prevention Requirements.'' The course focuses on the EPCRA Section 313 Toxic Chemical Release Inventory (TRI) reporting requirements. A variety of hands-on exercises using the TRI reporting Form R and associated guidance materials are used to help participants understand the TRI reporting process. Persons who should consider attending are private sector and Federal facility staff responsible for completing their facilities' TRI reporting form(s) and consulting firms who may be assisting them.

DATES: The training courses will be held on the following dates in the following locations:

April 1-3, 1997, in Dallas, TX
April 8-10, 1997, in Denver, CO
April 15-17, 1997, in Washington, DC area (Herndon, VA)
April 23-25, 1997, in Detroit, MI area (Southfield, MI)
April 29-May 1, 1997, in New York City, NY
April 30-May 2, 1997, in Worcester, MA
May 13-15, 1997, in Atlanta, GA
May 20-22, 1997, in Los Angeles, CA
May 21-23, 1997, in Seattle, WA
May 27-29, 1997, in Kansas City, MO

FOR FURTHER INFORMATION CONTACT: Eileen Fesco, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics (7408), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260–7232, Fax: (202) 401–8142, e-mail: fesco.eileen@epamail.epa.gov.

To register to attend one of these workshops, contact the EPCRA/TRI Training Registration Line, e-mail: cjones@tascon.com, Telephone: (301) 907–3844, ext. 260, Fax: (301) 907-9655. EPA Regional Offices also provide EPCRA and PPA workshops. For information on those workshops and on EPCRA/TRI reporting requirements in general, contact the EPCRA Information Hotline (5101), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 1–800–535–0202, in Virginia and Alaska: 703-412-9877 or Toll free TDD: 1-800-553-7672.

SUPPLEMENTARY INFORMATION: Registration for the training courses will be taken on a first-come-first-served basis until 1 week prior to the start of each workshop. There is limited space available. To register, contact by either e-mail, telephone, fax, or in writing, the EPCRA/TRI Registration Line listed under FOR FURTHER INFORMATION CONTACT. When registering give your name, address, e-mail, telephone and fax numbers and the workshop you would like to attend. Notification will be sent to each applicant regarding their acceptance for the training session. There is no registration fee for this training. If there is insufficient interest in any of the workshops, they may be canceled. The Agency bears no responsibility for attendees' decision to purchase nonrefundable transportation tickets or accommodation reservations.

List of Subjects

Environmental protection, Community right-to-know.

Dated: March 18, 1997.

William H. Sanders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 97–7495 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2181]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

March 21, 1997.

Petitions for reconsideration and clarification have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed April 10, 1997. See Section

1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Regulation of International Accounting Rates. (CC Docket No. 90–337, Phase II).

Number of Petitions Filed: 4.

Subject: Streamlining the Commission's Rules and Regulations for Satellite Application and Licensing Procedures. (IB Docket No. 95–117).

Number of Petitions Filed: 3.

Subject: Implementation of Section 402(a)(1)(A) of the Telecommunications Act of 1996. (CC Docket No. 96–187).

Number of Petitions Filed: 3.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–7707 Filed 3–25–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEFENSE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, March 31, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 2lst Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Guidance on international financial and supervisory coordination issues.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 21, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–7767 Filed 3–21–97; 4:33 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Request for Comments on the Development of Minimum Tribal Child Care Standards

AGENCY: Administration on Children, Youth and Families, ACF, DHHS.

ACTION: Request for comments on the development of minimum child care standards applicable to Indian Tribes and tribal organizations receiving Federal assistance under the Child Care and Development Fund.

SUMMARY: the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193) requires the Secretary of Health and Human Services to develop minimum child care standards for Tribes and tribal organizations receiving funds under the Child Care and Development Fund. The Act requires that the standards be developed in consultation with Indian Tribes and tribal organizations and appropriately reflect the Tribes needs and available resources.

The Child Care Bureau has the responsibility to implement this legislation. As part of the consultation process, the Child Care Bureau is requesting comments on the development of minimum tribal child care standards.

This process provides an opportunity for Tribes to provide comment on areas that reflect the unique situations relevant to Tribes and tribal organizations. Tribal input will enable the Department to identify resources or standards that may be helpful to consider in developing tribal standards; identify challenges that Tribes face in meeting the existing health and safety requirements and to identify procedures for Tribes to assure that children are properly immunized. In addition, Tribes can be a source of information regarding tribal child care licensing processes and identifying any barriers that Tribes encounter in implementing and/or enforcing child care standards.

DATES: The Department invites comments from Indian Tribes and tribal organizations on the development of minimum Tribal child care standards. Written comments must be received on or before May 27, 1997.

ADDRESSES: Comments should be mailed (facsimile transmissions will not be accepted) to the Assistant Secretary for Children and Families, Attention: Child Care Bureau, Hubert Humphrey Building, Room 320–F, 200 Independence Avenue, SW, Washington, DC 20201 or delivered to that address between 8 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during the same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Moniquin Huggins, Child Care Bureau, Hubert Humphrey Building, Room 320F, 200 Independence Avenue, SW, Washington, DC 20201, telephone (202) 690–8490.

SUPPLEMENTARY INFORMATION:

Background

The Personal Responsibility and Work Opportunity Reconciliation Act (the Act) of 1996 made major changes to the Federal child care assistance program. The Act repealed three title IV–A programs of the Social Security Act: AFDC Child Care, Transitional Child Care and At-Risk Child Care and amended the Child Care and Development Block Grant. In addition, the Act amended section 418 of the Social Security Act to provide new Federal child care funds and transfers these funds to the Lead Agency under the amended Child Care and Development Block Grant Act. The combined funds under the CCDBG have been renamed the Child Care and Development Fund.

The Child Care and Development Fund assists States, Territories and Tribes in providing child care services to children from low-income families who need child care either because a parent is working or attending a training or educational program.

The Act amended the CCDBG to require Grantees to certify that they have in effect licensing requirements applicable to child care services provided within the State, and to provide a detailed description of those requirements and of how they are effectively enforced.

Grantee must certify that there are in effect within the State, under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under the Child Care and Development Fund. Such requirements shall include:

(1) The prevention and control of infectious disease (including immunizations);

(2) Building and physical premises safety; and

(3) Minimum health and safety training appropriate to the provider setting.

In addition, for Indian Tribes and tribal organizations the Act requires that ''in lieu of any licensing and regulatory requirements applicable under State and local law, the Secretary, in consultation with Indian Tribes and tribal organizations, shall develop minimum child care standards (that appropriately reflect tribal needs and available resources) that shall be applicable to Indian Tribes and tribal organizations receiving assistance under the Child Care and Development Fund''.

Purpose

The purpose of this **Federal Register** Notice is to seek input on the development of minimum tribal child care standards. This **Federal Register** Notice will serve as one means of consulting with the Tribes and tribal organizations on the development of such standards.

Tribes for the most part have been faced with the challenge of using a variety of methods to address the health and safety of children in their child care programs. These methods have including adopting State standards and/or using a combination of State and Tribal standards. With the number of children in tribal child care programs expected to increase as more parents enter the workforce, the need for minimum standards that reflect the particular needs and situations of Tribes is vital.

The development of minimum Tribal child care standards will enhance the Tribes' ability to implement standards that address the varying needs and available resources of tribal communities and to assure that children are healthy and safe.

Dated: March 20, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–7618 Filed 3–25–97; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 97N–0097]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on a voluntary consumer survey about food safety.

DATES: Submit written comments on the collection of information by May 27, 1997.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Safety Survey—New Collection

Under section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 393(b)(2)), FDA is authorized to conduct research relating to foods and to conduct educational and public information programs relating to the safety of the nation's food supply. FDA is planning to conduct a consumer survey about food safety under this authority. The food safety survey will provide information about consumers' food safety awareness, knowledge, concerns, and practices. A nationally representative sample of 2,000 adults in households with telephones and cooking facilities will be selected at random and interviewed by telephone. Participation will be voluntary. Detailed information will be obtained about risk perception, perceived sources of food contamination, knowledge of particular microorganisms, safe care label use, food handling practices, consumption of raw foods from animals, information sources, and perceived foodborne illness experience. Most of the questions asked are identical to ones asked in a 1992–1993 survey so that changes over this time period can be assessed.

FDA estimates the burden of this collection of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
2,000	1	2,000	.5	1,000

There are no capital costs or operating and maintenance costs associated with this collection.

This will be a one-time survey. The burden estimate is based on FDA's experience with the 1992–1993 survey mentioned in the previous paragraph.

Dated: March 20, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–7604 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 97N–0007]

Land O'Lakes, Inc., et al.; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADA's) held by Land O' Lakes, Inc., and three NADA's held by ADM Animal Health & Nutrition Div. The sponsors requested voluntary withdrawal of approval of the NADA's. In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending the regulations by removing those portions which reflect approval of these NADA's.

EFFECTIVE DATE: April 4, 1997.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0159.

SUPPLEMENTARY INFORMATION: Land O'Lakes, Inc., Agricultural Services, 2827 Eighth Avenue South, Fort Dodge, IA 50501, has requested withdrawal of approval of NADA 42–489 tylosin Type A medicated articles and NADA 98–156 tylosin/sulfamethazine Type A medicated articles.

ADM Animal Health & Nutrition Div., P.O. Box 2508, Fort Wayne, IN 46801–2508, has requested withdrawal of approval of NADA 118–874 pyrantel tartrate Type A medicated articles (the NADA originally held by Henwood Feed Additives, Inc.), NADA 127–825 hygromycin B Type A medicated articles and NADA 127–826 tylosin/sulfamethazine Type A medicated articles (the NADA's originally held by Music City Supplement Co.).

The sponsors requested withdrawal of approval of the NADA's.

Therefore, under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with 21 CFR 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 42–489, 98–156, 118–874, 127–825, and 127–826 and all supplements and amendments thereto is hereby withdrawn, effective April 4, 1997.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is amending 21 CFR 510.600, 558.274, 558.485, 558.625, and 558.630 to reflect withdrawal of approval of these NADA's.

Dated: March 13, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–7540 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Transmissible Spongiform Encephalopathies Advisory Committee

Date, time, and place. April 23, 1997, 9 a.m., and April 24, 1997, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms III and IV, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, April 23, 1997, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 5 p.m.; closed committee deliberations, 5 p.m. to 6 p.m.; open committee discussion, April 24, 1997, 8 a.m. to 5 p.m.; William Freas or Jane S. Brown, Center for Biologics Evaluation and Research (HFM–21), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–594–6700, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Transmissible Spongiform Encephalopathies Advisory Committee, code 12388. Please call the hotline for information concerning any possible changes.

General function of the committee. The committee reviews and evaluates available scientific data concerning the safety of products which may be at risk for transmission of spongiform encephalopathies having an impact on the public health.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 18, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss and provide recommendations on the safety of both domestic and imported gelatin and gelatin byproducts with regard to the risk imposed by bovine spongiform encephalopathy.

Closed committee deliberations. On April 23, 1997, the committee will review trade secret and/or confidential commercial information relevant to current and pending products. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved

for the separate portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: March 18, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–7550 Filed 3–25–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. RF–4120–N–05]

Notice of Proposed Information Collection for Public Comments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, 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. The Department is soliciting public comments on the subject proposal.

DATES: Comments due May 27, 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: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

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: Standards, Viability, and Removal Plan for Conversion of Certain Public Housing to Tenant-Based Section 8 Vouchers and Certificates.

OMB Control Number: 2577–0210.

Description of the need for the information and proposed use: To implement Section 202 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, (Pub. L. 104–134, approved April 26, 1996), Public Housing Agencies (PHAs) will identify certain distressed public housing developments that will be required to be converted to that their households in occupancy can be given tenant-based assistance or relocated. PHAs will be required to submit a Viability Plan, tenant-based assistance plan and a plan to remove units from the public housing inventory to HUD. PHAs will conduct an annual review and certify that their Comprehensive Plan Annual Updates that they have reviewed updated information regarding the applicability of the standards on their developments. HUD will review and evaluate the information to ensure compliance with the statutory criteria (standards), that plans have been developed in consultation with the residents, timeframes met and Section 202 is implemented.

Member of affected public: State or Local Government (PHAs).

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 50 respondents, one-time response, nine hours average per response, 21,645 total reporting burden hours.

Status of the proposed information collection: Reinstatement.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 18, 1997.

Michael B. Janis,

General Deputy, Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–7569 Filed 3–25–97; 8:45 am]

BILLING CODE 4210–33–M

[Docket No. FR–4131–N–02]

Notice of Proposed Information Collection for Public Comments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, 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. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: May 27, 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: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, D.C. 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number.)

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: Public Housing Agencies Plan for Exception Request, Site-Based Waiting Lists.

OMB Control Number: 2577–0214.

Description of the need for the information and proposed use: Each Public Housing Agency (PHA) may request an exception to establish site-based waiting lists by submitting its plan and the rationale for it to the local HUD office. The plan must include all of the PHA's general occupancy developments and/or all of the PHA's mixed-population and elderly-designated developments. The request must also include: Accurate statistics for the Metropolitan Statistical Area (MSA) and the PHA's jurisdiction; each development's name, number, occupancy type and number of units, date site was developed, racial composition by bedroom size and waiting list composition. For the Section 8 program: the number of certificates and vouchers currently in use by race and bedroom size; and the length and composition of the waiting list by race and bedroom size. PHA's must provide current and proposed public housing tenant selection and assignment procedures along with any Consent Decrees, Voluntary Compliance Agreements, or other documentation related to current occupancy problems along with measures being taken to correct such problems. HUD needs the information to assure statutory and regulatory compliance and to approve the PHA's plan for exception to establish site-based waiting lists.

Agency Form Numbers, if applicable. None.

Members of affected public: PHAs.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An average 52 respondents submit the plan one-time, for a total burden of 3,744 hours.

Status of the proposed information collection: Extension.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: March 18, 1997.

Michael B. Janis,

General Deputy, Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–7510 Filed 3–25–97; 8:45 am]

BILLING CODE 4210–33–M

[Docket No. FR–4200–N–45]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: April 25, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 19, 1997.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Continuum of Care Homeless Assistance Application.

Office: Community Planning and Development.

OMB Approval Number: 2506–0112.

Description of the Need for the Information and its Proposed Use: The information collection is needed for HUD's competitive homeless assistance programs authorized by the Stewart B. McKinney Act, as amended. The application will be used to assist in the selection of proposals submitted to HUD (by State and local governments, public housing authorities, Indian tribes, and nonprofit organizations) for funds awarded under the Supportive Housing, Shelter Plus Care, and Section 8 Moderate Rehabilitation Single Room Occupancy for Homeless Individuals programs.

Form Number: HUD–40076 and SF–424.

Respondents: State, Local, or Tribal Government and Not-For-Profit Institutions.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Application Preparation	2,700		1		42		113,400

Total Estimated Burden Hours: 113,400.

Status: Reinstatement, with changes.

Contact: Rebecca Wiley, HUD, (202) 708–1226 x4479, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–7567 Filed 3–25–97; 8:45 am]

BILLING CODE 4210–01–M

[Docket No. FR–4200–N–23]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: April 25, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of

response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: March 19, 1997.

David S. Cristy,

Acting Director, Information Resources Management Policy and Management, Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Tenant Participation and Tenant Opportunities in Public Housing.

Office: Public and Indian Housing.

OMB Approval Number: 2577–0087.

Description of the Need for the Information and its Proposed Use: HUD announces funding for the Tenant Opportunities Program inviting eligible applicants to submit an application for a grant under this program. To appropriately determine which applicant should be awarded, certain information is necessary. This information is stated in the Notice of Funding Availability. The information will be used to award grants and monitor progress in the program.

Form Number: HUD–52370 and HUD–52371.

Respondents: State, Local, or Tribal Government and Not-For-Profit Institutions.

Frequency of Submission: On occasion, annually, and recordkeeping.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Information Collection	1,500		1		12.93		19,400
Recordkeeping	200		1		1		200

Total Estimated Burden Hours: 19,600.

Status: Reinstatement, with changes.

Contact: Dorothy Walker, HUD, (202) 708–3611 x4244, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–7568 Filed 3–25–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Earth Observing System (EOS) Land Processes Distributed Active Archive Center (DAAC) Science Advisory Panel; Notice of Renewal

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), 5 U.S.C. App. (1988). Following consultation with the General Service Administration, notice is hereby given that the Secretary of the Interior is renewing the EOS Land Processes DAAC Science Advisory Panel.

The purpose of the Panel is to advise the U.S. Geological Survey, Earth Resources Observation Systems (EROS) Data Center in the definition, development, implementation, and operation of data processing, archiving, and distribution systems and associated science support capabilities required in its role as one of eight primary DAACs established by the National Aeronautics and Space Administration (NASA) as part of the EOS Program, EOS is a major component of the U.S. Global Change Program.

The Panel is responsible for providing advice and consultation on a broad range of scientific and technical topics and for representing the interests and requirements of the scientific research community in guiding development of Land Processes DAAC systems and capabilities. Membership on the Panel includes representation by scientists formally affiliated with the EOS Program and by scientists who do not have such formal affiliation, including representation from the U.S. academic research community.

The Panel functions solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. The Charter will be filed under the Act, fifteen days from the fate of publication of this notice. Further information regarding the Land Processes DAAC Science Advisory Panel may be obtained from the Director, U.S. Geological Survey, Department of the Interior, 12201 Sunrise Valley Drive, Reston, Virginia 20192. Certification of renewal is published below.

Certification

I hereby certify that the renewal of the EOS Land Processes DAAC Science Advisory Panel is necessary and in the public interest in connection with the performance of duties undertaken by the Department of the Interior pursuant to the Memorandum of Understanding between the U.S. Geological Survey and the National Aeronautics and Space Administration (NASA) for Experimental Land Remotely Sensed Data Processing, Distribution, Archiving, and Related Science Support. The U.S. Geological Survey is authorized to cooperate with NASA in developing and operating the Land Processes DAAC pursuant to the Organic Act of the U.S. Geological Survey of March 3, 1879, (43 U.S.C. 31), Section 101(h) of Public Law 99–591 (An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 10, 1987, and for other purposes), 100 Stat. 3341, 3341–252; and NASA's Section 203(c)(5) of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2473(c)(5)).

Dated: January 15, 1997.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 97–7562 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–31–M

Fish and Wildlife Service

Notice of Receipt of Application(s) for Permit

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

The following applicants have each requested a permit to import a sport-hunted polar bear (*Ursus maritimus*) from the Northwest Territories, Canada for personal use.

Applicant/address	Population	PRT–
Robert Kuykendall, Austin, TX	Baffin Bay	826733
Dan Fox, Chino, CA	McClintock Channel	826734
James Bush, Jr., Baltimore, MD	Viscount Melville	826735
David G. Fox, Strousburg, PA	do	826736
Jerry Imperial, Mesa, AR	do	826776
Carl Strawberry, Annapolis, MD	N. Beaufort	826737
Charles Whitlow, Nunica, MI	do	826738
Larry K. Bennett, Stewartstown, PA	do	826739
Jerrie Eaton, Elma, WA	do	826740
Perry Segura, New Iberia, LA	do	826741
Richard Haskins, Hillsborough, CA	do	826742
Jerome Bofferding, Maple Grove, MN	do	826743
Dom DiPlacido, Prospect Park, PA	do	826744
Robert Van Horn, Glidden, IA	do	826745
Lee Lipscomb, Los Angeles, CA	do	826746
Craig Leerberg, Colorado Springs, CO	do	826747
Peter La Haye, Medina, WA	do	826748
John P. Hoyer, Brillion, WI	do	826773
Horst Baier, Miami, FL	S. Beaufort	826749
Donald Horne, Odem, TX	do	826750
Torry Lofgreen, Tempe, AZ	do	826751
Anthony Kozyrski, Kings Park, NY	do	826752
Joseph A. Smith, Soldotna, AK	do	826753
Duane Fujiye, Tahuya, WA	do	826754
Jack Leuenberger, Saginaw, MI	do	826755
Bruce A. Moe, Bellevue, WA	do	826756
Lee Adam, Hamburg, PA	Gulf of Boothia	826757

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

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 within 30 days of the date of publication of this notice at the above address.

Dated: March 20, 1997.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–7563 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–55–P

Marine Mammal Annual Report Availability, Calendar Year 1994

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of calendar year 1994 marine mammal annual report.

SUMMARY: The U.S. Fish and Wildlife Service and the Biological Resources Division of the U.S. Geological Survey (formerly the National Biological Service) have issued their 1994 annual report on the marine mammals under the jurisdiction of the U.S. Department of the Interior, as required by section 103(f) of the Marine Mammal Protection Act of 1972. The report covers the period January 1 to December 31, 1994, and was submitted to Congress on February 10, 1997. By this notice, the public is informed that the 1994 report is available and that individuals may obtain a copy by written request to the Service.

ADDRESSES: Written requests for copies should be addressed to: Publications Unit, U.S. Fish and Wildlife Service, Mail Stop 130–WEBB, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance, Telephone (703) 358–1718.

SUPPLEMENTARY INFORMATION: The U.S. Department of the Interior is responsible for eight species of marine mammals, as assigned by the Marine Mammal Protection Act of 1972. These species are polar bear, sea and marine otters, walrus, three species of manatees and dugong. Administrative actions discussed include appropriations, marine mammals in Alaska, endangered and threatened marine mammal species, law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies and international activities.

Dated: March 20, 1997.

John G. Rogers,

Acting Director.

[FR Doc. 97–7605 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[OR–958–0777–63; GP6–242; OR–19599 (WA)]

Public Land Order No. 7250; Revocation of Executive Order Dated December 15, 1913; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes in its entirety an Executive order which withdrew 80 acres of public land for the Bureau of Land Management's Powersite Reserve No. 409. The land is no longer needed for the purpose for which it was withdrawn. All of the land has been conveyed out of Federal

ownership with a reservation of all minerals to the United States.

EFFECTIVE DATE: March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208–2965, 503–952–6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated December 15, 1913, which established Powersite Reserve No. 409, is hereby revoked in its entirety:

Willamette Meridian

T. 6 N., R. 4 E.,
Sec. 21, E½NE¼.

The area described contains 80 acres in Clark County.

2. The lands have been conveyed out of Federal ownership and will not be opened to the operation of the public land laws.

Dated: March 12, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–7565 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–33–P

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Arizona State Museum which meet the definition of ''object of cultural patrimony'' under Section 2 of the Act.

The cultural items consist of two *Kehtahn Yelte*, or Twin Fetishes. The fetishes are made of two stones wrapped with yarn.

Prior to 1942, one *Kehtahn Yelte* was collected by Mary Cabot Wheelwright and donated to the Arizona State Museum in December, 1942. Also prior to 1942, the second *Kehtahn Yelte* was collected by Mrs. Margaret Scheville and donated to the Arizona State Museum in April, 1942. The only other accession information is that the cultural items are Navajo.

These *Kehtahn Yelte* are used in several Navajo ceremonies, including *Tl'ee'ji* (Night Way), *Dzilk'ji* (Mountain Top Way), and *Hozhoo ji* (Blessing Way). Consultation evidence provided by representatives of the Navajo Nation indicates the *Kehtahn Yelte* should never be taken outside the four mountains of the Dinetah, nor can they be ''owned'' by any individual who is not a chanter.

Based on the above-mentioned information, officials of the Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(D), these two cultural items have ongoing historical, traditional, and cultural importance central to the culture itself, and could not have been alienated, appropriated, or conveyed by any individual. Further, officials of the Arizona State Museum have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these items and the Navajo Nation.

This notice has been sent to officials of the Navajo Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Dr. Nancy Odegaard, Conservator and Acting Curatory of Collections, Arizona State Museum, University of Arizona, Tucson, AZ 85721; telephone (520) 621–6314 before April 25, 1997. Repatriation of these objects to the Navajo Nation may begin after that date if no additional claimants come forward.

Dated: March 11, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7599 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains From the Vicinity of Juneau, AK, in the Possession of the Alaska State Museum, Juneau, AK

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains from the vicinity of Juneau, AK, in the possession of the Alaska State Museum, Juneau, AK.

A detailed assessment of the human remains was made by Alaska State Museum professional staff in consultation with representatives of the Auk Kwaan Tlingit Clan and the Central Council of Tlingit and Haida Tribes of Alaska.

In 1949, human remains representing one individual were donated to the Alaska State Museum by John Harris. Accession information indicates this individual came from Shaman Island, northwest of Douglas Island and identified by John Harris as possibly the skull of Teetklen. No associated funerary objects are present.

In 1957, human remains representing one individual was removed from Mendenhall Valley and presented to the Alaska State Museum by the U.S. Forest Service. No known individual was identified. No associated funerary objects are present. Officials of the U.S. Forest Service have reviewed the inventory information, and support and concur with the findings of the Alaska State Museum.

At an unknown date, human remains representing one individual were donated to the Alaska State Museum after being recovered from federal or private lands in the area of Norway Point. No known individual was identified. No associated funerary objects are present.

Although the actual circumstances of the recovery of these individuals is unknown, it is likely that one individual was recovered on Shaman Island, a known burial area for the Auk Kwaan Tlingit, the second individual was possibly recovered during highway construction on U.S. Forest Service or private lands in the Mendenhall Valley, and the third individual may have been recovered during construction on public or private lands in the area of Norway Point. Morphological evidence indicates these individuals are Native American based on anatomical structure. Consultation evidence presented by representatives of the Auk Kwaan Tlingit Clan and the Central Council of Tlingit and Haida Tribes of Alaska indicates that Tlingit peoples have inhabited southeastern Alaska for thousands of years.

Based on the above mentioned information, officials of the Alaska State Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Lastly, officials of the Alaska State Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Central Council of Tlingit and Haida Tribes of Alaska.

This notice has been sent to officials of the Auk Kwaan Tlingit Clan and the

Central Council of Tlingit and Haida Tribes of Alaska. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Bruce Kato, Chief Curator, Alaska State Museum, 396 Whittier Street, Juneau, AK 99801; telephone: (907) 465–2901, before April 25, 1997. Repatriation of the human remains to the Central Council of Tlingit and Haida Tribes of Alaska may begin after that date if no additional claimants come forward.

Dated: March 17, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7601 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Intent to Repatriate Cultural Items From South Dakota in the Possession of the Heard Museum, Phoenix, AZ

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given under the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3005 (a)(2), of the intent to repatriate cultural items in the possession of the Heard Museum, Phoenix, AZ, which meet the definition of ''sacred objects'' under Section 2 of the Act.

The cultural items are two carved pipestone pipes. The first pipe has a wooden stem carved with a bird and wrapped with quillwork. The second pipe has a pipestone stem carved in geometric designs and joined to the pipestone bowl with a wooden dowel.

Prior to 1954, these pipes were purchased by the Heard Museum from an unknown source. Accession information identifies the pipes as Rosebud Sioux from South Dakota.

Consultation evidence presented by representatives of the Cheyenne River Sioux Tribe on behalf of the Rosebud Sioux Tribe indicates these items are ''Pipes of the Leader'' and are used in a number of ceremonies including the Sweat Lodge, Sun Dance, Throwing of the Balls, Keeping of the Soul, Vision Quest, Woman's Ceremony, and Healing Ceremony. Consultation evidence further indicates these two cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.

Based on the above-mentioned information, officials of the Heard Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(C), these two cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Heard Museum have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these items and the Rosebud Sioux Tribe.

This notice has been sent to officials of the Cheyenne River Sioux Tribe, Devil's Lake Sioux Tribe, Oglala Sioux Tribe, Rosebud Sioux Tribe, Santee Sioux Tribe of Nebraska, and Standing Rock Sioux Tribe. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these objects should contact Martin Sullivan, Director, Heard Museum, 22 E. Monte Vista Rd., Phoenix, AZ 85004–1480; telephone (602) 252–8840 before April 25, 1997. Repatriation of these objects to the Cheyenne River Sioux Tribe on behalf of the Rosebud Sioux Tribe may begin after that date if no additional claimants come forward.

Dated: March 11, 1997.

Francis P.McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7600 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains From Itasca County, MN, in the Possession of the Minnesota Historical Society, St. Paul, MN

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains from Itasca County, MN in the possession of the Minnesota Historical Society, St. Paul, MN.

A detailed assessment of the human remains was made by Minnesota Historical Society professional staff and Hamline University osteologist in consultation with representatives of Assiniboine & Sioux Tribes of the Fort Peck Reservation, Bad River Band of Lake Superior Indians, Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bois Forte Band of Chippewa Indians, Chippewa-Cree Indians of the Rocky Boy's Reservation, Fond du Lac Band of Chippewa Indians, Fort Belknap Indian Community, Grand Portage Band of Chippewa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians, Lac Courte Orielles Band of Lake Superior Chippewa Indians, Lac Du Flambeau Band of Lake Superior Chippewa Indians, Lac Vieux Desert Band of Lake Superior Chippewa Indians, Leech Lake Band of Chippewa Indians, Mille Lacs Band of Chippewa Indians, Minnesota Chippewa Tribe, Red Cliff Band of Lake Superior Chippewa Indians, Red Lake Band of Chippewa Indians, Saginaw Chippewa Tribe, Sault Ste. Marie Tribe of Chippewa Indians, Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, Turtle Mountain Band of Chippewa Indians, and White Earth Band of Chippewa Indians.

In 1977, human remains representing one individual were recovered during legally authorized excavations following bulldozer damage at Inger Mound, Itasca County, MN during a highway survey. No known individuals were identified. No associated funerary objects are present.

Inger Mound (Site 21 IC 16) has been identified as a Black Duck site occupied between 800—1400 AD based on pottery fragments at the site. Anthropological sources and historic documentation indicate the Black Duck culture is a likely antecedent for the Assiniboine, Cree, and Ojibwe cultures based on continuity of pottery styles, manner of internments, continuity of tool styles, geographic location, and continual heavy dietary utilization of wild rice and fishing.

Based on the above mentioned information, officials of the Minnesota Historical Society have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Minnesota Historical Society have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Assiniboine & Sioux Tribes of the Fort Peck Reservation, Bad River Band of Lake Superior Indians, Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bois Forte Band of Chippewa Indians, Chippewa-Cree Indians of the Rocky Boy's Reservation, Fond du Lac Band of Chippewa Indians, Fort Belknap Indian Community, Grand Portage Band of Chippewa Indians, Grand Traverse Band of Ottawa and

Chippewa Indians, Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians, Lac Courte Orielles Band of Lake Superior Chippewa Indians, Lac Du Flambeau Band of Lake Superior Chippewa Indians, Lac Vieux Desert Band of Lake Superior Chippewa Indians, Leech Lake Band of Chippewa Indians, Mille Lacs Band of Chippewa Indians, Minnesota Chippewa Tribe, Red Cliff Band of Lake Superior Chippewa Indians, Red Lake Band of Chippewa Indians, Saginaw Chippewa Tribe, Sault Ste. Marie Tribe of Chippewa Indians, Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, Turtle Mountain Band of Chippewa Indians, and White Earth Band of Chippewa Indians.

This notice has been sent to officials of the Assiniboine & Sioux Tribes of the Fort Peck Reservation, Bad River Band of Lake Superior Indians, Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bois Forte Band of Chippewa Indians, Chippewa-Cree Indians of the Rocky Boy's Reservation, Fond du Lac Band of Chippewa Indians, Fort Belknap Indian Community, Grand Portage Band of Chippewa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians, Lac Courte Orielles Band of Lake Superior Chippewa Indians, Lac Du Flambeau Band of Lake Superior Chippewa Indians, Lac Vieux Desert Band of Lake Superior Chippewa Indians, Leech Lake Band of Chippewa Indians, Mille Lacs Band of Chippewa Indians, Minnesota Chippewa Tribe, Red Cliff Band of Lake Superior Chippewa Indians, Red Lake Band of Chippewa Indians, Saginaw Chippewa Tribe, Sault Ste. Marie Tribe of Chippewa Indians, Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, St. Croix Chippewa Indians of Wisconsin, Turtle Mountain Band of Chippewa Indians, and White Earth Band of Chippewa Indians. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Marcia G. Anderson, Head of Museum Collections/Chief Curator, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102–1906; telephone: (612) 296–0150, before April 25, 1997. Repatriation of the human remains to the Leech Lake Band of Chippewa Indians may begin after that date if no additional claimants come forward.

Dated: March 11, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7598 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–70–F

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From the Pine Creek, IA, in the Possession of the Putnam Museum of History and Natural Science, Davenport, IA

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects in the possession of the Putnam Museum of History and Natural Science, Davenport, IA.

A detailed assessment of the human remains was made by Putnam Museum of History and Natural Science professional staff in consultation with representatives of the Sac and Fox Tribe of the Mississippi in Iowa and the Iowa Tribe of Oklahoma**.**

Around 1914, human remains representing one individual were probably recovered during extensive excavations of Pine Creek Mounds, Muscatine County, IA, by Dr. T. Michelson and members of the then Davenport Academy of Natural Science (now the Putnam Museum). No known individuals were identified. The 135 associated funerary objects include one silver gorget fragment, one silver bracelet fragment marked ''Montreal'', nine silver earbobs, one unidentified iron object bound with twisted fibers, one silver cross fragment, one knife blade or utensil fragment, two pieces of red ochre, 115 glass beads, two gunflints, one wood fragment, and one projectile point.

Morphological evidence indicates this individual is Native American based on tooth formation. Associated funerary objects are consistent with Native burials of the early fur trade era in Eastern Iowa. The associated funerary objects dated the burial to 1760–1825 AD, based on the presence of European trade goods, especially the marked silver bracelet and a polychrome oval bead. Since the late nineteenth century, the Pine Creek Mounds (site 13MC44) have been excavated by representatives of the now Putnam Museum of History and Natural Science. The most recent excavations occurred in 1914, conducted by Dr. T. Michelson of the Bureau of American Ethnology with members of the Davenport Academy of Natural Science. Field notes from the 1914 excavations indicate that some of the mounds appeared to have intrusive burials from the historic period. Due to the primary interest of Dr. Michelson in the precontact burials of this site, this burial was not specifically recorded, however, this individual and associated funerary objects have been curated together in the Pine Creek collections of the Putnam Museum since 1914. Historical documents and ethnographic evidence indicates there were numerous traditional sites, hunting camps, and village settlements of both the Ioway and the Sac and Fox in the Pine Creek area from 1750 to the early 19th century.

Based on the above mentioned information, officials of the Putnam Museum of History and Natural Science have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Putnam Museum of History and Natural Science have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 135 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Putnam Museum of History and Natural Science have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Sac and Fox of the Mississippi in Iowa, the Sac and Fox Nation of Missouri, the Sac and Fox Nation of Oklahoma, and the Iowa Tribe of Oklahoma.

This notice has been sent to officials of the Sac and Fox of the Mississippi in Iowa, the Sac and Fox Nation of Missouri, the Sac and Fox Nation of Oklahoma, and the Iowa Tribe of Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Chris Lyons, NAGPRA Representative, Putnam Museum of History and Natural Science, 1717 W. 12th St., Davenport, IA 52804; telephone: (319) 324–1934 before April 25, 1997. Repatriation of the human remains and associated funerary objects to the Iowa Tribe of Oklahoma may

begin after that date if no additional claimants come forward.

Dated: March 17, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–7602 Filed 3–25–97; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–767 (Preliminary)]

Ultra High Temperature Milk From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–767 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of ultra high temperature milk, provided for in subheadings 0401.20.20 and 0401.20.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by May 1, 1997. The Commission's views are due at the Department of Commerce within five business days thereafter, or by May 8, 1997.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207), as amended in 61 FR 37818 (July 22, 1996).

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202–205–3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background—This investigation is being instituted in response to a petition filed on March 17, 1997, by Industria Lechera de Puerto Rico, Inc., San Juan, Puerto Rico.

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

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

Conference—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on April 7, 1997, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Brad Hudgens (202–205–3189) not later than April 3, 1997, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before April 10, 1997, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

Issued: March 21, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–7653 Filed 3–25–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Bureau of Investigation, Criminal Justice Information Services, DOJ.

ACTION: Notice of information collection under review; Hate crime incident report.

The proposed information collection is published to obtain comments from the public and affected agencies.

Comments are encouraged and will be accepted until May 27, 1997.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to SSA Paul J. Gans, (phone number and address listed below). If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact SSA Paul J. Gans, (304) 625–4830, Federal Bureau of Investigation, Criminal Justice Information Services, Statistical Unit, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306.

Overview of this information collection:

(1) Type of information collection: Extension of a currently approved collection.

(2) The title of the form/collection: Hate Crime Incident Report and Quarterly Hate Crime Report.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: 11–1 & 11–2. Federal Bureau of Investigation, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: State and Local Government. This collection will gather information necessary to collect bias motivation of selected criminal offenses. Resulting statistics are published annually.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 40,000 respondents with an average 6.6 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 6,000 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: March 20, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–7580 Filed 3–25–97; 8:45 am]

BILLING CODE 4410–02–M

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Justice Management Division, DOJ.

ACTION: Notice of information collection under emergency review; U.S. Department of Justice and U.S. Department of Health and Human Services Application for Funds under the Health Care Fraud and Abuse Control Program.

The Department of Justice (DOJ), Justice Management Division has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the paperwork Reduction Act of 1995. This notice serves the following two purposes:

A. Notification of the public on the requirement necessary to apply for Federal funding under the Health Care Fraud and Abuse Control Program.

B. Compliance with the requirements of the Paperwork Reduction Act of 1995.

A. Notification to the Public on the Requirements Necessary To Apply for Federal Funding Under the Health Care Fraud and Abuse Control Program

All proposals must be received on or before April 25, 1997. All proposals must be submitted to the Office of Inspector General, Attention: John E. Hartwig, Deputy Inspector General for Investigations, U.S. Department of Health and Human Services, Room 5250 Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

Background

The Health Insurance Portability and Accountability Act of 1996 added Section 1128C to the Social Security Act, which directs the Attorney General and the Secretary of HHS, acting through the HHS Inspector General, to establish a National Health Care Fraud and Abuse Control Program to achieve the goals of: (1) Coordinating Federal, State and local law enforcement program to control fraud and abuse with respect to health plans; (2) conducting investigations, audits, evaluations and inspections relating to the delivery of and payment for health care in the United States; (3) facilitating enforcement of civil, criminal and administrative statues applicable to health care fraud and abuse; (4) providing industry guidance relating to fraudulent health care practices; and (5) establishing a national data bank to receive and report final adverse actions against health care providers. In accordance with the statute, the Attorney General and the Secretary developed Guidelines for Implementation of the Health Care Fraud and Abuse Control Program.

To fund the coordinating anti-fraud effort, the statute directs that an amount equalling recoveries derived from health care cases—including civil monetary penalties, fines, forfeitures, and damages assessed in criminal, civil or administrative health care cases, but excluding restitution due to the victim, funds awarded to a relator, or as otherwise authorized by law—be transferred to the Federal Hospital Insurance Trust Fund. Monies are appropriated from the Trust Fund to a newly created expenditure account, called the Health Care Fraud and Abuse Control Account in amounts that the Secretary and Attorney General annually certify are necessary to finance the administration and operation of the Fraud and Abuse Control Program.

The purpose of this Notice is to solicit proposals from those Federal, State and local agencies that are currently involved in health care fraud and abuse control (other than the Departments of Justice and Health and Human Services) for projects or activities that promote the objectives of the Fraud and Abuse Control Program to be supported with these funds. This action is authorized under 42 U.S.C. 1320 a–7 and 42 U.S.C. 1395 b–1.

Availability of Funds

Approximately $3.5 million will be available in Fiscal Year 1997 to support approved proposals. Funds may be used to cover costs (including equipment,

salaries and benefits, travel and training) that directly further the Health Care Fraud and Abuse Control Program, including the costs of investigating and prosecuting health care matters (through civil, criminal and administrative proceedings), conducting audits, and inspections and evaluations relating to health care, and provider and consumer education.

If a proposal is selected for funding, the Departments of Justice and HHS have no obligation to provide any additional future funding beyond the first budget period. Because the overall amount of available funds may fluctuate widely from year to year, there is no presumption of continued funding in succeeding years. Invitations to submit proposals for this money will be announced in the **Federal Register** each year that such funds are available, and all interested recipients must reapply.

Funds may be allocated only to (1) supplement, and not supplant, current levels of effort of fraud and abuse control related activities, or (2) undertake a new fraud or abuse control related activity. Funds may not be used to replace existing funding for a fraud and abuse function. Additionally, funds may not be included as cost sharing or matching contributions for any federally-assisted project or program.

Proposal Submission Process and Contents

Proposals will be accepted from Federal, State and local government entities engaged in health care fraud and abuse control in the United States. *All proposals must be received on or before April 25, 1997.* All proposals must be submitted to the Office of Inspector General, Attention: John E. Hartwig, Deputy Inspector General for Investigations, U.S. Department of Health and Human Services, Room 5250 Cohen Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

Proposals must be submitted by the head of the entity, or the head of the law enforcement unit within the entity. For example, applications will be accepted from officials such as the Secretary or Inspector General of a Federal agency, and the Governor, Auditor General or Attorney General of a State.

Submissions must include sufficient information to determine that the proposed activity meets the requirements described in this Notice, as supplemented by the Health Insurance Portability and Accountability Act of 1996 and implementing Guidelines.

Proposals must address the following:

1. A description of the activities proposed for funding, including a timeline for implementation of the proposed activities. The narrative must describe in detail how the proposed activity is consistent with and will promote the Fraud and Abuse Control Program, such as how the program will prevent or reduce health care fraud and abuse in the country, or will assist in recovering health care funds that have been improperly expended due to fraud and abuse.

2. A comprehensive spending plan that links costs to projected tasks and time frames.

3. A description of the entity's history and experience in conducting activities relating to the prevention, detection, investigation and prosecution (civil, criminal and administrative) of health care fraud and abuse.

4. A description of how the entity intends to coordinate its funded activities with HHS and the Department of Justice.

5. A description of the evaluation procedures to be used by the entity for monitoring progress of the proposed activities, and assessing their effectiveness in combating health care fraud and abuse.

6. A description of any innovative techniques to be utilized in addressing fraud and abuse in health care.

7. A statement that requested funds will supplement and not supplant existing funding for controlling health care fraud and abuse.

8. A statement as to the entity's legal authority to receive funds under this announcement and expend them on the requested activities.

Review Process and Criteria

All proposals submitted by the closing date and meeting the requirements of this Notice will be reviewed and evaluated by a panel of representatives from the Department of Justice and HHS. The panel will acknowledge receipt of all timely proposals. After review, the panel will make recommendations for funding to the Secretary and the Attorney General. All final funding decisions are at the discretion of the Attorney General and the Secretary who will jointly certify the award of funds in accordance with the Act. Awards are contingent on the availability of funds. Proposals will generally either be approved or disapproved at the requested funding level, Applicants may submit more than one proposal. Each proposal will be evaluated primarily on the basis of how well it will relate to and promote the overall Health Care Fraud and Abuse Program, and the above listed criteria. Other factors will include: the soundness of the objectives of the proposed project; the reasonableness of cost in relation to the anticipated results, the entity's experience in the area of prevention and detection of health care fraud and abuse, the entity's institutional ability to achieve the stated goals, the entity's willingness to coordinate its activities closely with the Departments of Justice and HHS, the entity's ability to measure and report on the progress and achievement of the activities, the availability and adequacy of resources to conduct the proposed activities, and its relationship to other projects already completed or in progress.

Funding Instrument

The Attorney General and the Secretary of HHS expect to award funds via interagency transfer to any Federal entities whose proposals are approved for funding. With respect to other applicants, funds will be awarded via grant, cooperative agreement, or other authorized funding mechanism. The Secretary of HHS and the Attorney General reserve the right to use the form of funding agreement determined to be most appropriate.

Successful applicants will be required to report no less often than annually to the Departments of Justice and HHS evaluating the progress of the funded activities, and assessing their effectiveness in combating health care fraud and abuse. The HHS-OIG may also independently conduct a review of any activity funded hereunder.

Note: If you are applying for funding under the Health Care Fraud and Abuse Control Program complete only ''Section A'' above.

B. Compliance With the Requirements of the Paperwork Reduction Act of 1995

The proposed information collection is published to obtain comments from the public and affected agencies. Emergency review and approval of this collection has been requested from OMB by March 19, 1997. If granted, this emergency approval is only valid for 180 days. Comments should be directed to OMB, Ms. Victoria Wassmer, 202–395–5871, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, D.C. 20503.

Public comments are encouraged and will be accepted until 60 days from the date published in the **Federal Register**. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the

proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* U.S. Department of Justice and U.S. Department of Health and Human Services Health Care Fraud and Abuse Control Program.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form: None. Justice Management Division, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Federal, State and local governments. See item ''A'' above.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 75 responses at 40 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,000 annual burden hours.

If you have additional comments, suggestions, or need additional information, please contact the Office of Inspector General, Attention: John E. Hartwig, Deputy Inspector General for Investigations, U.S. Department of Health and Human Services, Room 5250 Cohen Building, 330 Independence Avenue, S.W., Washington, D.C. 20201.

If additional information is required, contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division Suite 850, Washington Center, 1001 G Street NW, Washington, D.C. 20530.

Dated: March 20, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–7581 Filed 3–25–97; 8:45 am]

BILLING CODE 4410–20–M

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed Consent Decree in *United States* v. *AAR Manufacturing Group, Inc.,* Civil Action No. 1:96 CV–58 (W.D. Mich.), entered into by the United States and AAR Manufacturing Group, Inc. (''AAR''), was lodged on February 27, 1997, with the United States District Court for the Western District of Michigan. The proposed Consent Decree resolves certain claims of the United States under the Clean Air Act, 42 U.S.C. 7401, *et seq.,* with respect to AAR's Cadillac Manufacturing Facility, in Cadillac, Michigan. The Complaint alleges that AAR violated two of the conditions of its State issued permit by exceeding its emissions limits and duration of operation of its air cargo handling manufacturing equipment. Under the terms of the proposed Consent Decree the defendant shall pay the United States a total of $210,000, and perform a Supplemental Environmental Project as specified in the Consent Decree, in return for the United States' covenant not to sue for claims alleged in the Complaint for violations of the Michigan State Implementation Plan. The SEP consists of the installation and operation of a greater capacity than required Regenerative Thermal Oxidizer to control the emissions of violatile organic compounds, resulting in substantial pollution reductions at the Cadillac Facility.

The Department of Justice will receive comments relating to the proposed Partial Consent Decrees for 30 days following publication of this Notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044–7611, and should refer to *United States* v. *AAR Manufacturing Group, Inc.*, D.J. Ref. No. 90–5–2–1–1954. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Western District of Michigan, Grand Rapids, Michigan; the Region V Office of the United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, telephone no. (202) 624–0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check (25 cents per page for reproduction costs) in the amount of $9.25 for the Decree, payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–7566 Filed 3–25–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment Standards Administration Wage and Hour Division, Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3006, Washington, D.C., 20210.

Modification to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA970001 (Feb. 14, 1997)
MA970002 (Feb. 14, 1997)
MA970003 (Feb. 14, 1997)
New Jersey
NJ970002 (Feb. 14, 1997)
NJ970003 (Feb. 14, 1997)
NJ970004 (Feb. 14, 1997)
New York
NY970002 (Feb. 14, 1997)
NY970003 (Feb. 14, 1997)
NY970006 (Feb. 14, 1997)
NY970007 (Feb. 14, 1997)
NY970008 (Feb. 14, 1997)
NY9700010 (Feb. 14, 1997)
NY9700011 (Feb. 14, 1997)
NY9700013 (Feb. 14, 1997)
NY9700016 (Feb. 14, 1997)
NY9700018 (Feb. 14, 1997)
NY9700021 (Feb. 14, 1997)
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NY9700031 (Feb. 14, 1997)
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NY9700034 (Feb. 14, 1997)
NY9700037 (Feb. 14, 1997)
NY9700038 (Feb. 14, 1997)
NY9700039 (Feb. 14, 1997)
NY9700040 (Feb. 14, 1997)
NY9700042 (Feb. 14, 1997)
NY9700044 (Feb. 14, 1997)
NY9700046 (Feb. 14, 1997)
NY9700047 (Feb. 14, 1997)
NY9700049 (Feb. 14, 1997)
NY9700050 (Feb. 14, 1997)
NY9700060 (Feb. 14, 1997)
NY9700074 (Feb. 14, 1997)
NY9700076 (Feb. 14, 1997)

Volume II

None

Volume III

Alabama
AL970033 (Feb. 14, 1997)
AL970034 (Feb. 14, 1997)
Florida
FL970010 (Feb. 14, 1997)
FL970015 (Feb. 14, 1997)

Volume IV

Illinois
IL970001 (Feb. 14, 1997)
IL970002 (Feb. 14, 1997)
IL970006 (Feb. 14, 1997)
IL970007 (Feb. 14, 1997)
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IL970013 (Feb. 14, 1997)
IL970014 (Feb. 14, 1997)
Indiana
IN970001 (Feb. 14, 1997)
IN970002 (Feb. 14, 1997)
IN970003 (Feb. 14, 1997)
IN970004 (Feb. 14, 1997)
IN970005 (Feb. 14, 1997)
IN970006 (Feb. 14, 1997)
IN970016 (Feb. 14, 1997)
IN970017 (Feb. 14, 1997)
IN970020 (Feb. 14, 1997)
IN970021 (Feb. 14, 1997)
IN970059 (Feb. 14, 1997)
IN970060 (Feb. 14, 1997)
MA970061 (Feb. 14, 1997)
Michigan
MI970001 (Feb. 14, 1997)
MI970002 (Feb. 14, 1997)
MI970030 (Feb. 14, 1997)
MI970041 (Feb. 14, 1997)
MI970049 (Feb. 14, 1997)
MI970051 (Feb. 14, 1997)
MI970057 (Feb. 14, 1997)
MI970060 (Feb. 14, 1997)
MI970064 (Feb. 14, 1997)

Volume V

Iowa
IA970031 (Feb. 14, 1997)
IA970037 (Feb. 14, 1997)
Nebraska
NE970001 (Feb. 14, 1997)
NE970019 (Feb. 14, 1997)

Volume VI

North Dakota
ND970003 (Feb. 14, 1997)
ND970004 (Feb. 14, 1997)

Volume VII

None

General Wage Determination Publication

General Wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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Signed at Washington, D.C. this 21st day of March 1997.

Terry Sullivan,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–7660 Filed 3–25–97; 8:45 am]

BILLING CODE 4510–27–M

Wage and Hour Division

[Administrative Order No. 663]

Special Industry Committee for All Industries in American Samoa; Appointment; Convention; Hearing

1. Pursuant to sections 5 and 6(a)(3) of the Fair Labor Standards Act (FLSA) of 1938, as amended (29 U.S.C. 205, 206(a)(3)), Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004) and 29 CFR Part 511, I hereby appoint special Industry Committee No. 22 for American Samoa.

2. Pursuant to sections 5, 6(a)(3) and 8 of the FLSA, as amended (29 U.S.C. 205, 206(a)(3), and 208), reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and 29 CFR part 511, I hereby:

(a) Convene the above-appointed industry committee;

(b) Refer to the industry committee the question of the minimum rate or rates for all industries in American Samoa to be paid under section 6(a)(3) of FLSA, as amended; and,

(c) Give notice of the hearing to be held by the committee at the time and place indicated.

The industry committee shall investigate conditions in such industries, and the committee, or any authorized subcommittee thereof, shall hear such witnesses and receive such evidence as may be necessary or appropriate to enable the committee to perform its duties and functions under the FLSA.

The committee shall meet in executive session to commence its investigation at 9:00 a.m. and begin its public hearing at 11:00 a.m. on June 23, 1997, in Pago Pago, American Samoa.

3. The rate or rates recommended by the committee shall not exceed the rate prescribed by section 6(a) or 6(b) of the FLSA, as amended by the Fair Labor Standards Amendments of 1996, of $4.75 an hour effective October 1, 1996.

The committee shall recommend to the Administrator of the Wage and Hour Division of the Department of Labor the highest minimum rate or rates of wages for such industries that it determines, having due regard to economic and competitive conditions, will not substantially curtail employment in such industries, and will not give any industry in American Samoa a competitive advantage over any industry in the United States outside of American Samoa.

4. Where the committee finds that a higher minimum wage may be determined for employees engaged in certain activities or in the manufacture of certain products in the industry than may be determined for other employees in the industry, the committee shall recommend such reasonable classifications within the industry as it determines to be necessary for the purpose of fixing for each classification the highest minimum wage rate that can be determined for it under the principles set forth herein and in 29 CFR Part 511.10, that will not substantially curtail employment in such classification and will not give a competitive advantage to any group in the industry. No classification shall be made, however, and no minimum wage rate shall be fixed solely on a regional basis or on the basis of age or sex. In determining whether there should be classifications within an industry, in making such classifications, and in determining the minimum wage rates for such classifications, the committee shall consider, among other relevant factors, the following:

(a) Competitive conditions as affected by transportation, living, and production costs;

(b) Wages established for work of like or comparable character by collective labor agreements negotiated between employers and employees by representatives of their own choosing; and,

(c) Wages paid for work of like or comparable character by employers who voluntarily maintain minimum wage standards in the industry.

5. Prior to the hearing, the Administrator of the Wage and Hour Division, U.S. Department of Labor, shall prepare an economic report containing the information that has been assembled pertinent to the matters referred to the committee. Copies of this report may be obtained at the Office of the Governor, Pago Pago, American Samoa, and the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Upon request, the Wage and Hour Division will mail copies to interested persons who make written request to the Wage and Hour Division. To facilitate mailing, such persons should make advance written request to the Wage and Hour Division. The committee will take official notice of the facts stated in this report. Parties, however, shall be afforded an opportunity to refute such facts by evidence received at the hearing.

6. The procedure of this industry committee will be governed by the provisions of Title 29, Code of Federal Regulations, Part 511. Copies of this part of the regulations will be available at the Office of the Governor, Pago Pago, American Samoa, and at the National Office of the Wage and Hour Division. The proceedings will be conducted in English but in the event a witness should wish to testify in Samoan, an interpreter will be provided. As a prerequisite to participation as a party, interested persons shall file six copies of a pre-hearing statement at the aforementioned Office of the Governor of American Samoa and six copies at the National Office of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. Each pre-hearing statement shall contain the data specified in 29 CFR 511.8 of the regulations and shall be filed not later than May 30, 1997. If such statements are sent by airmail between American Samoa and the mainland, such filing shall be deemed timely if postmarked within the time provided.

Signed at Washington, DC this 19th day of March 1997.

Cynthia A. Metzler,

Acting Secretary of Labor.

[FR Doc. 97–7659 Filed 3–25–97; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–031]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Solar System Exploration Subcommittee.

DATES: Monday, April 7, 1997, 8:30 a.m. to 5 p.m.; Tuesday, April 8, 1997, 8:30 a.m. to 5 p.m.; and Wednesday, April 9, 1997, 8:30 a.m., 5 p.m.; Thursday, April 10, 1997, 8:30 a.m., 4 p.m.

ADDRESSES: Jet Propulsion Laboratory, Building 525, Room C–41, 460 Sierra Madre Villa Avenue, Pasadena, California 91107.

FOR FURTHER INFORMATION CONTACT: Jurgen Rahe, Code SA, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2150.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—Integrated Mission/Technology Plan
—Campaign Group Meetings
—Campaign Group Reports
—Splinter Sessions

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants, and in order for the Subcommittee to complete its report in May.

Dated: March 20, 1997.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–7649 Filed 3–25–97; 8:45 am]

BILLING CODE 7510–01–M

[Notice 97–032]

Notice of Prospect Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Digital Manufacturing Inc., of Fort Worth, Texas 76180, has applied for an exclusive patent license to practice the invention described and claimed in NASA Case No. MSC–21982–1, entitled ''High Performance Circular Polarized Microstrip Antenna,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATES: Responses to this notice must be received by May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code HA, Houston, TX 77058–3696, telephone (281) 483–1003.

Dated: March 19, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–7648 Filed 3–25–97; 8:45 am]

BILLING CODE 7510–01–M

[Notice 97–033]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that New Mexico Highlands University, of National Avenue, Las Vegas, New Mexico 87701, has applied for an exclusive Patent license to practice the invention described and claimed in U.S. Patent No. 5,562,963, entitled ''Absorbent Pads for Containment, Neutralization and Clean-up of Environmental Spills Containing Chemically-Reactive Agents,'' NASA Case No. MSC–22360–1, and U.S. Patent Application Serial Number 08/654,461, same title, NASA Case No. MSC–22360–2, which are both assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

DATES: Responses to this notice must be received by May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code HA, Houston, TX 77058–3696, telephone (281) 483–1003.

Dated: March 19, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–7650 Filed 3–25–97; 8:45 am]

BILLING CODE 7510–01–M

[Notice 97–034]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that TruView Imaging Company, of Hampton, VA 23666–1340, has applied for an exclusive license to practice the invention described and claimed in NASA Case No. LAR–15514–1, entitled ''Method for Improving a Digital Image,'' for which a U.S. Patent Application was jointly filed by the Science and Technology Corporation and the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center.

DATES: Responses to this notice must be received by May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Robin W. Edwards, Patent Attorney, Langley Research Center, Mail Stop 212, Hampton, VA 23681–0001; telephone (757) 864–3230; fax (757) 864–9190.

Dated: March 19, 1997.

Edward A. Frankle,

General Counsel.

[FR Doc. 97–7651 Filed 3–25–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by April 15, 1997. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 306–1033.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Public Law 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is follows:

Permit Application: 98–001

1. *Applicant*

Ronald G. Koger, Project Director, Antaractic Support Associates, 461 Inverness Drive East, Suite 300, Englewood, Colorado 80112–5121

Activity for Which Permit Is Requested

Taking. The applicant proposes to remove antaractic animals from the Palmer Station pier and other operational areas as is necessary for operational safety and well being of the animals and U.S. Antarctic Program participants. The affected animals include, but are not limited to: Elephant Seas (*Mirounga leonina*), Fur Seals (*Arctocephalus gazella*), Crabeater Seals (*Lobodon carcinophagus*), Adelie

Penguins (*Pygoscelis adeliae*), Gentoo Penguins (*Pygoscelis papua*) Chinstrap Penguins (*Pygoscelis antarctica*), and Brown Skua (*Catharacta loonbergi*). Periodically, native seal, penguin and skua species enter the station pier and other operational areas. Such invasions pose operational safety concerns, as well as potential harm to the animals. Removal activities will be conducted in a nonlethal and humane manner in order to cause as little disturbance as possible. Herding and reporting procedures have been developed to monitor removal activities.

Location

Palmer Station pier and all other station operational areas.

Dates

April 1, 1997 to April 1, 2000.

Nadene G. Kennedy,

Permit Office, Office of Polar Programs.

[FR Doc. 97–7706 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Advanced Scientific Computing; 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 Advanced Scientific Computing (#1185).

Date and Time: April 11, 1997, 8:30 am to 5:00 pm.

Place: Wyndham Albuquerque Hotel, 2910 Yale Boulevard SE, Albuquerque, NM 87106.

Type of Meeting: Closed.

Contact Person: Dr. John Van Rosendale, Program Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning proposals submitted to NSF for financial support.

Agenda: Panel review of the New Technologies Program 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7710 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Bioengineering and Environmental Systems; 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 Bioengineering and Environmental Systems (No. 1189).

Date and Time: April 17–18, 1997; 8:00 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 320, 365 and 370, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Gilbert B. Devey, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7701 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel in Biological Instrumentation and Instrument Development: 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 in Biological Sciences (1754).

Date and Time: April 14–16, 1997, 8:00 am–5:00 pm.

Place: NSF at 4201 Wilson Blvd., Arlington, Virginia 22230, Rm. 310.

Type of Meeting: Closed.

Contact Person: Karl A. Koehler, Program Director, Barry R. Masters, Program Director, Biological Instrumentation and Instrument Development, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703–306–1472).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for acquisition of Biological Instrumentation and Instrument Development for the Major Research Instrument (MRI) program 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. 552(b)(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7703 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Chemistry; 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 and Committee Code: Special Emphasis Panel in Chemistry (#1191).

Date and Time: May 15–16, 1997.

Place: Rooms 1005, 970 and 475, NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Joseph Reed, Program Director, Chemical Instrumentation Program, Chemistry Division, Room 1055, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1849.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Chemistry Research Instrumentation and Facilities Program and the Major Research Instrumentation Program 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7704 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel For Economics, Decision and Management Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings:

Name: Advisory Panel for Economics, Decision and Management Sciences (#1759).

Date and Time: April 11–12, 1997, 9 a.m. to 5 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Rooms 365–380, Arlington, VA 22230.

Contact: Dr. Daniel H. Newlon, Program Director for Economics, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1753.

Agenda: To review and evaluate Economics proposals as part of the selection process for awards.

Date and Time: April 17–18, 1997, 9 a.m. to 5 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. Jonathan Leland, Program Director for DRMS, Division of Social Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1757.

Agenda: To review and evaluate DRMS proposals as part of the selection process for awards.

Date and Time: May 28–29, 1997, 9 a.m. to 5 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Rooms 340, 360, 365, and 370, Arlington, VA 22230.

Contact Person: Dr. James Dean, Jr., Program Director for Transformations to Quality Organizations, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 910 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1738.

Agenda: To review and evaluate TQO proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closings: 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 exempted under 5 U.S.C. 552b(c) of the Government in the Sunshine Act.

Dated: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7712 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Infrastructure, Methods, and Science Studies; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Infrastructure, Methods, and Science Studies #1760.

Date and Time: April 11–12, 1997; 8:30 a.m.–5:00 p.m.

Place: Georgetown University, 37th & O Streets NW, Intercultural Center Clair Booth Room, Washington, DC 20057.

Contact Person: Dr. Edward J. Hackett, Program Director for Science and Technology Studies, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1742.

Agenda: To review and evaluate Science and Technology Studies proposals as part of the selection process for awards.

Date and Time: 28–29, 1997; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 340, Arlington, VA 22230.

Contact Person: Dr. Cheryl L. Eavey, Program Director for Methodology, Measurement and Statistics, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Telephone: (703) 306–1729.

Agenda: To review and evaluate Methodology, Measurement and Statistics proposals as part of the selection process for awards.

Date and Time: May 1–2, 1997; 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Contact Person: Dr. Rachelle D. Hollander, Program Director for Societal Dimensions of Engineering Science and Technology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1743.

Agenda: To review and evaluate Societal Dimensions of Engineering, Science, and Technology; Ethics and Values Studies and Research on Science and Technology proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7705 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Group Infrastructure Grants Panel in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis panel in Mathematical Sciences (1204).

Date and Time: April 10–12,1997; 8:30 a.m. until 5:00 p.m.

Place: Room 330, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Alvin I. Thaler, Program Director, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1870.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals for the Group Infrastructure Grants Program 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 and 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7713 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: April 17–18, 1997, 9:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Rm 310, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Christopher Platt, Program Director, Sensory Systems, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone (703) 306–1424.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 18, 1997; 11:00 a.m. to 12:00 p.m., to discuss goals and assessment procedures. Closed Session: April 17, 1997; 9:00 a.m. to 5:00 p.m., April 18, 1997, 9:00 a.m. to 11:00 a.m. and 12:00 p.m. to 5:00 p.m. To review and evaluate Sensory Systems 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7699 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: April 15–16, 1997, 9:00 a.m. to 5:00 p.m.

Place: National Science Foundation, Rm 380, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Susan F. Volman, Program Director, Developmental Neuroscience, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1423.

Purpose of Meeting: To provide advice and recommendations concerning research proposals submitted to NSF financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 16, 1997; 11:00 a.m. to 12:00 p.m., to discuss goals and assessment procedures. Closed Session: April 15, 1997; 9:00 a.m. to 5:00 p.m., April 16, 1997, 9:00 a.m. to 11:00 a.m. and 12:00 p.m. to 5:00 p.m. To review and evaluate Developmental Neuroscience 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7700 Filed 3–25–97; 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: April 13–14, 1997.

Place: Board Room, Best Western Tower Inn and Conference Center, Richland, Washington.

Type: closed.

Date: April 15–17, 1997.

Place: Room 112 East Bridge, California Institute of Technology 1201 E. California Boulevard, Pasadena, California.

Type of Meeting: Closed.

Contact Person: Dr. David Berley, Program Manager, Laser Interferometer Gravitational Observatory, Physics Division, Room 1015, National Science Foundation, 4201 Arlington Blvd., Arlington, VA 22230. Telephone: (703) 306–1892.

Purpose of Meeting: To review the cost, schedule, and management; the R&D and detector system; and the system integration of the Laser Interferometer Gravitational-Wave Observatory (LIGO) project.

Agenda: To evaluate the current cost estimate, schedule, and to review the project management, visit the LIGO construction site; to review the R&D program and detector system, and to review the system integration.

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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7711 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Ethology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Physiology and Ethology (#1160).

Date and Time: April 14–16, 1997, 8:30 a.m.–5:00 p.m.

Place: NSF, Room 360, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Part-Open.

Contact Persons: Dr. John A. Phillips, Program Director, Ecological & Evolutionary Physiology, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1421.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: April 16, 1997; 10:30 a.m. to 11:30 a.m.—discussion on research trends, opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. Mary E. Clutter, Assistant Director, Directorate for Biological Sciences.

Closed Session: April 14, 1997, 8:30 a.m.–6:00 p.m.; April 15, 1997, 8:30 a.m. to 6:00 p.m., April 16, 1997, 8:30 a.m. to 10:30 a.m. and 11:30 a.m. to 4:00 p.m. To review and evaluate Ecological & Evolutionary Physiology & Animal Behavior 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7696 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Physiology and Ethology: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463,

as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Physiology and Ethology (1160).

Date and Time: April 14–16, 1997, 8:30 a.m. to 5:00 p.m.

Place: Room 680, National Science Foundation 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Part-Open.

Contact Person: Dr. George W. Uetz, Program Director, IBN, Room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230, (703) 306–1419.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open session: April 16, 1997, 10:30 a.m. to 11:30 p.m..-discussion on research trends and opportunities and assessment procedures in Integrative Biology and Neuroscience with Dr. Mary E. Clutter, Assistant Director, Directorate for Biological Sciences.

Closed session: April 14, 1997, 8:30 a.m. to 6:00 p.m., April 15, 1997, 8:30 a.m. to 6:00 p.m., and April 16, 1997, 8:30 a.m. to 10:30 a.m. and 11:30 a.m. to 3:00 p.m. To review and evaluate Animal Behavior 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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–7697 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Political Science; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, and amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Political Science (#1761).

Date and Time: April 15–16, 1997; 9:00 am to 5:00 pm.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 880, Arlington, VA 22230.

Contact Person: Dr. Frank Scioli and Dr. Rick Wilson, Program Directors for Political Science, National Science Foundation. Telephone: (703) 306–1761.

Agenda: To review and evaluate the political science proposals as part of the selection process for awards.

Date and Time: May 1–2, 1997; 9:00 am to 5:00 pm.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. Harmon Hosch, Program Director, Law and Social Science, National Science Foundation. Telephone (703) 306–1762.

Agenda: To review and evaluate the Law and Social Science Proposals as a part of the selection process for awards.

Date and Time: May 19–20, 1997; 9:00 am to 5:00 pm.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Contact Person: Dr. William S. Bainbridge and Dr. Patricia White, Program Directors for Sociology, National Science Foundation, Telephone (703) 306–1756.

Agenda: To review and evaluate the Sociology proposals as a part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resources Management, Acting Committee Management Officer.

[FR Doc. 97–7695 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Social and Political Science; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, and amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Social and Political Science (#1761).

Date and Time: April 15–16, 1997; 9:00 am to 5:00 pm.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 880, Arlington, VA 22230.

Contact Person: Dr. Frank Scioli and Dr. Rick Wilson, Program Directors for Political Science, National Science Foundation. Telephone: (703) 306–1761.

Agenda: To review and evaluate the political science proposals as part of the selection process for awards.

Date and Time: May 1–2, 1997; 9:00 am to 5:00 pm.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. Harmon Hosch, Program Director, Law and Social Science, National Science Foundation. Telephone: (703) 306–1762.

Agenda: To review and evaluate the Law and Social Science Proposals as a part of the selection process for awards.

Date and Time: May 19–20, 1997; 9:00 am to 5:00 pm.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Contact Person: Dr. William S. Bainbridge and Dr. Patricia White, Program Directors for Sociology, National Science Foundation. Telephone: (703) 306–1756.

Agenda: To review and evaluate the Sociology proposals as a part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meeting: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

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: March 21, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resources Management, Acting Committee Management Officer.

[FR Doc. 97–7698 Filed 3–25–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–32; License Nos. DPR–77 and DPR–79; EA 96–269]

Tennessee Valley Authority, Sequoyah Nuclear Plant Units 1 and 2); Order Imposing Civil Monetary Penalty

I

Tennessee Valley Authority (Licensee) is the holder of Operating License Nos. DPR–77 and DPR–79 issued by the Nuclear Regulatory Commission (NRC or Commission) on September 17, 1980, and September 15, 1981, respectively. The licenses authorize the Licensee to operate the Sequoyah Nuclear Plant, Units 1 and 2 in accordance with the conditions specified therein.

II

An inspection of the Licensee's activities at the Sequoyah Nuclear Plant was conducted during the period of July 8 through August 22, 1996. The results of this inspection indicated that the Licensee had not conducted its

activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated November 19, 1996. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violations.

The Licensee responded to the Notice in a letter dated December 19, 1996. In its response, the Licensee agreed that the violations occurred but contested NRC's application of the Enforcement Policy and requested the NRC to reconsider its decision to categorize the violations as a Severity Level III problem and mitigate the proposed civil penalty in its entirety. The Licensee based its requests on the history of extensive activities it has undertaken to upgrade the Sequoyah fire protection program, the minimal safety and regulatory significance of the individual violations, and the corrective actions taken following identification.

III

After consideration of the Licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the NRC staff has determined, as set forth in the Appendix to this Order, that the violations occurred as stated and that the penalty proposed for the violations designated in the Notice should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The Licensee pay a civil penalty in the amount of $50,000 within 30 days of the date of this Order, by check, draft, money order, or electronic transfer, payable to the Treasurer of the United States and mailed to James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738.

V

The Licensee may request a hearing within 30 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and include a statement of good cause for the extension. A request for a hearing should be clearly marked as a ''Request for an Enforcement Hearing'' and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the Commission's Document Control Desk, Washington, D.C. 20555. Copies also shall be sent to the Assistant General Counsel for Hearings and Enforcement at the same address and to the Regional Administrator, NRC Region II, 101 Marietta Street N.W., Suite 2900, Atlanta, Georgia 30323.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the Licensee fails to request a hearing within 30 days of the date of this Order (or if written approval of an extension of time in which to request a hearing has not been granted), the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the Licensee requests a hearing as provided above, the issue to be considered at such hearing shall be: Whether on the basis of the violations admitted by the Licensee, this Order should be sustained.

Dated at Rockville, Maryland this 17th day of March 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement.

Appendix—Evaluations and Conclusion

On November 19, 1996, the NRC issued to Tennessee Valley Authority (Licensee or TVA) a Notice of Violation and Proposed Imposition of Civil Penalty (Notice) for four violations identified during an NRC inspection conducted during the period July 8 through August 22, 1996, at the Sequoyah Nuclear Plant. In its response dated December 19, 1996, the Licensee agreed that the violations occurred but stated that the NRC's categorization of the four individual violations as a Severity Level III problem, and proposed imposition of a $50,000 civil penalty, was inconsistent with the NRC Enforcement Policy as it was applied. The Licensee requested the NRC to reconsider its decision regarding the severity level of the violations and mitigate the proposed civil penalty in its entirety. The NRC's evaluation and conclusion regarding the Licensee's requests are as follows.

Summary of Licensee's Request for Reduction in Severity Level

In its request for reconsideration of the severity level of the four violations comprising the Severity Level III problem, the Licensee maintained that (1) extensive activities have been taken to upgrade the Sequoyah fire protection program, (2) the actual and potential safety significance of the violations are minimal, (3) the regulatory significance of the violations should be assessed in the context of TVA's actions to improve its performance in this area, and (4) the use of fire watches at Sequoyah is consistent with NRC policy and regulatory requirements.

Regarding TVA's history of activities to upgrade the Sequoyah fire protection program, the Licensee maintained that beginning in 1991, it implemented a four-phase Fire Protection Improvement Plan (FPIP) to address important engineering items such as evaluating the hydraulic performance of the fire protection water system, updating the fire hazards analysis, and completing the fire protection report. Of the 63 items in the initial plan, 61 items had been completed. The two remaining items involved (1) replacing the fire pumps and upgrading the existing raw water fire protection system to a potable water system and (2) completing the evaluation of approximately 1,500 fire barrier penetration seals. These two items were scheduled to be completed in 1997. The Licensee stated that the NRC's Notice did not acknowledge the considerable resources expended on the upgrades to the fire protection program since 1991 which demonstrated both management's attention and that the overall fire protection program was being treated as a high priority item.

Second, the Licensee contended that the four violations had only minimal potential safety significance, and when considered either individually or in the aggregate, were not significant enough to constitute a Severity Level III problem. The Licensee's position on each of the violations is as follows:

Violation A: This violation involved quality assurance (QA) findings for which the Licensee had delayed implementing corrective action. The Licensee addressed the actions taken on the QA findings related to 1,500 degraded fire barrier penetration seals (of the 24,500 penetrations inspected), 326 degraded fire dampers, and deviations from procedures for controlling transient fire loads. The Licensee considered that these violations were of minimal safety significance and of low regulatory significance due to the management

attention that had been applied to the site's fire protection program since 1991. In particular, the Licensee stated that an evaluation of the 326 fire dampers found that only eight of the dampers required additional work. The Licensee concluded that the actions taken do not indicate a lack of management attention.

Violation B: This violation involved an inoperable carbon dioxide system in the computer room which was scheduled to be repaired as part of the upgrade of the computer room. The Licensee stated that the minimal safety significance associated with this situation did not warrant rearranging priorities to perform part of the computer room upgrades out of sequence.

Violation C: This violation involved the failure to perform a surveillance of fire barrier penetrations in high radiation areas. The Licensee stated that a subsequent review found these penetrations acceptable.

Violation D: This violation involved the failure to hydrostatically test nine of 119 fire hoses. The Licensee stated that subsequent testing found these hoses to be capable of performing their intended function. The Licensee concluded that this violation involved limited procedural non-adherence which has traditionally not been the subject of escalated enforcement.

The Licensee concluded that the regulatory significance of the violations should be determined by considering the safety significance of the violations in context with the actions initiated by the Licensee to assure regulatory compliance and enhance performance in the fire protection area. The Licensee stated that the NRC has traditionally taken a much broader view in exercising discretion to tailor an enforcement action to the particular situation, and such an approach would be appropriate in this case given the minimal actual safety significance of the violations.

Lastly, the Licensee took exception to the NRC's letter of November 19, 1996, which stated that the use of fire watch patrols was intended for interim, short-term compensatory measures until degraded fire protection features can be repaired or replaced. The Licensee argued that the use of fire watch patrols for degraded fire protection features: (1) Provides an acceptable level of safety; (2) is permitted by Technical Specifications without time limitations; (3) does not challenge the fire protection defense-in-depth concept; (4) restores the margin of safety that is lost with degraded conditions; (5) provides an acceptable substitute as opposed to an additional level of protection; (6) does not increase the vulnerability of equipment to potential fire exposure or fire damage, and (7) does not violate NRC requirements. In summary, the Licensee stated that enforcement action should not be taken unless the reliance on fire watch patrols for degraded conditions could be shown to result in a violation of regulatory requirements.

NRC Evaluation of Licensee's Request for Reduction in Severity Level

In reviewing the Licensee's response, no additional information was provided that was not previously considered by the NRC in its deliberations regarding this matter.

Contrary to the Licensee's response, the NRC did consider the Licensee's past efforts to improve the Sequoyah fire protection program through the four-phase FPIP. Specifically, Section F1.3 of NRC Inspection Report No. 50–327, 328/96–10 acknowledged that the actions associated with the FPIP had enhanced the fire protection program. However, prior to issuance of the Notice that is the subject of this action, the NRC had also expressed various concerns with the adequacy of the fire protection program and corrective action on fire protection issues. These instances include: (1) The Systematic Assessment of Licensee Performance report dated February 21, 1995, which stated that ''Correction of long-standing deficiencies in the material condition of the fire protection system was slow and management exhibited a tolerance for poor conditions;'' (2) the July/August 1996 inspection documented in Inspection Report No. 50–327, 328/96–10, describing new problems and discrepancies identified as not receiving appropriate management attention for resolution; and (3) a February 1996 inspection, documented in Inspection Report No. 50–327, 328/96–02, which identified problems with the untimely implementation of portions of the FPIP, such as deferment of the construction of the upgrades to the fire protection water supply system until 1997, and also identified a violation involving the lack of adequate protective or preventive measures for the construction portions of the system.

As evidenced by the violations cited in the Notice and the specific circumstances surrounding them, as described in the inspection report, the NRC concluded that the Licensee's corrective actions associated with the fire protection program have not been fully effective in assuring timely resolution of long-standing issues as described below:

Violation A: The violations included nine examples of inadequate or untimely corrective action for previously identified deficiencies. These included quality assurance (QA) findings, issues from the FPIP, and concerns identified following establishment of the FPIP. QA findings were identified as early as 1992, yet corrective action had not been completed at the time of the inspection. At the time of the July/August 1996 inspection, completion dates had not been established for several of the items and some items had completion dates extending into 1997. Other issues, such as the control of combustibles, evidenced the Licensee's inability to achieve compliance. The control of transient combustibles was identified as an area of concern in QA audits, but ineffective corrective action resulted in repeated violations in 1996. In some instances, corrective actions for items identified since the 1991 FPIP had been developed, but were not being completed in a timely manner. For example, in September 1993, the Licensee initially identified 326 fire dampers which were not installed in accordance with the vendor's installation requirements. Further engineering evaluation and review reduced this number to eight, which the Licensee considered needing replacement. Although the evaluation which found 318 of these dampers to be satisfactory was completed in December 1994, the eight dampers identified for replacement were not scheduled to be replaced until 1997, even though the dampers are readily accessible for replacement during any mode of plant operation. The scheduled replacement of these dampers, in excess of two years after identification of the need for replacement, was considered a failure of the Licensee's management to place adequate emphasis on correcting deficiencies.

Violation B: The inoperability of the carbon dioxide system in the computer room was identified by the Licensee in December 1995. This system had been inoperable since completion of a heating ventilation and air conditioning system modification in May 1990. Although surveillance tests were performed on this system in April 1991, August 1992, June 1994, and December 1995, they failed to identify this deficiency. Although the violation in itself has low safety significance, the combination of design oversight and an inadequate surveillance inspection and test program for this system, which should have identified this deficiency, is of concern and is another example of weak management oversight of the fire protection program.

Violation C: The violation involving the failure to inspect the fire barrier penetrations in the high radiation areas was identified by the Licensee. The fact that subsequent inspections did not identify any problems with these penetrations is fortuitous. The root cause of this problem was considered to be an error on the part of personnel performing the procedure in conjunction with inadequate management oversight. Additionally, resolution of this issue had not been timely.

Violation D: This violation, involving the failure to inspect the fire hose installed on the fire hose stations within the reactor buildings, was identified by the Licensee. The fact that subsequent inspections found the hydrostatic tests on only nine of the 119 fire hose sections to be out of date and that testing found the hoses to be capable of performing their intended function is fortuitous. The cause of this problem was improper procedure revision, inadequate procedure review, and inadequate management oversight.

The NRC acknowledges the Licensee's position that individually these violations are of low safety significance. However, as stated in the Section IV.A of the Enforcement Policy (NUREG–1600), a group of Severity Level IV violations may be evaluated in the aggregate and assigned a single, increased severity level, thereby resulting in a Severity Level III problem, if the violations have the same underlying cause or programmatic deficiencies. The purpose of aggregating violations is to focus the Licensee's attention on the fundamental underlying causes for which enforcement action appears warranted and to reflect the fact that several violations with a common cause may be more significant collectively than individually, and may therefore warrant a more substantial enforcement action. In this case, the NRC determined that the violations have the same underlying cause, namely the lack of attention and priority given to the fire protection program.

The Licensee's characterization of the root cause as ''insufficient management involvement in the oversight of the fire protection program,'' is consistent with the NRC's conclusion, except in one important respect: it fails to recognize management acceptance of unresolved issues and the failure to assign the necessary priority to the fire protection program issues to assure their timely resolution. In addition, although the Licensee appeared to focus resources on the resolution of many of the 1991 FPIP issues, not all items have yet been resolved and newly identified items were not resolved in a timely manner. The NRC considers this failure to be significant because program ownership and ineffective management performance were identified as underlying causes of performance weaknesses in the Sequoyah Nuclear Plant Restart Plan of May 20, 1993. Ineffective oversight is also indicated by the fact that there has not been consistent management of the fire protection program. Specifically, since 1990, there have been a number of personnel changes in the position of Fire Protection Manager. In that inadequate oversight of the fire protection program continues to persist, escalation of the violations is consistent with Supplement I.C.7 of the NRC Enforcement Policy.

The Licensee's position that the NRC should exercise discretion due to the improvements and enhancements being made in the fire protection program cannot be supported due to multiple problems identified by both the Licensee and the NRC which were outside the scope of the 1991 Fire Protection Improvement Plan. These problems indicate a continued lack of management oversight and control of the fire protection program.

The Licensee's position that fire watch patrols for degraded fire protection features were equivalent to fully functioning features is not correct. It is the NRC's opinion that fire watch patrols, in combination with the fire protection defense in depth features, provide an adequate level of fire protection safety on an interim basis until permanent corrective actions are implemented. Therefore, a fire watch patrol can only supplement a degraded fire protection feature and is an approved compensatory measure for the identification of fire and notification of a fire to the appropriate response personnel. However, a fire watch is not equivalent to the fire protection feature in question.

The Licensee indicated that there was no time limitation on how long a fire watch patrol can be used in lieu of restoring a degraded system to service. To the contrary, there is, in fact, a recognized regulatory impact that can result from the use of long-term fire watches. If the protection features are described in the Final Safety Analysis Report, long-term or permanent fire watches could be considered a modification which would require a 10 CFR 50.59 safety analysis, which could result in limiting the fire watches use. Second, although not specifically limiting the use of fire watches, the Sequoyah Technical Specifications clearly indicate the need to restore degraded features as soon as possible. The Sequoyah Technical Specifications require that a Special Report be issued to the NRC if a degraded fire protection feature cannot be repaired within a designated time. In general, the Sequoyah Technical Specifications require degraded fire protection suppression systems to be restored to operability within 14 days and fire barrier penetration seals restored to operability within 7 days, or alternatively, within the next 30 days a Special Report is required to be submitted to the NRC outlining the cause of the system inoperability and the plans or schedule for restoring the system to operable status. The Technical Specifications requirements clearly indicate that the NRC does not sanction the long term use of fire watch patrols for degraded fire protection features and that restoration to full fire protection capability is required. Regardless of the NRC's stated position regarding Sequoyah's use of fire watch patrols, none of the violations were based on their utilization.

Summary of Licensee's Request for Mitigation of Civil Penalty

The Licensee believes the civil penalty should be mitigated in its entirety because the problems were identified by the Licensee and corrective actions were taken prior to NRC enforcement action. These actions included:

—Implementation of the 1991 Fire Protection Improvement Plan.
—Improved management responsiveness to identified problems by centralization of fire protection program ownership and responsibility into one department, establishment of fire protection program priorities and performance expectations, and appointment of a new fire protection manager.
—Establishment in June 1996 of an integrated schedule designed to track fire protection issues to closure.
—Performance of a self-assessment of the fire protection program which evaluated and found the correction actions and improvements implemented to have been effective.
—Direction provided for the QA organization to escalate its concerns to management in order to assist management in collectively analyzing individual problems to facilitate corrective action.

The Licensee stated that the lack of timeliness associated with the individual fire protection issues was identified and corrective action was

initiated prior to NRC enforcement action. Therefore, these factors should be taken into consideration prior to the NRC pursuing escalated enforcement and imposition of a civil penalty. The Licensee believes that to issue a civil penalty after action was taken to reorganize the fire protection program and provide enhanced management oversight would be contrary to the NRC Enforcement Policy. Furthermore, the imposition of a civil penalty under these circumstances would serve no purpose other than to punish the Licensee and would be contrary to the NRC Enforcement Policy to focus on current performance.

NRC Evaluation of Licensee's Request for Mitigation of Civil Penalty

The NRC does not agree with the Licensee's position that the fire protection program problems were identified by the Licensee and corrective action was taken prior to NRC involvement. Program oversight weaknesses were highlighted by the NRC in the February 1995 SALP Report, as discussed previously. In addition, concerns with the timeliness and adequacy of fire protection program corrective actions were also identified by the NRC in February 1996. Although a QA audit completed in May 1996 elevated the significance of the programmatic issues to upper TVA management, a follow-up NRC inspection in July 1996 found that these issues had not been resolved. Once the NRC focused on the multiple fire protection deficiencies in an inspection conducted in July and August 1996, the Licensee placed additional emphasis on this area, made organizational and personnel changes, and implemented plans to correct the deficiencies. The actions were initiated by the Licensee after the February 1996 identification by the NRC of: (1) A related violation and (2) inadequate responses to QA findings; but these actions were limited and did not ensure lasting corrective actions.

Section VI.B.2.c of the Enforcement Policy discusses the application of the factor of Corrective Action in the civil penalty assessment process. The purpose of this factor is to encourage licensees to (1) take the immediate actions necessary upon discovery of a violation that will restore safety and compliance with the license, regulations, or other requirements; and (2) develop and implement (in a timely manner) the lasting corrective actions that will not only prevent recurrence of the violation at issue, but will be appropriately comprehensive, given the significance and complexity of the violations, to prevent recurrence of violations with similar root causes. In assessing Corrective Action, consideration is given to the timeliness of the action (including the promptness in developing the schedule for long term corrective action), the adequacy of the licensee's root cause analysis, and the comprehensiveness of the corrective action. Clearly, in this case, the program deficiencies at issue in the Notice were discovered by TVA as early as 1991, but corrective actions were not promptly taken, and since the issues were primarily licensee-identified, the time of reference used in assessing this factor is discovery, not when the issues were identified as apparent violations by the NRC. Further, although in most cases, schedules for long-term corrective actions were developed, management had not placed the appropriate priority on meeting schedules, which resulted in substantial deferments. Continued unjustifiable deferral of known deficiencies is unacceptable to the NRC.

NRC Conclusion

The NRC concludes that the violations occurred as stated and that collectively they represent a Severity Level III problem. Since the July/August 1996 NRC inspection, it appears that the licensee has implemented appropriate corrective actions to address these problems and is now appropriately focused on this program area. However, no adequate basis for either a reduction of the severity level or for mitigation of the civil penalty was provided by the licensee. Consequently, the proposed civil penalty in the amount of $50,000 should be imposed.

[FR Doc. 97–7638 Filed 3–25–97; 8:45 am]
BILLING CODE 7590–01–P

[Docket Nos. 70–7001 and 70–7002]

Criteria for Staff Implementation of ''Backfitting'' Requirements for Gaseous Diffusion Plants; Notice of Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

SUMMARY: On March 3, 1997, the U.S. Nuclear Regulatory Commission assumed regulatory jurisdiction over the Gaseous Diffusion Plants (GDPs) from the U.S. Department of Energy. The GDPs are regulated under 10 CFR part 76 of the Commission's regulations. The NRC staff has developed Office of Nuclear Material Safety and Safeguards (NMSS) Policy and Procedures Letter 1–53 to implement the ''Backfitting'' provision of 10 CFR 76.76. This procedure is available for inspection at the NRC Public Document Room and Local Public Document Rooms discussed below.

DATES: The NMSS Policy and Procedures Letter 1–53 is effective on March 3, 1997 as an interim procedure. Comments on the interim procedure are due on or before May 27, 1997.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. ATTN: Docketing and Service Branch. Hand deliver comments to 11555 Rockville Pike, Rockville, Maryland 20852, between 7:45 am and 4:15 pm during Federal Workdays.

Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC and at the Local Public Documents Rooms (LPDRs), under Docket No. 70–7001, at the Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003; and under Docket No. 70–7002, at the Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Copies of NMSS Policy and Procedures Letter 1–53 may be obtained as indicated in the Discussion portion of Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Tom Wenck, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–8088.

SUPPLEMENTARY INFORMATION:

Discussion

On November 26, 1996, the Director, NMSS, issued the initial Certificates of Compliance to the United States Enrichment Corporation, authorizing the continuing operation of its GDPs. When the certificates became effective on March 3, 1997, the U.S. Nuclear Regulatory Commission (NRC) assumed regulatory jurisdiction over the GDPs from the Department of Energy.

Section 76.76 of part 76 to Chapter I of Title 10 of the Code of Federal Regulations (CFR) contains a provision on ''Backfitting.'' ''Backfitting'' is defined in 10 CFR 76.76 to be ''* * * the modification of, or addition to, systems, structures, or components of a plant or to the procedures or organization required to operate a plant; any of which may result from a new or amended provision in the Commission rules or the imposition of a regulatory staff position interpreting the Commission rules, that is either new or different from a previous NRC staff position.'' The intent of 10 CFR 76.76 is to provide a process by which to manage staff's imposition of new plant-

specific and/or generic regulatory staff positions on the GDPs.

Although backfits are expected to occur and are a part of the regulatory process, it is important for sound and effective regulation that backfits are conducted in a controlled process. The NRC staff has developed NMSS Policy and Procedures Letter 1–53 on GDP generic and plant-specific backfitting. Copies of this procedure can be obtained from the Commission Public Document Room (PDR), 2120 L Street, NW., Washington, DC and at the Local Public Document Rooms (LPDRs), under Docket No. 70–7001, at the Paducah Public Library, 555 Washington Street, Paducah, Kentucky 42003; and under Docket No. 70–7002, at the Portsmouth Public Library, 1220 Gallia Street, Portsmounth, Ohio 45662.

Appendix 1 to NMSS Policy and Procedures Letter 1–53 provides guidance to the NRC staff on the proper NRC mechanisms (e.g., rulemaking) to use in establishing or communicating legal requirements and NRC staff positions to certificatees. Appendix 4 contains guidance to the NRC staff for making backfit determinations. Once a backfit determination has been made, and the proposed backfit does not meet either of the 2 exception [1] given in 10 CFR 76.76(a)(4) (i) and (ii), the NRC staff is required by 10 CFR 76.76(a)(3) to perform a cost/benefit analysis to determine ''that there is a substantial increase (emphasis added) in the overall protection of the public health and safety or the common defense and security to be derived from the backfit and that the direct and indirect costs of implementation for that plant are justified in view of this increased protection.''

Appendix 3 of NMSS Policy and Procedures Letter 1–53 contains guidance on application of the ''Substantial Increase'' Standard. This standard provides qualitative criteria for NRC staff to make a safety/safeguards ''net benefits'' determination of cost/benefits for the proposed backfit where a quantitative approach is not feasible.

NMSS Policy and Procedures Letter 1–53 is the first backfit procedure developed for facilities other than nuclear power reactor facilities. In addition, the GDPs are existing facilities which have operated under the Department of Energy for a number of years. Recognizing that this procedure may be addressing new issues, the NRC will accept public comments which focus on specific technical contents of the procedure.

Opportunity for Comments

The GDP backfit implementing procedure will be used by the NRC staff as an interim procedure pending completion of public review and resolution of comments on this FR Notice. Comments will be accepted which focus on the specific appendices discussed above. Comments in other areas of the procedures will be considered if they are directly related to the backfit issue. Procedures such as NMSS Policy and Procedures Letters are used by NRC as guidance to the NRC staff on NRC's internal management process.

Dated at Rockville, Maryland this 17th day of March 1997.

For the Nuclear Regulatory Commission.

John T. Greeves,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–7641 Filed 3–25–97; 8:45 am]

BILLING CODE 7590–01–P

[1] These exceptions are backfits that are necessary in order to ensure (a) that the plants provide adequate protection to the health and safety of the public and are in accord with the common defense and security, or (b) to bring the plants into compliance with the certificates, rules or orders of the Commission, or into conformance with written commitments by the Corporation.

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from March 3, 1997, through March 14, 1997. The last biweekly notice was published on March 12, 1997.

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be

examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By April 25, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to **(Project Director)**: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Carolina Power & Light Company, et al., Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendments request: January 15, 1997

Description of amendments request: The proposed change would revise the values of the minimum and maximum suppression pool water volumes corresponding to the upper and lower limits of the suppression water levels specified in TS 3.6.2.1.a.1 such that the implementation of the administrative controls will no longer be necessary to ensure compliance with the Technical Specifications.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change revises the values of the minimum and maximum suppression pool water volume limits. The water inventory of the suppression chamber is not a precursor of an accident and, therefore, cannot increase the probability of an accident previously evaluated. The pressure suppression chamber water pool mitigates the consequences of loss-of-coolant accidents (LOCAs), transients, and other events by providing a heat sink for reactor primary system energy releases. The proposed minimum and maximum pool water volume values will be consistent with the current suppression pool water level limits. No changes to setpoints will be made as a result of the proposed change. The impact of the proposed change to the minimum and maximum suppression pool volume limits on the suppression pool temperatures and pressures following a design basis LOCA, an SRV [Safety Relief Valve] blowdown event, an Anticipated Transient Without Scram (ATWS) event, an Appendix R fire event, and a station blackout event has been evaluated and does not cause accident parameters to exceed acceptable values. In addition, the impact the proposed change has on the time to reach cold shutdown when using the alternate RHR [Residual Heat Removal] shutdown cooling function is negligible.

The potential impact the proposed change to the suppression pool water volume limits has on SRV line loads, SRV discharge line reflood height, wetwell pressurization, suppression pool swell loads, vent thrust loads, and condensation oscillation and chugging loads was also reviewed. The proposed change to the suppression pool water volume limits has no adverse impact on any of these parameters.

The capability of the suppression chamber water pool to perform its mitigative functions is not affected by the proposed

change. Therefore, the proposed change does not involve a significant increase in the consequences of an accident previously evaluated.

2. The proposed amendment[s] would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change revises the values of the minimum and maximum volume of the suppression chamber water pool. The proposed change will not alter any physical mechanism by which the suppression chamber water pool volume is maintained between the minimum and maximum values. The suppression pool water level will continue to be maintained between -27 and -31 inches. As a result of the proposed change there are no physical changes to suppression chamber components or instrumentation. No new mode of operation is introduced as a result of the proposed change. Analyses have been performed which conclude that the proposed change would not affect the operability of equipment designed to mitigate the consequences of an accident. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed license amendment[s do] not involve a significant reduction in a margin of safety.

The proposed change revises the values of the minimum and maximum suppression chamber water pool volumes. The pressure suppression chamber water pool mitigates the consequences of several postulated accidents and transients by providing a heat sink for the primary coolant system. These accidents and events are the postulated design basis LOCA, Safety Relief Valve blowdown, ATWS, Appendix R fire and station blackout events. The consequences of the proposed change in the suppression pool water volume limits have been evaluated for these events.

The results of the analyses for the postulated accidents and events indicate the temperature of the suppression pool water could increase slightly as a consequence of the decrease in the minimum suppression pool water volume limit. However, the containment temperatures remain within acceptable values. The impact of the calculated increase in containment temperature on the available Net Positive Suction head (NPSH) for the Residual Heat Removal (RHR) and Core Spray pumps has been evaluated for the postulated design basis LOCA and indicate adequate NPSH is maintained throughout the event.

The potential impact of the proposed change to the suppression pool water volume limits on SRV line loads, SRV discharge line reflood height, wetwell pressurization, suppression pool swell loads, vent thrust loads, and condensation oscillation and chugging loads was evaluated with the conclusion that there are no adverse impacts on these parameters.

In addition, a small suppression pool water temperature increase could result due to the reduction in the minimum suppression pool volume limit in the event reactor shutdown is conducted through a path utilizing the suppression pool. Such a shutdown path is an alternative to the normal RHR shutdown cooling function, and the small potential increase in temperature results in a negligible increase in the time required to reach cold shutdown conditions. Cold shutdown conditions could still be reached well within the Technical Specification requirements.

The proposed increase in the suppression pool water volume limit does not adversely impact containment parameters as a result of postulated accidents and events. The potential increase in temperature of the pressure suppression pool water does not significantly decrease the ability to maintain containment parameters within acceptable limits. The potential increase in time to reach cold shutdown conditions utilizing the suppression pool as an alternative to the normal RHR shutdown cooling function is negligible. Therefore, the proposed change to revise the minimum and maximum suppression water pool volumes does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of North Carolina at Wilmington, William Madison Randall Library, 601 S. College Road, Wilmington, North Carolina 28403-3297.

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Mark Reinhart (Acting)

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: March 14, 1997

Description of amendment request: The proposed change revises Technical Specification 3/4.5.4, ''Refueling Water Storage Tank,'' and its associated Bases.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The non-safety, non-seismic hydrotest pump is normally maintained separated from the RWST [Refueling Water Storage Tank] by a safety-related, locked closed manual operated boundary isolation valve (1CT-22). However, performance of Technical Specification required surveillance test OST-1506, ''Reactor Coolant System Isolation Valve Leak Test - 18 Month Interval- Mode 3,'' requires the short term use of the hydrotest pump during plant operating modes. Specifically, this hydrotest pump provides a high pressure source for leak testing the RCS [Reactor Coolant System] pressure isolation valves in Mode 3. The test is performed prior to entry into Mode 2, each refueling outage, whenever flow is established through the pressure isolation valves, or whenever the plant has been in cold shutdown for greater than 72 hours. Normally, the test is completed in less than 8 hours. Due to the piping configuration, a break in the non-seismic portion of the piping during these planned evolutions could result in draining the RWST below the minimum analyzed volume. Therefore to mitigate the consequences of a failure in the non-seismic piping, manual actions will be needed to isolate the break flow, (i.e., close valve 1CT-22), prior to reducing the water volume in the RWST below the minimum analyzed volume.

Based on the use of a dedicated attendant to close valve 1CT-22, the lack of significant accessibility concerns, and the reliability of the valve to function, it can be concluded that 30 minutes is ample time for a valve attendant stationed at the valve to execute the manual action. Since the RWST volume margin provides up to 103 minutes to respond to the pipe failure, it is reasonable to assume that manual actions to isolate the postulated pipe failure can be taken before the RWST level decreases below the minimum analyzed volume assumed in the safety analysis.

Therefore, there would be no increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the use of a dedicated attendant to close valve 1CT-22, the lack of significant accessibility concerns, and the reliability of the valve to function, it can be concluded that 30 minutes is ample time for a valve attendant stationed at the valve to execute the manual action. Since the RWST volume margin provides up to 103 minutes to respond to the pipe failure, it is reasonable to assume that manual actions to isolate the postulated pipe failure can be taken before the RWST level decreases below the minimum analyzed volume assumed in the safety analysis. As a result, the capability of the RWST to perform its safety function is not impacted.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed amendment does not involve a significant reduction in the margin of safety.

As described in the Technical Specification Bases, the operability of the RWST ensures that a sufficient supply of borated water is available for injection into the core by the emergency core cooling system. This borated water is used as cooling water for the core in the event of a LOCA [loss-of-coolant accident] and provides negative reactivty to counteract any positive increase in reactivity caused by reactor coolant system (RCS) cooldown. The limits on RWST minimum volume and boron concentration assure that: (1) sufficient water is available within containment to permit recirculation cooling flow to the core, and (2) the reactor will remain subcritical in the cold condition following mixing of the RWST and the RCS water volumes with all shutdown and control rods inserted except for the most reactive control assembly. These limits are consistent with the assumptions of the LOCA and steam line break analyses.

Based on the use of a dedicated attendant to close valve 1CT-22, the lack of significant accessibility concerns, and the reliability of the valve to function, it can be concluded that 30 minutes is ample time for a valve attendant stationed at the valve to execute the manual action. Since the RWST volume margin provides up to 103 minutes to respond to the pipe failure, it is reasonable to assume that manual actions to isolate the postulated pipe failure can be taken before the RWST level decreases below the minimum analyzed volume assumed in the safety analysis. As a result, the capability of the RWST to perform its safety function is not impacted.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605

Attorney for licensee: William D. Johnson, Vice President and Senior Counsel, Carolina Power & Light Company, Post Office Box 1551, Raleigh, North Carolina 27602

NRC Project Director: Mark Reinhart, Acting

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: February 17, 1997

Description of amendment request: The proposed amendment would change the required diesel generator load during the initial 2 hours of a surveillance run from 2625 kW and 2750 kW to 2730 kW and 2860 kW.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1) Involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

The proposed changes represent a correction to the emergency diesel generator surveillance requirement. The proposed changes are administrative in nature and do not significantly increase the probability or consequences of any previously evaluated accidents for Quad Cities Station. The proposed amendment is consistent with the current safety analyses and represents sufficient requirements for the assurance and reliability of equipment assumed to operate in the safety analysis. As such, these changes will not significantly increase the probability or consequences of a previously evaluated accident.

The associated systems related to this proposed amendment are not assumed in any safety analysis to initiate any accident sequence for Quad Cities Station; therefore, the probability of any accident previously evaluated is not increased by the proposed amendment.

2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

The proposed amendment for Quad Cities Station's Technical Specification is required to ensure the diesel generator is tested in accordance with the design basis requirements. The proposed changes do not create the possibility of a new or different kind of accident previously evaluated for Quad Cities Station. No new modes of operation are introduced by the proposed changes. The proposed changes are administrative in nature and maintain at least the present level of operability. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The associated systems related to this proposed amendment are not assumed in any safety analysis to initiate any accident sequence for Quad Cities Station; therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3) Involve a significant reduction in the margin of safety because:

The proposed amendment is required to ensure the diesel generator is tested in accordance with the design basis requirements. The proposed changes are administrative in nature and do not adversely affect existing plant safety margins or the reliability of the equipment assumed to operate in the safety analysis. The proposed changes have been evaluated and found to be acceptable for use at Quad Cities based on system design, safety analysis requirements and operational performance. Since the proposed changes are administrative in nature and maintain necessary levels of system or component reliability, the proposed changes do not involve a significant reduction in the margin of safety.

The proposed amendment for Quad Cities Station will not reduce the availability of systems required to mitigate accident conditions; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603

NRC Project Director: Robert A. Capra

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: December 24, 1996 and January 31, 1997

Description of amendment request: Changes to Administrative Controls section of the Technical Specifications needed to implement revised management responsibilities and titles that reflect the permanently shut down status of plant.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with 10 CFR 50.92, CYAPCO [Connecticut Yankee Atomic Power Company] and NNECO [Northeast Nuclear Energy Company] have reviewed the attached proposed changes and have concluded that they do not involve a Significant Hazard consideration (SHC). The basis of this conclusion is that the three criterion of 10 CFR 50.92 are not compromised. The proposed changes do not involve an SHC because the proposed changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

No design basis accidents are affected by these proposed changes. The proposed changes are administrative in nature and are being proposed to reflect the organizational changes which became effective December 9, 1996.

The Haddam Neck unit changes are replacement of the Executive Vice President, Nuclear by the Executive Vice President and Chief Nuclear Officer along with the replacement of the Vice President, Haddam Neck by the Unit Director.

No safety systems are adversely affected by the proposed changes, and no failure modes are associated with the changes.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

There are no changes in any way that the plants are operated due to this administrative change. The potential for an unanalyzed accident is not created. There is no impact on plant response, and no new failure modes are introduced. The proposed administrative and editorial changes have no impact on safety limits or design basis accidents, and have no potential to create a new or unanalyzed event.

3. Involve a significant reduction in a margin of safety.

These changes do not directly affect any protective boundaries nor do they impact the safety limits for the protective boundaries. These proposed changes are administrative and editorial in nature. Therefore there can be no reduction in the margin of safety.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (51 FR 7751, March 4, 1986) of amendments that are considered not likely to involve an SHC. The changes proposed herein are enveloped by example (1), since they are purely administrative changes to the technical specifications to reflect organizational title changes and to achieve consistence throughout the technical specifications at Haddam Neck.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457

Attorney for licensee: Ms. L. M. Cuoco, Senior Nuclear Counsel, Northeast Utilities Service Company, Post Office Box 270, Hartford, CT 06141-0270

NRC Project Director: Seymour H. Weiss

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: July 17, 1996

Description of amendment request: The proposed change request modifies Waterford Steam Electric Station, Unit 3, Technical Specifications 3/4.7.1.3,'' CONDENSATE STORAGE POOL,'' by increasing the minimum required contained water volume from 82 percent to 91 percent indicated level. This proposed change is required to ensure that the minimum useable water volume in the Condensate Storage Pool (CSP) is maintained greater than or equal to 170,000 gallons. The new minimum level accounts for the minimum level required to prevent Emergency Feedwater pump suction line vortexing and instrument measurement uncertainties.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Will operation of the facility in accordance with this proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Increasing the minimum required CSP level will insure that the minimum required 170,000 gallons of water is available for supply to the Emergency Feedwater System. Maintaining the minimum required water volume will not increase the probability of any accident previously evaluated. Additionally, it will not affect the consequences of any accident. Maintaining at least 170,000 gallons of water available in the CSP will ensure that the system remains within the bounds of the accident analysis. Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

2. Will operation of the facility in accordance with this proposed change create the possibility of a new or different type of accident from any accident previously evaluated?

Response: No.

Increasing the minimum water volume of the CSP from 82 percent to 91 percent does not create a possibility for a new or different kind of accident. The CSP will be operated in the same manner as previously evaluated. Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Will operation of the facility in accordance with this proposed change involve a significant reduction in a margin of safety?

Response: No.

Operation in accordance with this proposed change will ensure that the minimum contained water volume of the CSP will remain at least 170,000 gallons under all conditions. This will maintain the present margin of safety. Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: February 5, 1997

Description of amendment request: The proposed amendment will change Waterford Steam Electric Station, Unit 3, Technical Specifications 3.1.2.7, 3.1.2.8, 3.5.1, 3.5.4, 3.9.1, and Bases 3/4.1.2. The proposed change will increase the minimum boron concentration in the Safety Injection Tanks (SITs) and the Refueling Water Storage Pool (RWSP) to 2050 ppm to reflect the safety analysis for fuel Cycle 9.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Safety Injection System (SIS) is designed to provide core cooling in the unlikely event of a loss of coolant accident (LOCA). The cooling must be sufficient to prevent significant alteration of core geometry, preclude fuel melting, limit the cladding metal-water reaction, and remove the energy generated in the core for an extended period of time following a LOCA. The SIS fluid must contain the necessary boron concentration to maintain the core subcritical for the duration of a LOCA.

The proposed change increases the minimum boron concentration in the SITs and RWSP from 1720 ppm to 2050 ppm. Thus, the SIT/RWSP will at all times contain sufficient borated water to provide adequate shutdown margin. Sampling of the system and RWSP required by the Technical Specifications assures that the required dissolved boron concentration is present. In addition to its emergency core cooling function, the SIS functions to inject borated water into the RCS to increase shutdown margin following a rapid cooldown of the RCS as a result of a steam line rupture.

Operation of the safety injection system is credited in the steam line break analysis for causing a decrease in core reactivity. The current minimum RWSP/SIT concentration to be injected is 1720 ppm. Thus an increase to 2050 ppm will have no adverse affect on this analysis.

The Mode 5 boron dilution event identifies that with an initial boron concentration of 1240 ppm, a Keff of 0.98, RCS partially drained, and one charging pump operational, the minimum possible time to criticality is greater than 90 minutes. For all other combinations of Keff, RCS conditions, and number of charging pumps, the time to loss of shutdown margin is greater than 55 minutes. Thus, the proposed increase in boron concentration will not affect the results of the Mode 5 boron dilution event.

The change to the action statement of TS 3.9.1 assures that the more limiting reactivity condition of a Keff less than 0.95 or a boron concentration of 2050 ppm specified in the COLR [Core Operating Limit Report] will be adhered to during refueling operations.

The upper limit on boron concentration has not changed; therefore, there will be no affect on boric acid precipitation post-LOCA.

Therefore, the proposed change will not involve a significant increase in the probability or consequences of any accident previously evaluated.

The proposed change does not physically alter the configuration of the plant and, therefore, does not create the possibility of a new or different kind of accident from any previously evaluated accident.

Therefore, the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change maintains the minimum of 55 minutes to criticality for the refueling mode boron dilution event analysis. The proposed change continues to ensure that borated water of sufficient concentration is injected from both the SITs and the RWSP in the event of a LOCA or MSLB [main steam line break] and that boric acid does not precipitate in the core during long term cooling following a LOCA.

Therefore, the proposed change will not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Attorney for licensee: N.S. Reynolds, Esq., Winston & Strawn 1400 L Street N.W., Washington, D.C. 20005-3502

NRC Project Director: William D. Beckner

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: February 10, 1997

Description of amendment request: The proposed amendment would provide the requirements for avoidance and protection from thermal hydraulic instabilities as described in NRC Generic Letter 94-02, ''Long-Term Solutions and Upgrade of Interim Operating Recommendations for Thermal Hydraulic Instabilities in Boiling Water Reactors.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. In fact, it does not result in an increase in the probability or consequences of any previously evaluated accidents. The implementation of [Boiling Water Reactor Owners' Group] BWROG Long-Term Stability Solution Option I-D at [Cooper Nuclear Station] CNS does not modify the assumptions contained in the existing accident analysis. The use of an exclusion region and the operator actions required to avoid and minimize operation inside the region do not increase the possibility of an accident.

Conditions of operation outside of the exclusion region are within the analytical envelope of the existing safety analysis. The operator action requirement to exit the exclusion region upon entry minimizes the possibility of an oscillation occurring. The actions to drive control rods and/or to increase recirculation flow to exit the region are maneuvers within the envelope of normal plant evolutions. The flow-biased scram has been analyzed and will provide automatic fuel protection in the event of an instability. Thus, each proposed Technical Specification requirement provides defense for protection from an instability event within the existing assumptions of the accident analysis.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

As stated above, the proposed Technical Specification requirements either mandate operation within the envelope of existing plant operating conditions or force specific operating maneuvers within those carried out in normal operation. Since operation of the plant with all of the proposed requirements is within the existing operating basis, an unanalyzed accident will not be created through implementation of the proposed change.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

Each of the proposed requirements for plant thermal-hydraulic stability provides a means for fuel protection. The combination of avoiding possible unstable conditions and the automatic flow-biased reactor scram provides an in-depth means for fuel protection. Therefore, the individual or combination of means to avoid and suppress an instability supplements the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305

Attorney for licensee: Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602-0499

NRC Project Director: William D. Beckner

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London, Connecticut

Date of amendment request: March 6, 1997

Description of amendment request: During a self assessment, the licensee identified weaknesses in the current Technical Specifications regarding allowed outage times for certain specific protective instrumentation and also for reactor building access control. The proposed amendment is designed to eliminate these weaknesses by adopting guidance from NUREG-0123, ''Standard Technical Specifications for General Electric Boiling Water Reactors (BWR/

5),'' Revision 3, and NUREG-1433, Standard Technical Specifications General Electric Plants BWR/4,'' Revision 1.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The operation of Millstone Nuclear Power Station, Unit No. 1, in accordance with the proposed amendment, will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The inherent redundancy and reliability of the protective instrumentation trip systems ensure that the consequences of an accident are not significantly increased. In addition, the restrictive Allowable Outage Time (AOT) interval limits the probability of the protective instrument channel being unavailable and an accident requiring its function from occurring simultaneously. The requirement that the associated trip function maintains trip capability ensures that the protective instrumentation response will occur such that the consequences of an accident are not different from those previously evaluated.

Instruments addressed in the proposed TS respond to changes in the plant. The proposed (AOTs) provide a two-hour interval where the instrument is inoperable, yet the Technical Specification (TS) Limiting Condition for Operation (LCO) action statement is not immediately entered. The probability of a plant transient being initiated by a trip of a coincident channel during surveillance testing is reduced since the channel under test will only be tripped for a small portion of the test interval. Therefore, AOTs provided by the proposed TS have no effect on the probability of occurrence of previously evaluated accidents.

The proposed TS changes provide a two-hour interval where the instrument is inoperable, but the TS LCO action statement is not immediately entered. If a single failure occurred on the other channel of the trip system being tested and the channel being tested was not in the trip condition, a valid signal might not provide the required protective action. The probability of an event requiring initiation of the protective function within the proposed AOT is low. Additionally, surveillance testing is not generally performed on multiple sensors simultaneously. So, other trip functions and sensors remain operable and the probability of extensive inoperabilities affecting diverse trip functions is low. A spurious trip of a coincident channel could initiate a plant transient (for example, a reactor scram or a main steam isolation valve closure); however, these transients are bounded by the current analyses. Moreover, the original TS bases submitted as part of the application for Millstone Unit No. 1's Provisional Operating License (dated October 7, 1970) included recognition that instruments would be inoperable during required functional tests and calibrations. Thus, these conditions were recognized in the original design bases and constitute part of the licensing bases of the plant. NUREG-0123 provided specific time frames[,] ...AOTs addressed in the table notes[,] and specific action statements. Millstone Unit No. 1 AOT values chosen are consistent with these values and less than those approved in NUREG-1433 which had a more detailed study performed to lengthen the AOT value.

The existing TS definition for Instrument Functional Test would be difficult to satisfy if the LCO condition of tripping the inoperable channel was performed. A similar problem of complying with the Instrument Calibration definition also exists. The TS requirement to perform functional tests and calibrations is not consistent with a requirement to trip the system under test. The proposed TS changes permit more complete functional and calibration testing. For example, the main scram contactors could be included within the surveillance tests. Therefore, these TS clarifications do not increase the consequences of any previously analyzed accidents.

The two-hour instrumentation AOT for the Air Ejector Off-Gas System radiation monitors is slightly less restrictive than that allowed by the NUREG-0123. Since this requirement was relocated from NUREG-1433, there is no corresponding requirement for comparison. These radiation monitors are arranged in a two-out-of-two logic; therefore, both must trip to initiate the required action (closure of the off-gas isolation valve to the main stack). This action, however, is automatically delayed by 15 minutes. A high radiation condition sensed by the monitor in service would provide sufficient time to take corrective actions. Since a two-hour AOT is deemed acceptable for instrumentation in system[s] such as the Reactor Protection System and Emergency Core Cooling Systems, it is appropriate to apply a two-hour AOT to these radiation monitors. Additionally, the NUREG-0123 AOT of one hour does not allow sufficient time to perform required surveillance testing without placing undue stress on the test performer. The probability of a plant transient (e.g., loss of condenser vacuum) resulting from a trip of the coincident channel during surveillance testing is reduced since the channel under test will only be tripped for a small portion of the test interval. This transient is bounded by existing analyses. Therefore, this proposed AOT will not significantly increase the probability or consequences of an accident previously evaluated.

Since no physical change is being made to the secondary containment, or to any systems or components that interface with the secondary containment, there is no change in the probability of any accident analyzed in the UFSAR [Updated Final Safety Analysis Report].

The proposed change continues to ensure the secondary containment requirements meet the licensing basis. Also, the proposed changes are based on Standard Technical Specifications, NUREG-1433, ''Standard Technical Specifications General Electric Plants, BWR/4,'' Revision 1 guidelines and implement actions to be taken when secondary containment integrity is not met. If secondary containment integrity is not met, existing TS 3.7.C directs the plant to be placed in an operating condition where secondary containment is not required, e.g., COLD SHUTDOWN. A four hour allowable outage time is proposed which provides a period of time to correct the problem that is commensurate with the importance of maintaining secondary containment during RUN, STARTUP/HOT STANDBY or HOT SHUTDOWN. The secondary containment is not an initiator for any accident. Therefore, the proposed change will not increase the probability of any previously analyzed accident. This short time period ensures that the probability of an accident requiring secondary containment integrity operability occurring during periods when secondary containment integrity is inoperable is minimal.

The proposed surveillance requirement is based on the NUREG-1433 surveillance requiring periodic confirmation that at least one door in each of the double-doored accesses to the secondary containment is closed, provides additional assurance of secondary containment system integrity. While this is a deviation from NUREG-1433 (which requires that both doors in each access be closed except for normal entry and exit), it is consistent with the current definition of Secondary Containment Integrity, which requires that at least one door in each access opening be closed. Hence, the deviation is justifiable and represents increased passive testing which will provide increased awareness of plant conditions. Increased awareness of plant conditions should reduce the probability or consequences of any accident previously evaluated.

Since the aspects of secondary containment integrity affected by reactor building access control are being revised in this proposed amendment to agree with the allowable outage time allowed by NUREG-1433 upon loss of secondary containment integrity, the change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Since the editorial items do not alter the meaning or intent of any requirements, they do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The operation of Millstone Nuclear Power Station, Unit No. 1, in accordance with the proposed amendment, will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change to the protective instrumentation trip system specifications do not create the possibility of a new or different kind of accident because they do not introduce any new operational modes or physical modifications to the plant.

Instruments addressed in the proposed TS respond to changes in the plant. The proposed AOTs provide a two-hour interval where the instrument is inoperable, yet the TS LCO action statement is not immediately entered. Given a single failure, this could impact the response of the trip channel but not the initiation of the event. The only

action resulting from the AOTs is to perform testing as required by TS. Spurious signals during testing could initiate transients but would be bounded by the previous transient analyses. These tests do not subject the instruments to any conditions beyond their design specifications and are performed in accordance with approved testing standards. This testing ensures equipment operability by identifying degraded conditions, initiating corrective action and properly retesting them. Therefore, the proposed TS changes will not introduce a new or different kind of accident than previously evaluated.

The two-hour instrumentation AOT for the Air Ejector Off-Gas System radiation monitors is slightly less restrictive than that allowed by the NUREG-0123. Since this requirement was relocated from NUREG-1433, there is no corresponding requirement for comparison. These radiation monitors are arranged in a two-out-of-two logic; therefore, both must trip to initiate the required action (closure of the off-gas isolation valve to the main stack). This action, however, is automatically delayed by 15 minutes. A high radiation condition sensed by the monitor in service would provide sufficient time to take corrective actions. Since a two-hour AOT is deemed acceptable for instrumentation in system[s] such as the Reactor Protection System and Emergency Core Cooling Systems, it is appropriate to apply a two-hour AOT to these radiation monitors.

The proposed changes to Millstone Unit No. 1 Technical Specifications Section 3.7/4.7 and associated bases were developed using the guidance provided in the Standard Technical Specifications, NUREG-1433, ''Standard Technical Specifications General Electric Plants, BWR/4,'' Revision 1. Augmentation of the existing surveillance requirements by incorporation of an additional NUREG-1433 based surveillance, provides additional assurance of secondary containment system integrity. While this is a deviation from NUREG-1433 (which requires that both doors in each access be closed except for normal entry and exit), it is consistent with the current definition of Secondary Containment Integrity which requires that at least one door in each access opening be closed. Hence, the deviation is justifiable and represents increased passive testing which will provide increased awareness of plant conditions. Increased awareness of plant conditions will not create the possibility of a new or different kind of accident from any accident previously evaluated. Since the proposed changes do not significantly degrade the present level of system operability and add provisions from NUREG-1433, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Since the editorial items do not alter plant configurations or operating modes, they do not create the possibility of a new or different kind of accident.

3. The operation of Millstone Nuclear Power Station, Unit No. 1, in accordance with the proposed amendment, will not involve a significant reduction in a margin of safety.

The protective instrumentation surveillance requirements provide verification of the operability of the trip system instrumentation channels. In addition, the channel that monitors the identical Trip Function within the same trip system maintains trip capability for the relatively short duration that the coincidence change is in effect. This ensures that protective instrumentation reliability is maintained. The proposed change provides for a specific time period to perform required surveillances on instrument channels without trips present in associated trip systems. This time allotment tends to enhance the margin of safety by decreasing the probability of unnecessary challenges to safety systems and inadvertent plant transients.

The proposed TS provide a two-hour interval where the instrument is inoperable, yet the TS LCO action statement is not immediately entered. If a single failure occurred on the other channel of the trip system being tested and the channel being tested was not in the tripped condition, a valid signal might not provide the required protective action. The probability of an event requiring initiation of the protective function within the proposed AOT is low. Additionally, surveillance testing is not generally performed on multiple sensors simultaneously. So, other trip functions and sensors remain operable and the probability of extensive inoperabilities affecting diverse trip functions is low.

The existing TS definition for Instrument Functional Test would be difficult to satisfy if the LCO condition of tripping the inoperable channel was performed. A similar problem of complying with the Instrument Calibration definition also exists. Moreover, the original TS bases submitted as part of the application for Millstone Unit No. 1—s Provisional Operating License (dated October 7, 1970) included recognition that instruments would be inoperable during required functional test and calibrations. Thus, these conditions were recognized in the original design bases and constitute part of the licensing bases of the plant. NUREG-0123 provided specific time frames[,]...AOTs addressed in the table notes[,] and specific action statements. Millstone Unit No. 1 AOT values chosen are consistent with these values and less than those approved in NUREG-1433 which had a more detailed study performed to lengthen the AOT value.

The only action resulting from the proposed TS is to perform testing as required by TS. Spurious signals during testing could initiate equipment or plant transients but would be bounded by the previous transient analysis. These tests do not subject the instruments to any conditions beyond their design specifications and are performed in accordance with approved testing standards. This testing ensures equipment operability by identifying degraded conditions, initiating corrective action and properly retesting them. Therefore, the proposed TS do not involve a significant reduction in a margin of safety.

The two-hour instrumentation AOT for the Air Ejector Off-Gas System radiation monitors is slightly less restrictive than that allowed by the NUREG-0123. Since this requirement was relocated from NUREG-1433, there is no corresponding requirement for comparison. These radiation monitors are arranged in a two-out-of-two logic; therefore, both must trip to initiate the required action (closure of the off-gas isolation valve to the main stack). This action, however, is automatically delayed by 15 minutes. A high radiation condition sensed by the monitor in service would provide sufficient time to take corrective actions. Since a two-hour AOT is deemed acceptable for instrumentation in system[s] such as the Reactor Protection System and Emergency Core Cooling Systems, it is appropriate to apply a two-hour AOT to these radiation monitors and does not involve a significant reduction in the margin of safety.

The addition of an allowable outage time of four hours for Secondary Containment Integrity has negligible effect on accident occurrence or consequences. Since the proposed change does not involve the addition or modification of plant equipment, is consistent with the intent of the existing Technical Specifications, is consistent with the current industry practices as outlined in NUREG-1433, (except for the deviation noted above), and is consistent with the design basis of the plant and the accident analysis, no action will occur that will involve a significant reduction in a margin of safety.

Since the editorial items do not alter the meaning or intent of any requirements, they do not affect the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Deputy Director: Phillip F. McKee

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of amendment requests: July 28, 1995, as revised February 21, 1997

Description of amendment requests: The proposed amendments would revise the Technical Specifications (TSs) to allow use of credit for soluble boron in spent fuel pool criticality analyses. The licensee's February 21, 1997, submittal is a revision to its original amendment requests dated July 28, 1995. The generic methodology for crediting soluble boron in spent fuel rack criticality analyses was approved

by the NRC on October 25, 1996. However, because of changes made to the generic methodology as a result of comments from the NRC staff, it was necessary for NSP to revise its original amendment requests. In addition, the licensee has revised its request by eliminating the proposed relocation of the spent fuel pool operating limits to the Unit 1 core operating limits report and will retain these limits in the TSs.

The licensee's original application for amendments was published in the **Federal Register** on September 23, 1996, (61 FR 49800).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment[s] will not involve a significant increase in the probability or consequences of an accident previously evaluated.

There is no increase in the probability of a fuel assembly drop accident in the spent fuel pool when considering the presence of soluble boron in the spent fuel pool water for criticality control. The handling of the fuel assemblies in the spent fuel pool has always been performed in borated water.

The criticality analysis showed the consequences of a fuel assembly drop accident in the spent fuel pool are not affected when considering the presence of soluble boron.

There is no increase in the probability of the accidental misloading of spent fuel assemblies into the spent fuel pool racks when considering the presence of soluble boron in the pool water for criticality control. Fuel assembly placement will continue to be controlled pursuant to approved fuel handling procedures and will be in accordance with the Technical Specification spent fuel rack storage configuration limitations. The addition of the spent fuel pool storage configuration surveillance in proposed Specification 4.20 will provide increased assurance that a spent fuel pool inventory verification will be completed in a timely manner after completion of a fuel handling campaign in the spent fuel pool.

There is no increase in the consequences of the accidental misloading of spent fuel assemblies into the spent fuel pool racks because criticality analyses demonstrate that the pool will remain subcritical following an accidental misloading if the pool contains an adequate boron concentration. The proposed Technical Specifications limitations will ensure that an adequate spent fuel pool boron concentration will be maintained.

There is no increase in the probability of the loss of normal cooling to the spent fuel pool water when considering the presence of soluble boron in the pool water for subcriticality control since a high concentration of soluble boron has always been maintained in the spent fuel pool water.

A loss of normal cooling to the spent fuel pool water causes an increase in the temperature of the water passing through the stored fuel assemblies. This causes a decrease in water density which would result in a decrease in reactivity when Boraflex neutron absorber panels are present in the racks. However, since Boraflex is not considered to be present, and the spent fuel pool water has a high concentration of boron, a density decrease causes a positive reactivity addition. However, the additional negative reactivity provided by the proposed 1800 ppm boron concentration limit, above that provided by the concentration required to maintain K_{eff} less than or equal to 0.95 (750 ppm), will compensate for the increased reactivity which could result from a loss of spent fuel pool cooling event. Because adequate soluble boron will be maintained in the spent fuel pool water, the consequences of a loss of normal cooling to the spent fuel pool will not be increased.

Therefore, based on the conclusions of the above analysis, the proposed changes will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed amendment[s] will not create the possibility of a new or different kind of accident from any accident previously analyzed.

Spent fuel handling accidents are not new or different types of accidents, they have been analyzed in Section 14.5.1 of the Updated Safety Analysis Report.

Criticality accidents in the spent fuel pool are not new or different types of accidents, they have been analyzed in the Updated Safety Analysis Report and in Criticality Analysis reports associated with specific licensing amendments for fuel enrichments up to 5.0 weight percent U-235.

The Prairie Island Technical Specifications currently contain limitations on the spent fuel pool boron concentration. Current Specification 3.8.E.2, which covers the storage of restricted fuel assemblies in an unverified condition, and Specification 3.8.B.1.c for the loading of fuel assemblies into a cask in the spent fuel pool, contain requirements for spent fuel pool boron concentration. The actual boron concentration in the spent fuel pool has always been kept at a higher value for refueling purposes. New Specification 3.8.E.2 establishes new boron concentration requirements for the spent fuel pool water consistent with the results of the new criticality analysis (Exhibit E [of the February 21, 1997, submittal]).

Since soluble boron has always been maintained in the spent fuel pool water, and is currently required by Technical Specifications under some circumstances, the implementation of this new requirement will have little effect on normal pool operations and maintenance. The implementation of the proposed new limitations on the spent fuel pool boron concentration will only result in increased sampling to verify boron concentration. This increased sampling will not create the possibility of a new or different kind of accident.

Because soluble boron has always been present in the spent fuel pool and is required by current Technical Specifications as discussed above, a dilution of the spent fuel pool soluble boron has always been a possibility. However, it was shown in the spent fuel pool dilution evaluation (Exhibit D [of the February 21, 1997, submittal]) that a dilution of the Prairie Island spent fuel pool which could reduce the rack K_{eff} to less than 0.95 is not a credible event. Therefore, the implementation of new limitations on the spent fuel pool boron concentration will not result in the possibility of a new kind of accident.

Revised Specifications 3.8.E.1, 5.6.A.1.d and 5.6.A.1.e continue to specify the requirements for the spent fuel rack storage configurations, the only significant changes relate to the criteria for determining the storage configuration. Since the proposed spent fuel pool storage configuration limitations will be similar to those currently in the Prairie Island Technical Specifications, the new limitations will not have any significant effect on normal spent fuel pool operations and maintenance and will not create any possibility of a new or different kind of accident. Verifications will continue to be performed to ensure that the spent fuel pool loading configuration meets specified requirements.

As discussed above, the proposed changes will not create the possibility of a new or different kind of accident. There is no significant change in plant configuration, equipment design or equipment. The accident analysis in the Updated Safety Analysis Report remains bounding.

3. The proposed amendment[s] will not involve a significant reduction in the margin of safety.

The Technical Specification changes proposed by this License Amendment Request and the resulting spent fuel storage operating limits will provide adequate safety margin to ensure that the stored fuel assembly array will always remain subcritical. Those limits are based on a plant specific criticality analysis (Exhibit E) performed in accordance [with] the Westinghouse spent fuel rack criticality analysis methodology described in Reference 4 [in Exhibit A of the February 21, 1997, submittal].

While the criticality analysis utilized credit for soluble boron, a storage configuration has been defined using a 95/95 K_{eff} calculation to ensure that the spent fuel rack K_{eff} will be less than 1.0 with no soluble boron. Soluble boron credit is used to offset uncertainties, tolerances and off-normal conditions and to provide subcritical margin such that the spent fuel pool K_{eff} is maintained less than or equal to 0.95.

The loss of substantial amounts of soluble boron from the spent fuel pool which could lead to exceeding a K_{eff} of 0.95 has been evaluated (Exhibit D) and shown to be not credible.

The evaluations in Exhibit D, which show that the dilution of the spent fuel pool boron concentration from 1800 ppm to 750 ppm is not credible, combined with the 95/95 calculation, which shows that the spent fuel rack K_{eff} will remain less than 1.0 when flooded with unborated water, provide a level of safety comparable to the conservative criticality analysis methodology required by References 1, 2 and 3 [in Exhibit A of the February 21, 1997, submittal].

Therefore, the proposed changes in this license amendment will not result in a significant reduction in the plant's margin of safety.

Based on the evaluation above, and pursuant to 10 CFR 50, Section 50.91, Northern States Power Company has determined that operation of the Prairie Island Nuclear Generating Plant in accordance with the proposed license amendment request does not involve any significant hazards considerations as defined by NRC regulations in 10 CFR 50, Section 50.92.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Attorney for licensee: Jay Silberg, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: John N. Hannon

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: February 14, 1997

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Unit Nos. 1 and 2 to revise the surveillance frequencies from at least once every 18 months to at least once per refueling interval (nominally 24 months) for 8 slave relay tests, 20 electrical system tests and 1 electrical TS Bases change, and 5 miscellaneous tests.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS surveillance interval increase to 24 months do not alter the intent or method by which the inspections, tests, or verifications are conducted; do not alter the way any structure, system, or component functions; and do not change the manner in which the plant is operated.

The surveillance, maintenance, and operating histories indicate that the equipment will continue to perform satisfactorily with longer surveillance intervals. Few surveillance and maintenance problems were identified. No problems have recurred following identification of root causes and implementation of corrective actions.

There are no known mechanisms that would significantly degrade the performance of the evaluated equipment during normal plant operation. All potential time related degradation mechanisms have insignificant effects in the timeframe of interest (24 months +25 percent, or 30 months). Based on the past performance of the equipment, the probability or consequences of accidents would not be significantly affected by the proposed surveillance interval increases.

Deletion of the phrase ''during shutdown'' for the applicable electrical TS will not alter the intent or method by which the inspections, tests, or verifications are conducted; nor alter the way any structure, system, or component functions. DCPP has administrative programs in place which require evaluation of risk and suitability of surveillance and maintenance activities to ensure that performance during plant operation does not adversely affect safety.

The administrative change for one PORV TS regarding channel calibration only maintains the existing surveillance frequency. This revision does not alter the intent or method by which the inspections, tests, or verifications are conducted; nor alter the way any structure, system, or component functions.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

For the proposed TS changes involving surveillance interval increases to 24 months, the surveillance and maintenance histories indicate that the equipment will continue to effectively perform its design function over the longer operating cycles. Additionally, the increased surveillance intervals do not result in any physical modifications, affect safety function performance or the manner in which the plant is operated, or alter the intent or method by which surveillance tests are performed. No problems have recurred following identification of root causes and implementation of corrective actions. All identified potential time related degradations have insignificant effects in the timeframe of interest. The proposed surveillance interval increases would not affect the type of accident possible.

Deletion of the phrase —during shutdown— for the applicable electrical TS does not result in any physical modifications, affect safety function performance or the manner in which the plant is operated, or alter the intent or method by which surveillance tests are performed. DCPP has administrative programs in place which require evaluation of risk and suitability of surveillance and maintenance activities to ensure that performance during plant operation does not adversely affect safety.

The administrative change for one PORV TS regarding channel calibration only maintains the existing surveillance frequency. This revision does not result in any physical modifications, affect safety performance or the manner in which the plant is operated, or alter the intent or method by which surveillance tests are performed.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

For the proposed TS changes involving surveillance interval increases to 24 months, evaluation of historical surveillance and maintenance data indicates there have been few problems experienced with the evaluated equipment. There are no indications that potential problems would be cycle engthdependent or that potential degradation would be significant for the timeframe of interest; therefore, increasing the surveillance interval will have little, if any, impact on safety. There is no safety analysis impact since these changes will have no effect on any safety limit, protection system setpoint, or limiting condition for operation, and there are no hardware changes that would impact existing safety analysis acceptance criteria. Safety margins would not be significantly affected by the proposed surveillance interval increases.

Deletion of the phrase ''during shutdown'' for the applicable electrical TS has no safety analysis impact since these changes will have no effect on any safety limit, protection system setpoint, or limiting condition for operation, and there are no hardware changes that would impact existing safety analysis acceptance criteria. DCPP has administrative programs in place which require evaluation of risk and suitability of surveillance and maintenance activities to ensure that performance during plant operation does not adversely affect safety.

The administrative change for one PORV TS regarding channel calibration only maintains the existing surveillance frequency. This revision has no safety analysis impact.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: William H. Bateman

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: January 16, 1997, as supplemented February 24, 1997.

Description of amendment request: The proposed amendment would allow pre-operational testing and load handling of spent fuel transfer and storage casks in the Trojan Fuel Building.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The staff's review is presented below:

The proposed changes would not involve a significant increase in the probability or consequences of an accident previously evaluated. With the permanent cessation of operations at the Trojan Plant, the number of potential accidents was reduced to those types of accidents associated with the storage of irradiated fuel and radioactive waste storage and handling. Additional events were postulated for decommissioning activities due to the difference in the types of activities that were to be performed. The postulated accidents described in the Defueled Safety Analysis Report (DSAR) are generally classified as: 1) radioactive release from a subsystem or component, 2) fuel handling accident, and 3) loss of spent fuel decay heat removal capability. The postulated events described in the Decommissioning Plan are grouped as: 1) decontamination, dismantlement, and materials handling events, 2) loss of support systems (offsite power, cooling water, and compressed air), 3) fire and explosions, and 4) external events (earthquake, external flooding, tornadoes, extreme winds, volcanoes, lightning, toxic chemical release). These types of accidents are discussed below.

Radioactive release from a subsystem or component involves failure of a radioactive waste gas decay tank (WGDT) or failure of a chemical and volume control system holdup tank (HUT). For a failure of a WGDT, the radioactive contents are assumed to be principally noble gases krypton and xenon, the particulate daughters of some of the krypton and xenon isotopes, and trace quantities of halogens. For the failure of a HUT, the assumptions were full power operation with 1-percent failed fuel, 40 weeks elapsed since power operation, and 60,000 gallons of 120°F liquid released over a 2-hour period. However, the WGDTs and HUTs are no longer active and have been drained. Therefore, pre-operational testing and load handling activities cannot increase the probability of occurrence of a failure of a WGDT or HUT. Since the failure of a WGDT or HUT is no longer credible, the consequences of failure of a WGDT or HUT cannot significantly increase as a result of pre-operational testing and load handling.

The fuel handling accident involves a stuck or dropped fuel assembly that results in damage of the cladding of the fuel rods in one assembly and the release of gaseous fission products. Pre-operational testing and load handling do not involve the movement of irradiated fuel. A dummy assembly will be used for fit-up testing. The fuel handling equipment will be the same as previously analyzed with the exception of special tools that may be used to manipulate the dummy fuel assembly. These special tools will be similar in size and weight to other tools used for underwater manipulation, and therefore, would not present a new hazard. In addition, the same administrative controls and physical limitations imposed on any fuel handling operation will be used for pre-operational testing and load handling. Thus, there is no increase in the probability of occurrence of a fuel handling accident over what would be expected for any routine fuel handling operation. If a dummy fuel assembly were dropped in the spent fuel pool, then only one fuel assembly could be damaged. Therefore, the consequences of a dummy fuel assembly drop would be the same as the consequences of the analysis described in the DSAR. Therefore, the consequences of a dummy fuel assembly drop are not significantly increased as a result of pre-operational testing and load handling.

The loss of spent fuel decay heat removal capability involves the loss of forced spent fuel cooling with and without concurrent spent fuel pool (SFP) inventory loss. The only requirement to assume adequate decay heat removal capability for the spent fuel is to maintain the water level in the SFP so that the spent fuel assemblies remain covered (i.e., the capability to makeup water to the SFP must be available when required). The potential events that could result in a loss of spent fuel decay heat removal capability include external events (explosions, toxic chemicals, fires, ship collision with the intake structure, oil or corrosive liquid spills in the river, cooling tower collapse, seismic events, severe meteorological events), and internal events, including SFP makeup water system malfunctions. Pre-operational testing and load handling will not require the use of explosive materials, toxic chemicals, or flammable materials. The probability of other external events (e.g., cooling tower collapse) would be unaffected by the pre-operational testing and load handling activities inside the fuel building. Pre-operational testing and load handling activities will not directly interface with the SFP makeup water systems, and therefore could not affect their probability of failure. The safe load path and handling height limitations will ensure that a load drop does not adversely affect the SFP or makeup water systems. Therefore, there is no significant increase in the probability of a loss of spent fuel decay heat removal capability. There are no credible adverse consequences of the loss of spent fuel decay heat removal as the DSAR demonstrates that adequate time is available to establish a source of makeup water to the SFP such that uncovering the fuel and an actual loss of spent fuel cooling is not credible. The postulated events that could affect the SFP (liner tear/breach and heavy load drop) do not have a significant adverse effect. In addition, establishment of the makeup water path and recovery of spent fuel cooling would not be affected because postulated off-normal events and accidents could not affect the capability to provide makeup water to the SFP by various water sources. Therefore, pre-operational testing and load handling cannot significantly increase the consequences of the loss of spent fuel decay heat removal.

The events postulated in the Decommissioning Plan are similar to the DSAR with the exception of decontamination, dismantlement, and materials handling events. Decontamination events involve gross liquid leakage from in-situ decontamination equipment or accidental spraying of liquids containing concentrated contamination. Dismantlement events include segmentation of components and structures, or removal of concrete by rock splitting, explosives, or electric and/or pneumatic hammers. Dismantlement events potentially result in airborne contamination. Materials handling events involve dropping contaminated components, concrete rubble, or filters or packages of particulate materials. Pre-operational testing and load handling activities are material handling activities and are therefore, within the bounds of the existing analysis. Therefore, the probability and consequences of decontamination, dismantlement, and materials handling events would not be significantly increased.

Based on the above, the pre-operational testing and load handling activities do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes would not create the possibility of a new or different kind of accident from any accident previously evaluated. As described in the licensee's safety evaluation of the proposed pre-operational testing and load handling activities, no types of off-normal events/accidents were determined to have radiological consequences greater than currently evaluated in the DSAR and Decommissioning Plan.

The postulated dummy fuel assembly drop is considered the same type or kind of event as the previously analyzed fuel handling accident, mainly because the initiator for this postulated event is the same (i.e., a (non-specified) failure of the fuel handling equipment or the fuel handling bridge crane. During pre-operational testing and load handling, a dummy fuel assembly could be dropped in the SFP or the cask loading pit. As the cask loading pit is similar in construction to the SFP and the cask loading pit will be flooded with borated water of the same concentration as the SFP, the differences between the two events are negligible and the two events may be considered the same type or kind of accident. Therefore the dummy fuel assembly drop is not a new or different type or kind of accident.

The postulated transfer cask drop or mishandling event is similar to a materials handling event. Therefore, the consequences of a transfer cask drop or mishandling event would not represent a new or different type or kind of accident.

Based on the above, the pre-operational testing and load handling activities do not create the possibility of a new or different kind of accident.

The proposed changes do not involve a significant reduction in the margin of safety. The Trojan Permanently Defueled Technical Specifications (PDTS) contain four limiting conditions of operation that address SFP water level, SFP boron concentration, SFP temperature, and SFP load restrictions. These PDTS will remain in effect as long as spent fuel is stored in the SFP, which is in accordance with their applicability statements. The pre-operational testing and load handling activities will not affect these PDTS or their bases.

The cask loading pit (CLP) is immediately adjacent to the SFP. The gate between the CLP and the SFP may be opened to allow a dummy fuel assembly to moved from the spent fuel storage racks in the SFP to the basket in the CLP. Opening the gate will allow free exchange of water between the CLP and the SFP. The water in the CLP must be at essentially the same level, boron concentration, and temperature as the SFP prior to the first opening of the gate to ensure that the limited conditions of operation are continuously satisfied for the SFP. Therefore, the CLP will be initially filled to about the same level as the SFP with water that is about the same boron concentration and temperature as the SFP. With these precautions, the limiting conditions of operation for SFP level, boron concentration, and temperature will be continuously maintained and the margin of safety will be unaffected.

Pre-operational testing and load handling activities will involve lifting and moving heavy loads (e.g., transfer casks). Loads that will be carried over fuel in the SFP racks and the heights at which they may be carried will be limited in accordance with LCO 3.1.4, ''Spent Fuel Pool Load Restrictions,'' in such a way as to preclude impact energies over 240,000 in-lbs. With this precaution, the limiting condition of operation pertaining to load restrictions over the SFP will be satisfied for fuel stored in the SFP racks and the margin of safety will be unaffected. The safe load path for heavy loads being lifted and moved outside the SFP will be located sufficiently far from the SFP as to not have an adverse effect on the SFP in the unlikely event of a load drop. In addition, the mechanical stops and electrical interlocks on the fuel building overhead crane will provide additional assurance that heavy loads are not carried over the fuel in the SFP racks.

Based on the above, the pre-operational testing and load handling activities will not reduce the margin of safety.

Based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, P.O. Box 1151, Portland, Oregon 97207

Basis for proposed no significant hazards consideration determination:

Attorney for licensees: Leonard A. Girard, Esq., Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204

NRR Project Director: Seymour H. Weiss

Power Authority of The State of New York, Docket No. 50-286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: January 2, 1997

Description of amendment request: The proposed amendment would allow a change to the current functional testing frequency for Inservice Inspection of American Society of Mechanical Engineers Code Class 1, 2, and 3 pumps and valves from the current monthly to a quarterly testing frequency.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response: Operation of Indian Point 3 in accordance with the proposed license does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes involve no hardware changes, no changes to the operation of any systems or components, and no changes to existing structures. 10 CFR 50.55a(g) requires that safety related components (e.g. - pumps and valves) be tested according to the requirements of Section XI of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code) and applicable addenda. The revision of functional test frequencies for pumps and valves, which are categorized as Code Class 1, 2, or 3, from a monthly to a quarterly test interval is consistent with NRC guidance provided in NUREG-1366 and in accordance with recommended test intervals in the ASME Code. These changes will reduce component degradation resulting from unnecessary tests and provide better system availability from not having to remove a system/component from operability while performing a surveillance. Such changes will not alter the probability or consequences of any previously analyzed accidents.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes are procedural in nature concerning the functional testing frequencies of pumps and valves that have historically shown a high percentage of successfully meeting surveillance requirements. The methodology of testing these pumps and valves will remain unchanged. The proposed changes, while slightly increasing the possibility of an

undetected pump or valve defect, will not create a new or unevaluated accident or operating condition.

(3) Does the proposed license amendment involve a significant reduction in a margin of safety?

Response: The proposed license amendment does not involve a significant reduction in a margin of safety.

The proposed changes are in accordance with recommendations provided by the NRC regarding the improvement of Technical Specifications. These changes will result in the perpetuation of current safety margins while reducing the testing burden and decreasing equipment degradation.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Acting Director

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: February 11, 1997

Description of amendment request: The proposed change to Hope Creek Technical Specification (TS) Sections 3/4.8.1 ''A.C. Sources,'' 6.8 ''Procedures and Programs,'' and the Bases for Section 3/4.8, ''Electrical Power Systems,'' would include: 1) the relocation of existing surveillance requirements related to diesel fuel oil chemistry; 2) the introduction of a new program under TS 6.8.4.e, ''Diesel Fuel Oil Testing Program;'' 3) revisions to the TS Bases for Section 3/4.8 to incorporate information associated with the TS changes; and 4) editorial changes to implement required corrections.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes involve: 1) no hardware changes; 2) no significant changes to the operation of any systems or components in normal or accident operating conditions; and 3) no changes to existing structures, systems or components. Therefore these changes will not increase the probability of an accident previously evaluated.

Establishment of [Emergency Diesel Generator] EDG fuel oil testing requirements in TS 6.8.4.e is a change that is consistent with changes made in the improved STS [Standard Technical Specifications] as contained in Specification 5.5.10 of that document. These changes establish a new requirement to test for particulates in the EDG fuel oil, but establish a 92 day test frequency (as opposed to 31 days in the improved STS) and a 3.0 micron acceptance criteria (as opposed to 0.8 micron in the improved STS) for particulate testing. [Public Service Electric and Gas Company] PSE&G concludes that these changes are acceptable based upon past EDG fuel oil tests for particulates and acceptable performance of the EDG with 5.0 micron filters. In addition, PSE&G will utilize more objective test criteria for water and sediment in the EDG fuel oil than established by the ''clear and bright'' acceptance criteria contained in the improved STS.

Since the EDG fuel oil will still: 1) meet all of the requirements established for fuel oil specified in the improved STS; and 2) retain the capability to mitigate the consequences of accidents described in the [Hope Creek Generating Station] HC Safety Analysis Report, the proposed changes were determined to be justified. Based on established fuel oil quality history, the proposed testing methods and frequencies will not significantly decrease confidence in fuel oil quality and EDG operability, nor will they have any negative effect on established plant practices in regards to the testing of EDG fuel oil. Therefore, these changes will not involve a significant increase in the consequences of an accident previously evaluated.

The revisions proposed to the TS Bases are being made to provide additional information supporting the proposed EDG TS. With the approval of the proposed TS changes, the associated Bases changes would be editorial in nature. Therefore, these changes will not involve a significant increase in the consequences of an accident previously evaluated.

In addition, the proposed change to [Limiting Condition for Operation] LCO 3.8.1.1, ACTION c., is considered to be editorial in nature and will not result in a significant increase in the consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The HC EDGs are designed to mitigate the consequences of accidents by providing electrical power to safety-related equipment. Failure of the EDGs are not considered to initiate any of the accidents described in the HC Safety Analysis Report. The proposed changes concern fuel oil system surveillances and testing frequency. The proposed changes will not adversely impact the operation of any safety related component or equipment. Since the proposed changes involve: 1) no hardware changes; 2) no significant changes to the operation of any systems or components; and 3) no changes to existing structures, systems or components, there can be no impact on the occurrence of any accident. Furthermore, there is no change in plant testing proposed in this change request which could initiate an event. Therefore, these changes will not create the possibility of a new or different kind of accident from any accident previously evaluated.

In addition, the proposed change to LCO 3.8.1.1, ACTION c., is considered to be editorial in nature and will not result in a new or different kind of accident from any previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

Establishment of EDG fuel oil testing requirements in TS 6.8.4.e is a change that is consistent with changes made in the improved STS. The proposed changes address: 1) how EDG fuel oil quality is to be determined; 2) how frequently this determination is to be performed; and 3) how to control the process for determining fuel oil acceptability and resultant EDG operability. With the exception of particulate testing (which is being added) all acceptance criteria for fuel oil testing remain unchanged. Based on historical data, EDG fuel oil quality will not be adversely affected or impacted by the proposed changes. Therefore, the proposed amendment does not involve any significant reduction in a safety margin.

The revisions proposed to the TS Bases are being made to provide additional information supporting the proposed EDG TS. With the approval of the proposed TS changes, the associated Bases changes would be editorial in nature. Therefore, these changes will not involve a significant reduction in a safety margin.

In addition, the proposed change to LCO 3.8.1.1, ACTION c., is considered to be editorial in nature and will not involve a significant reduction in a safety margin.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Attorney for licensee: M. J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005-3502

NRC Project Director: John F. Stolz

Tennessee Valley Authority, Docket No. 50-390 Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: October 23, 1996, January 31, February 10 and 24 and March 11, 1997.

Description of amendment request: The proposed amendment would revise

the Watts Bar Nuclear Plant (WBN) Unit 1 Technical Specifications to increase the enrichment and storage capacity of the spent fuel pool racks. The proposed modification increases the (Watts Bar Nuclear Plant) WBN spent fuel storage capacity from 484 fuel assemblies to 1835 fuel assemblies. The initial enrichment of the fuel to be stored in the spent fuel storage racks will be increased from 3.5 weight percent (wt%) to 5.0 wt%. This modification would also change the spacing of stored fuel assembly center-to-center spacing from a nominal 10.72 inches to 10.375 inches in 24 PaR flux trap rack modules and 8.972 inches in ten smaller burnup credit rack modules to be installed peripherally along the south and west pool walls and in a single 15 x 15 burnup credit rack to be installed in the cask pit.

In addition to the above proposed revisions, two limiting conditions for operation will be added to require that the combination of initial enrichment and burnup of each spent fuel assembly to be stored is in the acceptable region and to require boron concentration of the cask pit to be greater than or equal to 2000 parts per million (ppm) during fuel movement in the flooded cask pit. As an added protection to the fuel stored in the cask pit area, the Technical Requirements Manual (TRM) is being revised to require that an impact shield be in place over the fuel when heavy loads are moved near or across the cask pit area.

The WBN Unit 1 Technical Specification Bases and the TRM would be revised to support these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The Nuclear Regulatory Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Each standard is discussed below for the proposed amendment.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The following potential scenarios were considered:

1. A spent fuel assembly drop.
2. Drop of the transfer canal gate or the cask pit divider gate.
3. A seismic event.
4. Loss-of-cooling flow in the spent fuel pool.
5. Installation activities.

The effect of additional spent fuel pool storage cells fully loaded with fuel on the first four potential accident scenarios listed above has been considered. It was concluded that after installation activities have been completed, the presence of additional fuel in the pool does not increase the probability of occurrence of these four events. Also, based on evaluations of bulk pool temperature, rack seismic responses, and refueling accidents, it is reasonable to conclude that there is no significant increase in the consequences of these events after installation is complete (See Reference 1). During the installation activities, the following considerations support a conclusion that neither the probability or consequences of these four scenarios would be significantly increased.

A spent fuel assembly cannot be dropped during installation of the 24 Programmed and Remote System Corporation (PaR) flux trap rack modules because this activity will take place before the end of operating cycle one and there will be no spent fuel in the WBN pool to be moved or shuffled. Before installing the ten smaller burnup credit racks in the pool, some fuel will be moved to create a three foot lateral free zone clearance from stored fuel. This would involve a one-time movement of an estimated maximum of 225 fuel assemblies, which is less that half the fuel movements during one refueling outage. This does not significantly increase the probability of dropping a fuel assembly, particularly when the many administrative controls and physical limitations imposed on fuel handling operations are considered. The fuel handling system consists of equipment and structures utilized for safely implementing refueling operations in accordance with requirements of General Design Criteria 61 and 62 of 10 CFR 50, Appendix A. The radiological dose consequences of dropping a 5.0 wt% fuel assembly are different from the previous FSAR [Final Safety Analysis Report] evaluation for the 3.5 wt% fuel assembly. The Beta and Gamma doses decrease and the maximum thyroid dose increase is less than 9%. Therefore, the change in calculated dose values is insignificant and remains well within regulatory guidelines.

It may be necessary to move the transfer canal gate and the cask pit divider gate between their gated and stored positions during installation of the burnup credit ''baby'' rack modules along the south and west walls. During rack installation, the previously mentioned three foot lateral free zone clearance to stored fuel would exist. Therefore, no heavy load would be carried directly over irradiated fuel during installation of the racks. There are numerous design features which comply with NUREG-0612 to preclude these gates from dropping on spent fuel. These features include design of the lifting devices, design of the crane, and use of written procedures. Also, the evaluation results for a gate drop on the racks indicates that permanent damage to a fuel storage cell is limited to a maximum depth of less than six inches below the top of the rack with no effect on the subcriticality of fuel stored in adjacent cells. Based on the foregoing, it is reasonable to conclude that gate handling during the installation of the ''baby'' racks would not involve a significant increase in the probability or consequences of an accident.

The probability of a seismic event is not related to installation activities. The worst consequence resulting from a seismic event during installation activities would occur during handling of a rack. The consequences would be insignificant because the Auxiliary Building crane is seismically qualified and both handling equipment and operations meet the criteria of NUREG-0612. Nevertheless, if the seismic event resulted in a rack drop, the consequences are insignificant, i.e., localized damage to the pool liner and a minor leak rate which would be small in comparison to available installed makeup capacity. The cooling and shielding of the spent fuel would remain unaffected. Also the racks being moved are empty during installation and therefore, the criticality consequences of seismic events are bounded by evaluations for loaded racks.

Rack installation activities cannot cause an accidental loss-of-cooling flow in the spent fuel pool. The vital components of the spent fuel pool cooling and cleanup system (SFPCCS) are not located proximate to the pool installation activities. Coolant flow may be deliberately curtailed to facilitate installation of the ''baby'' racks directly beneath the discharge piping in the southwest corner of the pool. The effects of such an action would be readily minimized and made inconsequential during the detailed installation planning phase by selecting a time when decay heat input from stored fuel is relatively constant. Also careful preplanning of the work would minimize out-of-service time and provide for intermittent coolant flow restart, if necessary, to maintain acceptable bulk coolant temperatures. Similarly, the effect of an independently initiated loss-of-coolant flow incident on reracking activities can be easily accommodated by stopping work, as necessary, to mitigate any adverse effects on the installation process. The consequences of loss-of-cooling flow in the spent fuel pool during installation are bounded by the analysis in Chapter 5 of the report which includes the situation in which ''baby'' racks and the 15 x 15 cask pit rack are installed, and the pool is filled to capacity with spent fuel.

With regard to the actual installation activities, the existing WBN TRM prohibits loads in excess of 2059 pounds from travel over fuel assemblies in the storage pool and requires the associated crane interlocks and physical stops be periodically demonstrated operable. During installation, racks and associated handling tools will be moved over the spent fuel pool, however there will be no fuel in the pool when the 24 flux trap rack modules are installed. A three foot lateral free zone clearance from stored spent fuel

will be maintained during installation of the ten smaller burnup credit rack modules. Installation work in the spent fuel pit area will be controlled and performed in strict accordance with specific written instructions.

NUREG-0612 states that in lieu of providing a single failure-proof crane system, the control-of-heavy-loads guidelines can be satisfied by establishing that the potential for a heavy load drop is extremely small. Storage rack movements to be accomplished with the WBN Auxiliary Building crane will conform with NUREG-0612 guidelines in that the probability of a drop of a storage rack is extremely small. The crane has a tested capacity of 125 tons. The maximum weight of any existing, replacement, or new storage rack and its associated handling tool is less than 20 tons. Therefore, there is ample safety factor margin for movements of the storage racks by the Auxiliary Building crane. Special lifting devices, which have redundancy or a rated capacity sufficient to maintain adequate safety factors, will also be utilized in the movements of the storage racks. In accordance with NUREG-0612, Appendix B, the safety margin ensures that the probability of a load drop is extremely low.

Future load travel over fuel stored in a rack specifically designed for the cask loading area of the cask pit will be prohibited unless an impact shield, which has been specifically designed for this purpose, is covering the area. Loads that are permitted when the shield is in place must meet analytically determined weight, travel height, and cross-sectional area criteria that preclude penetration of the shield. A Technical Requirement (TR) has been proposed that incorporates the previously mentioned load criteria.

Also a rack change-out sequence is being developed that addresses removal of the existing racks, movement of the new racks into the Auxiliary Building, initial staging on the refueling floor, and final installation in the pool. The change-out sequence objectives include establishing lift heights, travel distances, and number of lifts to be as low as reasonably achievable. Accordingly, it is concluded that the proposed installation activities will not significantly increase the probability of a load-handling accident. The consequences of a load-handling accident are unaffected by the proposed installation activities.

The consequences of a spent fuel assembly drop were evaluated, and it was determined that the racks will not be distorted such that the racks would not perform their safety function. The criticality acceptance criterion, K_{eff} less than or equal to 0.95, is not violated, and the calculated doses are well within 10 CFR Part 100 guidelines. The radiological consequences of the fuel assembly drop accident evaluated for WBN, have changed, however, the changes do not involve a significant increase in consequences and are well within the 10 CFR 100 requirements.

A TRM change has been proposed that would permit the transfer-canal gate and the divider gate for the cask pit to travel over fuel assemblies in the spent fuel pool during movement between their gated and stored position. Rack damage is restricted to an area above the active fuel region, therefore, neither criticality nor radiological concerns exist.

The consequences of a seismic event have been evaluated. The replacement racks are designed and fabricated and the new racks will be fabricated to meet the requirements of applicable portions of the NRC regulatory guides and published standards. Design margins have been provided for rack tilting, deflection, and movement such that the racks do not impact each other or the spent fuel pool walls in the active fuel region during the postulated seismic events. The free-standing racks will maintain their integrity during and after a seismic event. The fuel assemblies also remain intact and therefore no criticality concerns exist.

The spent fuel pool system is a passive system with the exception of the fuel pool cooling train and heating, ventilating, and air-conditioning (HVAC) equipment. Redundancies in the cooling train and HVAC hardware are not reduced by the planned fuel storage modification. The potential increased heat load resulting from any additional storage of spent fuel is well within the existing system cooling capacity. Therefore, the probability of occurrence or malfunction of safety equipment leading to the loss-of-cooling flow in the spent fuel pool is not significantly affected. Furthermore, the consequences of this type incident are not significantly increased from previously evaluated cooling system loss of flow malfunctions. Thermal-hydraulic scenarios assume the reracked pool is approximately 90% full with spent fuel assemblies. From this starting point, the remaining storage capacity is utilized by analyzing both normal and unplanned full core off loads using conservative assumptions and previously established methods. Calculated values include maximum pool water bulk temperature, coincident maximum pool water local temperature, the maximum fuel cladding temperature, time-to-boil after loss-of-cooling paths, and the effect of flow blockage in a storage cell.

Although the proposed modification increases the pool heat load, results from the above analyses yield a maximum bulk temperature less than 160 degrees Fahrenheit which is below the bulk boiling temperature. Also the maximum local water temperature is below nucleate boiling condition values. Associated results from corresponding loss-of-cooling evaluations give minimums of 5.3 hours before boiling begins and 45 hours before the pool water level drops to the minimum required for shielding spent fuel. This is sufficient time to begin utilization of available alternate sources of makeup cooling water. Also, the effect of the increased thermal loading on the pool structure, associated cooling system, and components was evaluated and determined to establish an acceptable design basis with the new storage configuration. No modifications were necessary because of the increased temperature.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed modification has been evaluated in accordance with the guidance of the NRC position paper entitled, ''OT Position for Review and Acceptance of Spent-Fuel Storage and Handling Applications'', appropriate NRC regulatory guidelines; appropriate NRC standard review plans; and appropriate industry codes and standards. Proven analytical technology was used in designing the planned fuel storage expansion and will be utilized in the installation process. Basic reracking technology has been developed and demonstrated in applications for fuel pool capacity increases that have already received NRC staff approval.

Proposed TSs for the spent fuel storage racks use burnup credit and fuel assembly administrative placement restrictions for criticality control. These restrictions are described in the proposed change to the design features section of the TSs by reference to the Spent Fuel Pool Modifications report. Additional evaluations were required to ensure that the criticality criterion, k_{eff} less than 0.95, is maintained. These include evaluation for the abnormal placement of unirradiated (fresh) fuel assemblies of 5.0 wt% enrichment into a storage cell location designed for lower enrichment or irradiated fuel. Soluble boron, for which credit is permitted under these abnormal conditions, ensures that reactivity is maintained substantially less than the design requirement. For example, if the PaR flux trap racks are inadvertently all loaded with fresh assemblies of the maximum 5.0 wt% fuel instead of observing the 3.8 wt% and 6.75 MWD/KgU controls, the worth of the 2000 ppm borated water is sufficient to lower the k_{eff} of the storage racks to 0.83. The existing and proposed TSs require boron concentration in the pool and cask pit to be more than or equal to 2000 ppm during fuel movement. An analytical determination of the reactivity worth of 2000 ppm borated water in the spent fuel storage pool predicted the change in k_{eff} to be approximately 17 percent k_{eff}. Although no credit for soluble boron was proposed in the TSs, it was also determined by an independent calculation that a minimum concentration of 520 ppm soluble boron allows the unrestricted storage of 5.0 wt% enriched fuel in the PaR flux trap racks.

The Holtec-designed peripheral ''baby'' racks and the 15 x 15 racks in the cask loading area can safely and conservatively store fuel of 5 wt% initial enrichment burned to 41 MWD/kgU or lower enriched fuel with lower burnup, i.e., fuel of equivalent reactivity. Evaluations have confirmed that, for the abnormal placement of a fresh fuel assembly of 5.0 wt% in these racks, the criticality criterion is maintained with the existing and proposed TS requirements of 2000 ppm soluble boron.

Although these changes required addressing additional aspects of a previously analyzed accident, the possibility of a previously unanalyzed accident is not created.

The impact shield design together with its attendant administrative controls and NUREG-0612 heavy load lift compliance, renders the possibility of a heavy load drop

on fuel as not credible in accordance with the NUREG-0612 single-failure-proof criteria. Accordingly, since this particular part of the proposed reracking modification is not a change that could malfunction by a new single failure, the movement of heavy loads over the cask pit does not create the possibility of a new or different kind of accident.

It is therefore concluded that the proposed reracking does not create the possibility of a new or different kind of accident from any previously analyzed.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The design and technical review process applied to the reracking modification included addressing the following areas:

1.

Nuclear criticality considerations.

2. Thermal-hydraulic considerations.

3. Mechanical, material, and structural considerations.

The established acceptance criterion for criticality is that the neutron multiplication factor shall be less than or equal to 0.95, including all uncertainties. The results of the criticality analyses for the rack designs demonstrate that this criterion is satisfied. The methods used in the criticality analysis conform to the applicable portions of NRC guidance and industry codes, standards, and specifications. In meeting the acceptance criteria for criticality in the spent fuel pool and the cask loading area, such that k_{eff} is always less than 0.95 at a 95/95 percent probability tolerance level, the proposed amendment does not involve a significant reduction in the margin of safety for nuclear criticality.

Conservative methods and assumptions were used to calculate the maximum fuel temperature and the increase in temperature of the water in the spent fuel pit area. The thermal-hydraulic evaluation used methods previously employed. The proposed storage modification will increase the heat load in the spent fuel pool, but the evaluation shows that the existing spent fuel cooling system will maintain the bulk pool water temperature at or below 160 degrees Fahrenheit. Thus it is demonstrated that the worst-case peak value of the pool bulk temperature is considerably lower than the bulk boiling temperature. Evaluation also shows that maximum local water temperatures along the hottest fuel assembly are below the nucleate boiling condition value. Thus, there is no significant reduction in the margin of safety for thermal hydraulic or spent fuel cooling considerations.

The mechanical, material, and structural design of the spent fuel racks is in accordance with applicable portions of NRC—s position in ''OT Position for Review and Acceptance of Spent-Fuel Storage and Handling applications,'' dated April 14, 1978 (as modified January 18, 1979), as well as other applicable NRC guidance and industry codes. The primary safety function of the spent fuel racks is to maintain the fuel assemblies in a safe configuration through normal and abnormal loading conditions. Abnormal loadings that have been evaluated with acceptable results and discussed previously include the effect of an earthquake and the impact because of the drop of a fuel assembly. The rack materials used are compatible with the fuel assemblies and the environment in the spent fuel pool. The structural design for the new racks provides tilting, deflection, and movement margins such that the racks do not impact each other or the spent fuel pit walls in the active fuel region during the postulated seismic events. Also the spent fuel assemblies themselves remain intact and no criticality concerns exist. In addition, finite element analysis methods were used to evaluate the continued structural acceptability of the spent fuel pit. The analysis was performed in accordance with ''Building Code Requirements for Reinforced Concrete,'' (ACI 318-63,77). Therefore, with respect to mechanical, material, and structural considerations, there is no significant reduction in a margin of safety.

Summary

Based on the above analysis, TVA has determined that operation of WBN, in accordance with the proposed amendment, would not: (1) involve a significant increase in the probability of consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Therefore, operations of WBN in accordance with the proposed amendments as described do not involve significant hazard considerations as defined in 10 CFR 50.92 and that the criteria of 10 CFR 50.91 have accordingly been met.

TVA has also reviewed the NRC examples of licensing amendments considered not likely to involve significant hazards considerations as provided in the final adoption of 10 CFR 50.92 published on page 7751 of the Federal Register, Volume 51, No. 44, March 6, 1986. Example (X) provides four criteria that, if satisfied by a reracking request, indicate that it is likely no significant hazards considerations are involved. The criteria and how TVA—s amendment request for WBN complies are indicated below.

Criterion (1):

The storage expansion method consists of either replacing existing racks with a design that allows closer spacing between stored spent fuel assemblies or replacing additional racks of the original design on the pool floor if space permits.

Proposed Amendment:

The WBN reracking involves replacing the existing racks with a design that allows slightly closer spacing between stored fuel assemblies and also provides additional rack storage on the pool floor where space permits.

Criterion (2):

The storage expansion method does not involve rod consolidation or double tiering.

Proposed Amendment:

The WBN racks are not double tiered, and the racks will sit on the floor of the spent fuel pool. Additionally, the amendment application does not involve consolidation of spent fuel.

Criterion (3):

The k_{eff} of the pool is maintained less than or equal to 0.95.

Proposed Amendment

The design of the spent fuel racks contains a neutron absorber, Boral, to allow close storage of spent fuel assemblies while ensuring that the k_{eff} remains less than 0.95 under normal operating conditions with unborated water in the pool and less than 0.95 under abnormal conditions with soluble boron in the pool.

Criterion (4):

No new technology or unproven technology is utilized in either the construction process or the analytical techniques necessary to justify the expansion.

Proposed Amendment:

The construction processes and analytical techniques used in the fabrication and design are substantially the same as those of numerous other rack installations, Thus, no new or unproven technology is utilized in the construction or analysis of the high density, spent fuel racks at WBN. TVA's contractor, Holtec International, has previously supplied licensable racks of several similar design for about 10 other reracking projects

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, TN 37402

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET llH, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: November 26, 1996

Description of amendment request: The proposed changes would eliminate the records retention requirements from the administrative section of the Technical Specifications (TS) in accordance with NRC Administrative Letter 95-06, ''Relocation of Technical Specifications Administrative Controls Related to Quality Assurance.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Specifically, operation of the Surry... Power [Station] in accordance with the

proposed Technical Specifications changes will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed administrative changes do not affect equipment or its operation. Therefore, the likelihood that an accident will occur is neither increase nor decreased by relocating record retention requirements from the Technical Specifications to the Operational Quality Assurance Program. This TS change will not impact the function or method of operation of plant equipment. Thus, a significant increase in the probability of a previously analyzed accident does not result due to this change. No systems, equipment, or components are affected by the proposed changes. Thus, the consequences of any accident previously evaluated in the UFSAR [Updated Final Safety Analysis Report] are not increased by this change.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not alter the design or operations of the physical plant. Since record retention requirements are administrative in nature, a change to these requirements does not contribute to accident initiation, an administrative change related to this activity does not produce a new accident scenario or produce a new type of equipment malfunction. [These] changes do not alter any existing accident scenarios. The proposed administrative change does not affect equipment or its operation, and, thus, does not create the possibility of a new or different kind of accident. Therefore, the proposed change does not create the possibility of a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety. Section 6.0 of the...Surry Technical Specifications does not have a basis description. The proposed administrative change does not affect equipment or its operation, and, thus, does not involve any reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: Mark Reinhart, Acting

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Baltimore Gas and Electric Company, Docket No. 50-318, Calvert Cliffs Nuclear Power Plant, Unit No. 2, Calvert County, Maryland

Date of application for amendment: July 31, 1997, as supplemented February 13, 1997.

Brief description of amendment: The proposed amendment would revise the Technical Specifications to reduce the minimum Reactor Coolant System total flow rate from 370,000 gpm to 340,000 gpm. The proposed changes are necessary to support a larger number of plugged steam generator tubes for future operating cycles.

Date of publication of individual notice in **Federal Register:** February 26, 1997 (62 FR 8780)

Expiration date of individual notice: March 28, 1997

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: February 14, 1997

Brief description of amendment: The proposed amendment would revise the Technical Specifications to permit a one-time extension of the current steam generator tube inservice inspection cycle. Date of publication of individual notice in **Federal Register:** March 4, 1997 (62 FR 9816)

Expiration date of individual notice: March 28, 1997

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Florida Power Corporation, et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of application for amendment: February 17, 1997

Brief description of amendment: Changes to Technical Specification to implement 10 CFR 50, Appendix J Option B relating to containment leakage tests.

Date of publication of individual notice in the **Federal Register:** February 28, 1997 (62 FR 9214).

Expiration date of individual notice: March 31, 1997

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 32629

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: February 14, 1997

Brief description of amendment request: The proposed amendment would revise Technical Specification (TS) Section 3/4.5.2, ''Emergency Core Cooling Systems, ECCS Subsystems - T_{avg} more than or equal to 280°F.'' Surveillance requirement 4.5.2.f would be modified to state that opening and closing of the inspection port on the watertight enclosure for the decay heat valve pit would not require this surveillance procedure to be performed. The applicable TS bases would also be changed. Date of publication of individual notice in **Federal Register:** February 26, 1997 (62 FR 8783) Expiration date of individual notice: March 28, 1997

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, Ohio 43606

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in

10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: August 1, 1996

Brief description of amendments: The amendments modify the Technical Specifications requirements to allow use of blind flanges during Modes 1-4 in the Calvert Cliffs 1 and 2 Containment Purge system instead of the two outboard 48-inch isolation valves. Date of issuance: March 7, 1997

Effective date: As of the date of issuance to be implemented by the end of the 1998 refueling outage for Unit 1; by the end of the 1997 refueling outage for Unit 2.

Amendment Nos.: 221 and 197

Facility Operating License Nos. DPR-53 and DPR-69: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 11, 1996 (61 FR 47975) The Commission's related evaluation of these amendments is contained in a Safety Evaluation dated March 7, 1997 No significant hazards consideration comments received: No

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland 20678.

Carolina Power & Light Company, et al., Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of application for amendment: December 30, 1996

Brief description of amendment: The amendment revises chemistry data for TS Figures 3.4-2 and 3.4-3 and the associated Bases.

Date of issuance: March 7, 1997

Effective date: March 7, 1997

Amendment No.: 68

Facility Operating License No. NPF-63. Amendment revises the Technical Specifications

Date of initial notice in **Federal Register:** January 29, 1997 (62 FR 4342) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 1997. No significant hazards consideration comments received: No

Local Public Document Room location: Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: September 20, 1996, as supplemented January 21, 1997.

Brief description of amendments: The amendments would update the pressure- temperature cures contained in the Dresden and Quad Cities Technical Specifications to 22 Effective Full Power Years. Date of issuance: February 28, 1997 Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 153, 148, 172 and 168

Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 18, 1996 (61 FR 66703). The January 21, 1997, submittal provided additional clarifying information that did not change the original proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated February 28, 1997 No significant hazards consideration comments received: No

Local Public Document Room location: for Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: December 6, 1996

Brief description of amendments: The amendments would change the Technical Specification (TS) by allowing a single control rod to be moved when the plant is in the Hot Shutdown or Cold Shutdown condition provided that the one-rod-out interlock is Operable and the reactor mode switch is in the refuel position.

Date of issuance: March 4, 1997

Effective date: Immediately, to be implemented within 60 days.

Amendment Nos.: 154, 149, 173, 169

Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1997 (62 FR 2187). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 4, 1997. No significant hazards consideration comments received: No

Local Public Document Room location: For Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Commonwealth Edison Company, Docket Nos. 50-237 and 50-249, Dresden Nuclear Power Station, Units 2 and 3, Grundy County, Illinois Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of application for amendments: January 6, 1997

Brief description of amendments: The amendments would change the technical specifications to clarify and maintain consistency between the operability requirements for protective instrumentation and associated automatic bypass features.

Date of issuance: March 14, 1997

Effective date: Immediately, to be implemented within 30 days.

Amendment Nos.: 155, 150, 174, 170

Facility Operating License Nos. DPR-19, DPR-25, DPR-29 and DPR-30. The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 12, 1997 (62 FR 6573). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 14, 1997. No significant hazards consideration comments received: No

Local Public Document Room location: For Dresden, Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450; for Quad Cities, Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois 61021.

Entergy Operations, Inc., Docket No. 50-313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: November 26, 1996 as supplemented by letters dated December 17, 1996, March 4, 1997, and March 10, 1997

Brief description of amendment: The amendment changes reactor coolant systems pressure/temperature limits to incorporate updated parameters and requirements.

Date of issuance: March 14, 1997

Effective date: March 14, 1997

Amendment No.: 188

Facility Operating License No. DPR-51. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 29, 1997 (62 FR 4346) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 14, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

Entergy Operations, Inc., Docket No. 50-368, Arkansas Nuclear One, Unit No. 2, Pope County, Arkansas

Date of application for amendment: April 11, 1996 as supplemented by letters dated June 18, and September 5, 1996.

Brief description of amendment: The amendment adds low-temperature overpressure protection requirements to the Technical Specifications as proposed by Generic Letter 90-06.

Date of issuance: March 7, 1997

Effective date: March 7, 1997, to be implemented within 30 days.

Amendment No.: 180

Facility Operating License No. NPF-6. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 8, 1996 (61 FR 20846) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 7, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, AR 72801

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: August 23, 1996, as supplemented January 8, 1997 (TSCR 245)

Brief description of amendment: The amendment updates the pressure-temperature limits up to 22, 27, and 32 effective full power years.

Date of Issuance: March 6, 1997

Effective date: March 6, 1997, to be implemented within 30 days of issuance

Amendment No.: 188

Facility Operating License No. DPR-16. Amendment revises the Technical Specifications.

Date of initial notice in **Federal Register:** September 11, 1996 (61 FR 47977). The January 8, 1997, letter provided clarifying information within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated March 6, 1997 No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753.

Illinois Power Company and Soyland Power Cooperative, Inc., Docket No. 50-461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Date of application for amendment: October 17, 1996, as supplemented and modified on December 13, 1996

Brief description of amendment: The amendment revises the Operating License to reflect the transfer of Soyland Power Cooperative's 13.21-percent minority ownership of Clinton Power Station to Illinois Power Company. The Operating License has been revised to delete Soyland Power Cooperative as an owner.

Date of issuance: March 13, 1997

Effective date: March 13, 1997

Amendment No.: 114

Facility Operating License No. NPF-62: The amendment revised the Operating License.

Date of initial notice in **Federal Register:** November 19, 1996 (61 FR 58897) and January 29, 1997 (62 FR 4337) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 1997. No significant hazards consideration comments received: No

Local Public Document Room location: The Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727

Indiana Michigan Power Company, Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan

Date of application for amendment: June 19, 1996, and supplemented September 19, 1996, and December 20, 1996.

Brief description of amendment: The amendment revises the TS to allow a permanent extension of the interim steam generator tube voltage-based repair criteria for steam generator tubes used in Cycles 13, 14 and 15 at the Donald C. Cook Nuclear Power Plant, Unit 1.

Date of issuance: March 13, 1997

Effective date: March 13, 1997, with full implementation within 45 days

Amendment No.: 215

Facility Operating License No. DPR-58. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 31, 1996 (61 FR 40022) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 13, 1997. No significant hazards consideration comments received: No. The September 19, 1996, and December 20, 1996, letters provided additional information within the scope of the original application and did not change the initial proposed no significant hazards consideration determination.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Indiana Michigan Power Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: May 26, 1995, and supplemented September 26, 1995, August 2, 1996 and February 6, 1997

Brief description of amendments: The amendments revise the TS to allow operation of Cook Unit 1 at steam generator tube plugging levels up to 30%. Additional changes to increase operating margins for both Unit 1 and Unit 2 are also included.

Date of issuance: March 13, 1997

Effective date: March 13, 1997, with full implementation within 45 days

Amendment Nos.: 214 and 199

Facility Operating License Nos. DPR-58 and DPR-74. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 19, 1995 (60 FR 37095) The September 26, 1995, August 2, 1996, and February 6, 1997, supplements provided clarifying information that did not expand the scope of the initial application or change the staff's proposed no significant hazards determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated March 13, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

North Atlantic Energy Service Corporation, Docket No. 50-443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: October 17, 1996

Description of amendment request: The amendment revises the Appendix A Technical Specifications relating to in-core detector system, seismic instrumentation, meteorological instrumentation, and turbine overspeed protection. The amendment deletes Limiting Conditions for Operation and Surveillance Requirements related to these instruments. The deleted requirements are to be incorporated into the Seabrook Station Technical Requirements Manual (SSTR). The associated Bases Sections are also deleted. In addition, Technical Specification 5.5 is deleted but will not be relocated to the SSTR. The amendment also redesignates Paragraph 2.J of the Seabrook Operating License as Paragraph 3, and has added new Paragraph 2.J to document the North Atlantic commitment to relocate the above mentioned Technical Specification requirements to the SSTR.

Date of issuance: March 12, 1997

Effective date: March 12, 1997

Amendment No.: 50

Facility Operating License No. NPF-86. Amendment revised the Technical Specifications and Operating License.

Date of initial notice in **Federal Register:** December 18, 1996 (61 FR 66713). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 12, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Northeast Nuclear Energy Company, et al., Docket No. 50-423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of application for amendment: May 23, 1996, as supplemented July 17 and December 4, 1996

Brief description of amendment: The amendment modifies the description of the time constants associated with the Overtemperature Delta-T and Overpower Delta-T calculations used to establish the trip setpoints and the time constant used in the rate-lag controller for Steam Line Isolation, Steam Line Pressure Negative Rate-High.

Date of issuance: March 11, 1997

Effective date: As of the date of issuance, to be implemented within 60 days.

Amendment No.: 134

Facility Operating License No. NPF-49: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** June 17, 1996 (61 FR 30639) The July 17 and December 4, 1996, letters provided additional, clarifying information that did not change the scope of the May 23, 1996, application and the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 11, 1997. No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385

Southern California Edison Company, et al., Docket No. 50-362, San Onofre Nuclear Generating Station, Unit No. 3, San Diego County, California

Date of application for amendment: February 7, 1997

Brief description of amendment: The amendment defers implementation of Surveillance Requirement 3.1.5.4 of Technical Specification 3.1.5, ''Control Element Assembly (CEA) Alignment,'' until the next SONGS Unit 3 shutdown, which will be no later than the upcoming Cycle 9 refueling outage (currently scheduled for April 12, 1997).

Date of issuance: March 5, 1997

Effective date: March 5, 1997

Amendment No.: 126

Facility Operating License No. NPF-15: The amendments revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (62 FR 7477 dated February 19, 1997). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by March 21, 1997, but indicated that if the Commission makes a final no significant hazards consideration determination any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 5, 1997.

Attorney for licensee: T. E. Oubre, Esquire, Southern California Edison Company, P. O. Box 800, Rosemead, California 91770

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713

Dated at Rockville, Maryland, this 19th day of March 1997.

For the Nuclear Regulatory Commission

Elinor G. Adensam,

Acting Director, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation

[Doc. 97–7508 Filed 3–25–97; 8:45 am]

BILLING CODE 7590–01–F

[Docket No. 50–409]

Lacrosse Boiling Water Reactor; Intent To Relocate Local Public Document Room

Notice is hereby by given that the Nuclear Regulatory Commission (NRC) will be relocating the local public document room (LPDR) for records pertaining to Dairyland Power Cooperative's LaCrosse Boiling Water Reactor located in Genoa, Wisconsin. The LaCrosse LPDR is currently located at the LaCrosse Public Library, 800 Main Street, LaCrosse, Wisconsin. The document collection is available in microfiche form, with paper copy indices. Library staff informed the NRC that they are no longer able to maintain the document collection and request that it be moved. This notice invites public comment on possible LPDR locations in the Genoa, Wisconsin, area.

Among the factors the NRC will consider in selecting a new location for the LPDR are the following:

(1) Whether the institution is an established document repository located near the nuclear facility with a history of impartially serving the public;

(2) The physical facilities available, including shelf space, storage space, patron workspace, copying equipment and computer access;

(3) The willingness and ability of the library staff to maintain the LPDR collection and assist the public in locating records;

(4) The nature and extent of related research resources, such as government documents;

(5) The public accessibility of the library, including handicap accessibility, parking, ground transportation, and hours of operation, particularly evening and weekend hours;

(6) The proximity of the library to existing user groups of the collection, if known.

Comment period expires April 25, 1997. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

Written comments may be submitted to Mr. David Meyer, Chief, Regulatory Publications Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, Gelman Building, 2120 L Street NW, Washington, DC.

Questions concerning the NRC's LPDR Program should be addressed to Ms. Jona L. Souder, LPDR Program Manager, Freedom of Information/Local Public Document Room Branch, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone number 301–415–7170, or toll-free 1–800–638–8081.

Dated at Rockville, Md., this 20th day of March, 1997.

For the Nuclear Regulatory Commission.

Russell A. Powell,

Chief, Freedom of Information/Local Public Document Room Branch, Office of Information Resources Management.

[FR Doc. 97–7640 Filed 3–25–97; 8:45 am]

BILLING CODE 7590–01–P

Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Revision 2 of Regulatory Guide 1.160, ''Monitoring the Effectiveness of Maintenance at Nuclear Power Plants,'' has been issued to endorse Revision 2 of NUMARC 93–01, ''Industry Guideline for Monitoring the Effectiveness of Maintenance at Nuclear Power Plants'' (April 1996), which has been updated by the Nuclear Energy Institute. When used in conjunction, these revisions to Regulatory Guide 1.160 and NUMARC 93–01 provide methods acceptable to the NRC staff for complying with the NRC's maintenance rule, 10 CFR 50.65.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection or copying for a fee at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides, both active and draft, may be obtained free of charge by writing the Office of Administration, Attn: Distribution and Mail Services Section, USNRC, Washington, DC 20555–0001, or by fax at (301) 415–2260. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 13th day of March 1997.

For the Nuclear Regulatory Commission.

David L. Morrison,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 97–7637 Filed 3–25–97; 8:45 am]

BILLING CODE 7590–01–P

[Docket No. 70–7002]

Amendment to Certificate of Compliance for the U.S. Enrichment Corporation Portsmouth Gaseous Diffusion Plant, Portsmouth, OH

The Director, Office of Nuclear Material Safety and Safeguards has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination the staff concluded that (1) there is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previous analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safe guards or security programs. The basis for this determination for the amendment request is described below.

The NRC staff has reviewed the certificate amendment application and concluded that it provides reasonable assurance of adequate safety, safeguards, and security, and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards is prepared to issue an amendment to the Certificate of Compliance for the Portsmouth Gaseous Diffusion Plant (PORTS). The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that this amendment satisfied the criteria for a categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

USEC or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** Notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) The interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after the filing of the petition.

If no petition is received within the designated 15-day period, the Director will issue the final amendment to the certificate of Compliance without further delay. If a petition for review is received, the decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** Notice.

A petition for review must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, Washington, DC, by the above date.

For further details with respect to the action see (1) the application for amendment and (2) the Commission's Compliance Evaluation Report. These items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the Local Public Document Room.

Date of amendment request: December 23, 1996.

Brief description of amendment: The amendment, in accordance with a commitment made in the USEC certificate application, changes the administrative Technical Safety Requirement (TSR) that limits the working hours of facility staff who perform safety functions.

Basic for finding of no significance: 1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

Administrative TSR 3.2.2.b limits working hours of facility staff who perform safety functions (operators, health physics personnel, maintenance personnel, etc.). The proposed change revises TSR 3.2.2.b.2 as specified in Issue 37 of DOE/ORO–2027 Revision 3, Change A, Plan for Achieving Compliance with NRC Regulations at the Portsmouth Gaseous Diffusion Plant, by reducing the currently authorized limits, excluding shift turnover time, of 32 hours in any 48 hour period and 80 hours in any 7 day period, to 24 hours in any 48 hour period and 72 hours in any 7 day period, respectively These two 8-hour reductions in overtime limits may enhance safety by reducing occupational stresses and burdens on facility staff who perform safety functions. Therefore, this TSR amendment will not result in significant amounts of effluents that may be released offsite.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

Operations at PORTS do not result in significant occupational radiation exposures. Some of the reasons being that (1) occupancy factors are low, (2) distances from radioactive sources are generally high, (3) significant shielding is provided by solid and liquid UF6 (self-shielding) and by piping and equipment, (4) depleted and low enriched uranium has low specific activities and are also comparatively low gamma radiation emitters, (5) most of the uranium in process is in gaseous form (low density), and (6) UF6 is confined within quality controlled cylinders, equipment and piping. The proposed reductions in overtime limits would not significantly affect any of these six reasons. Therefore, reducing overtime limits, as described in the assessment of criterion 1, will not measurably modify individual or cumulative occupational radiation exposures.

3. The proposed amendment will not result in a significant construction impact.

Since the proposed changes do not involve any construction, therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

The proposed changes which involve reductions in overtime limits will not result in a significant increase in the potential for UF6 releases. The proposed changes will also not result in a significant increase for, or radiological consequences from previously evaluated critical accidents. In fact, the reductions in overtime limits described in the assessment of criterion 1, may enhance safety by reducing occupational stresses and burdens on facility staff who perform safety functions. Therefore, this TSR amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

The proposed changes will not result in the possibility of a new or different kind of accident. In fact, the reductions in overtime limits described in the assessment of criterion 1, may enhance safety by reducing occupational stresses and burdens on facility staff who perform safety functions.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

The proposed change, which is described in the assessment of criterion 1, will not result in the violation of any limiting condition of operation. Therefore, it will not significantly reduce any margin of safety.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards or security programs.

Reductions in limits to overtime would not result in a decrease in the overall effectiveness of the plant's safety program. In fact, as discussed in the assessment of criterion 1, it may enhance the effectiveness of the plant's safety program.

The staff has not identified any safeguards or security related implications from the proposed amendment. Therefore reducing the limits on overtime as discussed in the assessment of criterion 1 will not result in an overall decrease in the effectiveness of the plant's safeguards or security programs.

Effective date: 30 days after issuance.

Certificate of Compliance No. GDP–2: Amendment will revise the Technical Safety Requirements.

Local Public Document Room location: Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Dated at Rockville, Maryland, this 18th day of March 1997.

For the Nuclear Regulatory Commission.

John T. Greeves,

Acting Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–7639 Filed 3–25–97; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one proposed rescission of budgetary resources, totaling $10 million.

The proposed rescission affects the Department of Energy.

William J. Clinton

The White House

March 19, 1997.

BILLING CODE 3110–01–P

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	ITEM	Budgetary Resources
	Department of Energy	
	Energy Programs	
R97-11	Clean coal technology.....	10,000

BILLING CODE 3110–01–C

DEPARTMENT OF ENERGY

Energy Programs

Clean Coal Technology

Of the available funds under this heading, $10,000,000 are rescinded.

BILLING CODE 3110–01–P

Rescission Proposal No. R97-11

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Energy	New budget authority..... $ 14,879,000 (P.L. 103-332, 104-6, and 104-208)
BUREAU: Energy Programs	Other budgetary resources.. $ 932,461,620
Appropriations title and symbol: Clean coal technology 89X0235	Total budgetary resources... $ 947,340,620
	Amount proposed for rescission..... $ 10,000,000
OMB identification code: 89-0235-0-1-271	**Legal authority (in addition to sec. 1012):** [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[ ] Other _____
Type of account or fund: [ ] Annual	**Type of budget authority:** [X] Appropriation
[ ] Multi-year: _____ (expiration date)	[ ] Contract authority
[X] No-Year	[ ] Other _____

Justification: This program subsidizes the construction and operation of facilities to demonstrate the potential commercial feasibility of clean coal technologies.

Termination of the program, after completion of projects now underway, is part of the President's realignment of the Department of Energy. The funds proposed for rescission are not needed for any ongoing project.

Estimated Program Effect: None.

Outlay Effect: (in thousands of dollars):

1997 Outlay Estimate		Outlay Changes					
Without Rescission	With Rescission	FY 1997	FY 1998	FY 1999	FY 2000	FY 2001	FY 2002
244,000	244,000	---	-2,000	-4,000	-4,000	---	---

[FR Doc. 97–7554 Filed 3–25–97; 8:45 am]
BILLING CODE 3110–01–C

POSTAL SERVICE

Sunshine Act Meeting

TIMES AND DATES: 10:30 a.m., Monday, April 7, 1997; 8:30 a.m., Tuesday, April 8, 1997.

PLACE: New Orleans, Louisiana, at the Bourbon Orleans Hotel, 717 Orleans Street, in the Ballroom.

STATUS: April 7 (Closed); April 8 (Open).

MATTERS TO BE CONSIDERED:

Monday, April 7—10:30 a.m. (Closed)
1. Funding Approval for Dinero Seguro.
2. Rate Case Planning Process (Part 1 of 3).
3. Priority Mail Network.

Tuesday, April 8—8:30 a.m. (Open)
1. Minutes of the Previous Meeting, March 3–5, 1997.
2. Remarks of the Postmaster General/ Chief Executive Officer.
3. Office of the Inspector General FY 1997 Budget.
4. Report on the New Orleans Performance Cluster.

5. Tentative Agenda for the May 5–6, 1997, meeting in Washington, DC.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 97–7756 Filed 3–21–97; 4:33 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Form 11–K, SEC File No. 270–101, OMB Control No. 3235–0082

Form T–6, SEC File No. 270–344, OMB Control No. 3235–0391

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for reinstatement of the previously approved collections of information discussed below.

Form 11–K is an annual report of certain types of employee benefit plans. It is filed by an estimated 774 respondents for a total estimated annual burden of 23,220 hours.

Form T–6 is used to apply under Section 310(a)(1) of the TIA for determination of eligibility of a foreign person to act as institutional trustee. It is filed by an estimated 15 respondents for a total estimated annual burden of 255 hours.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB by April 25, 1997.

Dated: March 19, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7644 Filed 3–25–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–22575; International Series Release No. 1068; 812–10468]

Citibank, N.A., et al.; Notice of Application

March 20, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''1940 Act'').

APPLICANTS: Citibank, N.A. (''Citibank'') and Citicorp.

RELEVANT 1940 ACT SECTIONS: Exemption requested under section 6(c) from section 17(f) and rule 17f–5.

SUMMARY OF APPLICATION: Applicants seek conditional exemptive relief from section 17(f) of the 1940 Act and rule 17f–5 thereunder. The requested exemption would allow Citibank to make available direct and agency custody arrangements for certain securities and other assets between United States investment companies and Citibank T/O in the Russian Federation.

FILING DATE: The application was filed on December 24, 1996. Applicants have agreed to file an additional amendment during the notice period, the substance of which is incorporated herein.

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 April 14, 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 5th Street, N.W., Washington, D.C. 20549. Applicants, c/o Wayne J. Rapozo, Esq., Skadden, Arps, Slate, Meagher & Flom LLP, 919 Third Avenue, New York, New York 10022–3897.

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' Representations

A. Background

1. Citibank, a United States national banking association, is a wholly-owned subsidiary of Citicorp, a Delaware bank holding company. Citibank operates an extensive custodian network through its branches and through its own subsidiaries and subsidiaries of Citicorp, as well as unaffiliated correspondent banks. As of December 31, 1995, Citibank had approximately $966 billion in assets under custody.

2. In 1995, Citibank received exemptive relief from the Commission with respect to 15 foreign subsidiaries of Citibank [1] from the provisions of section 17(f) of the 1940 Act to permit, among other things, Citibank as the custodian of securities and other assets (other than cash) (the ''MIC Securities'') and cash (the ''MIC Cash'') of any registered management investment company, incorporated or organized under the laws of the United States or a state thereof (''U.S. Investment Company''), or as subcustodian of MIC Securities and MIC Cash for which any other entity is acting as custodian (the ''MIC Custodian''), and such U.S. Investment Company or MIC Custodian for which Citibank so acts, to deposit or to cause to permit the deposit of MIC Securities and MIC Cash with such foreign subsidiaries of Citibank (''Agency Custody Arrangements'') (the ''1995 Order'').[2]

3. The 1995 Order also granted exemptive relief permitting such foreign subsidiaries of Citibank to serve as custodian for U.S. Investment Companies, or subcustodian of MIC Securities and MIC Cash for MIC Custodians, pursuant to direct

[1] Citibank (Channel Islands) Limited; Citibank, S.A. in France; Citicorp Investment Bank (The Netherlands) N.V.; Citibank (Zaire) S.A.R.L.; Citibank Zambia Limited; Citicorp Nominees Pty. Limited in Australia; Citibank Nominees (New Zealand) Limited; Citibank Portugal, S.A.; Banco de Honduras S.A.; Citibank Budapest Rt.; Citibank-Maghreb in Morocco; Citibank (Trinidad & Tobago) Limited; Cititrust Columbia S.A. Sociedad Fiduciaria; Citibank (Poland) S.A.; and Citibank a.s. in the Czech Republic (collectively, the ''Citibank Subsidiaries'').

[2] Investment Company Act Release Nos. 21087 (May 22, 1995) (notice)and 21145 (June 19, 1995) (order).

contractual arrangements between such Citibank subsidiary and a U.S. Investment Company of an MIC Custodian (''Direct Custody Arrangements'').

4. The 1995 Order also provides that with the exception of Citibank T/O or any other Citibank subsidiary or affiliate operating in the Russian Federation, (a) the relief granted therein with respect to Agency Custody Arrangements apply to all additional foreign subsidiaries of Citibank which do not meet the shareholders' equity requirements of Rule 17f–5 (collectively, the ''Additional Citibank Subsidiaries'') and all foreign affiliates of Citibank which are subsidiaries of Citicorp which do not meet the shareholders' equity requirement of Rule 17f–5 (collectively, the ''Citibank Affiliates'') when such Additional Citibank Subsidiaries and such Citibank Affiliates meet the terms and conditions applicable to the provision of such services set forth in the 1995 Order and (b) the relief granted therein with respect to Direct Custody Arrangements apply to all Additional Citibank Subsidiaries and, at such time as direct custody services are to be offered by them in accordance with applicable law, the Citibank Affiliates, when such Additional Citibank Subsidiaries and such Citibank Affiliates meet the terms and conditions applicable to the provision of services set forth in the 1995 Order.

B. Relief Requested

1. Applicants seek an order under Section 6(c) of the Act granting exemptive relief from Section 17(f) of the Act to allow Citibank T/O in the Russian Federation to provide foreign custody services in connection with the holding of MIC Securities and MIC Cash of any U.S. Investment Company pursuant to (1) Agency Custody Arrangements and (2) Direct Custody Arrangements.[3]

2. The Citibank Subsidiaries, the Additional Citibank Subsidiaries and the Citibank Affiliates, from time to time providing custodial services pursuant to the terms of the 1995 Order, and Citibank T/O, at such time as it provides custodial services pursuant to the requested order, will hereinafter collectively be referred to as the ''Exemptive Order Network Members''.

3. Under the Agency Custody Arrangements, MIC Securities and MIC Cash are maintained in the custody of an Exemptive Order Network Member in accordance with a custody agreement among (a) the U.S. Investment Company or MIC Custodian for which Citibank acts as custodian or subcustodian, (b) Citibank, and (c) Citicorp (the ''Agency Custody Agreement''). Citibank acts as the custodian or subcustodian of the MIC Securities and MIC Cash and is authorized to delegate its responsibilities to the Exemptive Order Network Member in accordance with the terms of a subcustodian agreement (the ''Subcustodian Agreement'').

4. The Agency Custody Agreement provides that the delegation by Citibank to an Exemptive Order Network Member does not relieve Citibank of any responsibility to the U.S. Investment Company or MIC Custodian for any loss due to the negligent acts or omissions of the Exemptive Order Network Member except such loss as may result from political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities), and other risk of loss for which neither Citibank nor the Exemptive Order Network Member would be liable under rule 17f–5 (*e.g.*, despite the exercise of reasonable care, loss due to Act of God, nuclear incident and the like). The Agency Custody Agreement also provides that Citicorp is liable, in accordance with the terms of the guarantee described below, for losses of MIC Securities and/or MIC Cash resulting from the bankruptcy or insolvency of the Exemptive Order Network Member.

5. The Direct Custody Arrangements will enable the Exemptive Order Network Members to act as direct custodians in accordance with either a master custody agreement under which a U.S. Investment Company or MIC Custodian enters into a direct custodial relationship with a number of Exemptive Order Network Members or an individual custody agreement under which a U.S. Investment Company or MIC Custodian enters into a direct custodial relationship with a particular Exemptive Order Network Member (either, a ''Direct Custody Agreement''). The Direct Custody Agreement would be among (i) The U.S. Investment Company or MIC Custodian for which the Exemptive Order Network Member acts as custodian or subcustodian, (ii) the Exemptive Order Network Member, (iii) Citicorp, and (iv) Citibank. The terms of each Direct Custody Agreement would include a confirmation by the Exemptive Order Network Member that it will act as the custodian or subcustodian, as the case may be, of the MIC Securities and MIC Cash under the requested order, an agreement by Citicorp that it is liable, in accordance with the terms of its guarantee, for losses of MIC Securities and MIC Cash resulting from the bankruptcy or insolvency of the Exemptive Order Network Member, and an agreement by Citibank to be liable for any loss resulting from the performance of the Exemptive Order Network Member, except such loss as may result from political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities), and other risk of loss for which neither Citibank nor the Exemptive Order Network Member would be liable under rule 17f–5 (*e.g.*, despite the exercise of reasonable care, loss due to Act of God, nuclear incident and the like).

6. The extent of Citibank's liability for losses attributable to Citibank T/O under the Direct Custody Arrangements would be the same as that provided for under the Agency Custody Arrangements. Under both the Agency Custody Arrangements and the Direct Custody Arrangements, Citibank would be liable for the negligent acts or omissions of Citibank T/O.

7. Both the Agency and Direct Custody Agreements would provide that Citicorp will be liable in accordance with the terms of a guarantee for losses of MIC Securities and MIC Cash resulting from bankruptcy or insolvency of Citibank T/O. Under the 1995 Order, Citicorp has issued a guarantee for losses of MIC Securities and MIC Cash held by the Exemptive Order Network Member under the Agency and Direct Custody Agreements resulting from the bankruptcy or insolvency of each Exemptive Order Network Member (the ''Guarantee''). If the requested order is issued and Citibank T/O becomes an Exemptive Order Network Member, the Guarantee will be amended to cover all MIC Securities and MIC Cash held by Citibank T/O. The dollar amount of the Guarantee applicable to all Exemptive Order Network Members will equal or exceed the aggregate market value of MIC Securities and MIC Cash held in the custody of the Exemptive Order Network Members.

8. The value of MIC Securities and amount of MIC Cash held under Agency Custody Agreements will be calculated by Citibank based on records maintained by Citibank, as custodian,

[3] Clearing and custody procedures in the Russian Federation differ substantially from the procedures generally employed in other jurisdictions. Other than the exemption requested from section 17(f) and rule 17f–5 so that the Direct Custody Arrangements and Agency Custody Arrangements may apply to Citibank T/O in the Russian Federation, applicants are not requesting an exemption from section 17(f) or rule 17f–5 for any aspect of the custody or clearing procedures employed in the Russian Federation. Furthermore, applicants acknowledge that any order granting the application may not be deemed a determination by the SEC that the Russian clearing and custody procedures comply with section 17(f) or any rule thereunder.

and reports by the Exemptive Order Network Members. The total amount also will be reported to Citicorp. In addition, each Exemptive Order Network Member will submit to Citibank, as agent for Citicorp, the Exemptive Order Network Member's calculation, and the basis on which it was made, of the value of MIC Securities and amount of MIC Cash held by it under Direct Custody Agreements. After review of the results of the monthly monitoring, Citicorp will take the necessary steps to adjust the amount of the Guarantee to cover the aggregate value of the MIC Securities and the aggregate amount of MIC Cash.

9. In the event that at the time of a bankruptcy or insolvency an Exemptive Order Network Member holds MIC Securities and MIC Cash having an aggregate value in excess of the aggregate value of MIC Securities and MIC Cash which such Exemptive Order Network Member held at the time of the previous adjustment of the Guarantee, Citicorp will immediately take such steps as may be necessary to increase the size of the Guarantee to cover the amount of such excess. This coverage will remain in place until such time as the Exemptive Order Network Member's bankruptcy estate is settled, the amount of any loss to the U.S. Investment Company or MIC Custodian attributable to the bankruptcy or insolvency is calculated, and payment under the Guarantee, if necessary, is made.

Applicants' Legal Analysis

1. Applicants seek the requested exemptive relief because Citibank T/O does not qualify to serve as custodian for MIC Securities and MIC Cash under the terms of section 17(f) of the 1940 Act or rule 17f–5 thereunder. Section 17(f) provides, in relevant part, that a registered management investment company may place and maintain its securities and similar assets in the custody of a bank or banks meeting the requirements of section 26(a) of the 1940 Act. Citibank T/O, however, does not fall within the definition of a ''bank'' as that term is defined in section 2(a)(5) of the 1940 Act.

2. Rule 17f–5 would permit a U.S. Investment Company to deposit securities, cash and cash equivalents with an ''eligible foreign custodian,'' a term that is defined to include, as here relevant, a majority-owned direct or indirect subsidiary of a qualified U.S. bank or bank holding company that is incorporated or organized under the laws of a country other than the United States and that has shareholders' equity in excess of $100,000,000 (U.S.$ or equivalent). The rule defines the term ''Qualified U.S. Bank'' to include a banking institution organized under the laws of the United States that has an aggregate capital, surplus, and undivided profit of not less than $500,000. Citibank is a Qualified U.S. Bank as defined in the rule. Citibank T/O, however, currently does not meet the minimum shareholders' equity requirement of rule 17f–5.

3. Although Citibank will not be in an agency relationship with Citibank T/O under the Direct Custody Arrangements, it nonetheless will provide the necessary review and independent oversight of the performance and capabilities of Citibank T/O. Applicants submit that Citibank's review will insure that adequate safeguards are in place and that service standards for custodial administration and operations are in place. Because Citibank will agree to be responsible for negligent acts or omissions of Citibank T/O under the Agency Custody Arrangements and the Direct Custody Arrangements, Citibank will have a vested interest in verifying that Citibank T/O maintains adequate standards.

4. Under the Direct Custody Arrangements, Citibank will be in privity of contract with the U.S. Investment Company or MIC Custodian. While it would be necessary for a U.S. Investment Company or MIC Custodian to establish the negligence of Citibank T/O in the action against Citibank, the U.S. Investment Company or MIC Custodian would be entitled to seek recovery from Citibank in the first instance.

5. Pursuant to the Agency Custody Agreement, Citibank acts as the custodian or subcustodian of MIC Securities and MIC Cash and is authorized to delegate its responsibilities to the Exemptive Order Network Member in accordance with the terms of the Subcustodian Agreement. The Subcustodian Agreement explicitly provides that U.S. Investment Companies or MIC Custodians, as the case may be, that have entered into an Agency Custody Agreement with Citibank are third party beneficiaries of the Subcustodian Agreement, are entitled to enforce the terms of the Subcustodian Agreement, and are entitled to seek relief directly against the Exemptive Order Network Member or against Citibank.

6. Applicants believe that provision of the Guarantee by Citicorp (rather than by Citibank) under the Agency and Direct Custody Arrangements does not negatively affect the level of protection afforded the U.S. Investment Companies and MIC Custodians. Since the Guarantee will be at least equal to the aggregate value of all MIC Securities and MIC Cash held by all Exemptive Order Network Members at the end of the previous calendar month and the total Guarantee amount is available to cover one or more Exemptive Order Network Members, the Guarantee should be more than sufficient to cover losses attributable to the bankruptcy or insolvency of any one particular Exemptive Order Network Member.

Applicants' Conditions

If the requested order is granted, applicants agree to the following conditions:

1. The foreign custody arrangements proposed with respect to Citibank T/O will satisfy the requirements of rule 17f–5 in all respects other than with regard to shareholders' equity.

2. MIC Securities and MIC Cash custodied pursuant to Agency Custody Arrangements will be maintained with Citibank T/O only in accordance with an Agency Custody Agreement, required to remain in effect at all times during which Citibank T/O fails to satisfy the requirements of rule 17f–5 relating to shareholders' equity.

3. The Agency Custody Agreement will be among (i) the U.S. Investment Companies or MIC Custodians for which Citibank serves as custodians or subcustodian, (ii) Citibank, and (iii) Citicorp. The Agency Custody Agreement will provide the following:

(a) Citibank will act as the custodian or subcustodian, as the case may be, of the MIC Securities and MIC Cash and will be able to delegate its responsibilities to Citibank T/O;

(b) Citibank's delegation of duties to Citibank T/O will not relieve Citibank of any responsibility to the U.S. Investment Company or MIC Custodian for any loss due to the negligent performance by Citibank T/O, except such loss as may result from (i) political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife or armed hostilities) and (ii) other risks of loss for which neither Citibank nor Citibank T/O would be liable under rule 17f–5; and

(c) Citicorp will be liable, in accordance with the terms of the Guarantee, for losses of MIC Securities and/or MIC Cash resulting from the bankruptcy or insolvency of Citibank T/O.

4. With respect to the Agency Custody Arrangements, Citibank will enter into a Subcustodian Agreement with Citibank T/O pursuant to which Citibank will delegate to Citibank T/O such of its duties and obligations as would be necessary to permit Citibank T/O to hold in custody, in the Russian Federation, MIC Securities and MIC Cash. The Subcustodian Agreement will provide an acknowledgement by Citibank T/O that it is acting as a foreign

custodian for U.S. Investment Companies and MIC Custodians pursuant to the terms of the exemptive order requested by the application. The Subcustodian Agreement will explicitly provide that U.S. Investment Companies or MIC Custodians that have entered into an Agency Custody Agreement with Citibank will be third party, beneficiaries of the Subcustodian Agreement, will be entitled to enforce the terms thereof, and will be entitled to seek relief directly against Citibank T/O or against Citibank.

5. The Subcustodian Agreement between Citibank and Citibank T/O will be governed by New York law; or, if it were governed by the local law of the Russian Federation, Citibank shall obtain an opinion of counsel form Russian counsel opining as to the enforceability of the rights of a third party beneficiary under the laws of such foreign jurisdiction.

6. MIC Securities and MIC Cash of U.S. Investment Companies and MIC Custodians entering into Direct Custody Arrangements with Citibank T/O will be maintained with Citibank T/O only in accordance with a Direct Custody Agreement, required to remain in effect at all times during which Citibank T/O fails to satisfy the requirements of rule 17f–5 relating to shareholders' equity.

7. The Direct Custody Agreement will be among (i) each U.S. Investment Company or MIC Custodian for which Citibank T/O serves as custodian or subcustodian, (ii) Citibank T/O, (iii) Citibank, and (iv) Citicorp. The Direct Custody Agreement will provide the following:

(a) confirmation by Citibank T/O that it will act as the custodian or subcustodian, as the case may be, of the MIC Securities and MIC Cash pursuant to the requested order;

(b) Citicorp will be liable, in accordance with the terms of the Guarantee, for losses of MIC Securities and/or MIC Cash resulting from the bankruptcy or insolvency of Citibank T/O; and

(c) Citibank will be liable for any loss resulting from the performance of Citibank T/O, except such loss as may result from (i) political risk (*e.g.*, exchange control restrictions, confiscation, expropriation, nationalization, insurrection, civil strife, or armed hostilities) and (ii) other risks of loss for which Citibank T/O would not be liable under rule 17f–5.

8. Under the Direct Custody Arrangements, U.S. Investment Companies or MIC Custodians, as the case may be, will be entitled to seek relief directly against Citibank or Citibank T/O.

9. The dollar value of the Guarantee applicable to the Exemptive Order Network Members shall be at least equal to the aggregate value of the MIC Securities and MIC Cash held in the custody of such Exemptive Order Network Members pursuant to the Direct Custody Agreements and the Agency Custody Agreements, calculated at the close of the previous calendar month. The value of MIC Securities and MIC Cash held in the custody of the Exemptive Order Network Members, as Citibank's subcustodians, will be calculated by Citibank based on records maintained by Citibank and reports by such Exemptive Order Network Members as at the end of each calendar month, and such amount will be reported to Citicorp. In addition, each Exemptive Order Network Member will submit to Citibank, as agent for Citicorp, monthly its calculation, and the basis on which it was made, of the market value of MIC Securities and MIC Cash held in custody by it under Direct Custody Agreements. After reviewing the results of the monthly monitoring, Citicorp will take such steps as may be necessary to adjust the amount of the Guarantee to cover the aggregate value of the MIC Securities and MIC Cash held by Exemptive Order Network Members, under Agency and Direct Custody Agreements. In the event of the insolvency of an Exemptive Order Network Member at a time when the aggregate value of MIC Securities and MIC Cash held by such Exemptive Order Network Member is in excess of the amount of MIC Securities and MIC Cash which such Exemptive Order Network Member held at the prior calendar month's end, Citicorp will immediately take such steps (if any) as may be necessary to increase the size of the Guarantee to cover the amount of such excess.

10. Citibank currently satisfies and will continue to satisfy the Qualified U.S. Bank requirement set forth in rule 17f–5(c)(3).

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7647 Filed 3–25–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–22576; File No. 812–10462]

Cova Financial Services Life Insurance Company, et al.

March 20, 1997.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''1940 Act'').

APPLICANTS: Cova Financial Services Life Insurance Company (''Cova Life'') and Cova Variable Annuity Account One (''Variable Account One'')

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 26(b) approving the proposed substitution of securities.

SUMMARY OF APPLICATION: Applicants seek an order approving the proposed substitution of shares of the International Equity Portfolio of Cova Series Trust (''Cova Trust'') for shares of the Global Equity Portfolio of Lord Abbett Series Fund, Inc. (''Lord Abbett Fund'') which currently are held by Variable Account One to fund certain single purchase payment and flexible purchase payment variable annuity contracts (''Contracts'') issued by Cova Life.

FILING DATE: The application was filed on December 13, 1996, and amended and restated on march 18, 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 Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m., on April 14, 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 requester's interest, the reason for the request, and the issue contested. Persons may request notification of a hearing by writing to the Secretary of the SEC.

ADDRESSES: SEC, Secretary, 450 Fifth Street, NW., Washington, D.C. 20549. Applicants, c/o Raymond A. O'Hara III, Blazzard, Grodd & Hasenauer, P.C., P.O. Box 5108, Westport, Connecticut, 06881. Copies to Jeffery K. Hoelzel, Esq., Senior Vice President, General Counsel and Secretary, Cova Financial Services Life Insurance Company, One Tower Lane, Suite 3000, Oakbrook Terrace, Il 60181–4644.

FOR FURTHER INFORMATION CONTACT: Megan L. Dunphy, Staff Attorney, or Patrice M. Pitts, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the SEC.

Applicants' Representations

1. Cova Life originally was incorporated on August 17, 1981, as Assurance Life Company, a Missouri corporation, and changed its name to Xerox Financial Services Life Insurance Company in 1985. On June 1, 1995 a wholly-owned subsidiary of General American Life Insurance Company purchased Cova Life from Xerox Financial Services, Inc. The acquisition of Cova Life included related companies. On June 1, 1995, Cova Life changed its name to Cova Financial Services Life Insurance Company. Cova Life presently is licensed to do business in the District of Columbia and in all states except California, Maine, New Hampshire, New York and Vermont.

2. Variable Account One is a separate account registered under the 1940 Act as a unit investment trust and established for the purpose of funding certain variable annuity contracts, including the Contracts. Variable Account One currently is divided into twelve sub-accounts, each of which reflects the investment performance of a corresponding portfolio of Cova Trust, Lord Abbett Fund and another registered mutual fund.

3. The Lord Abbett Fund currently offers shares of its portfolios to corresponding sub-accounts of Variable Account One and to separate accounts of other insurance companies. Lord Abbett Fund was incorporated under the laws of Maryland on August 28, 1989, and is registered under the 1940 Act as an open-end management investment company of the series type. Lord Abbett Fund currently is comprised of three Portfolios, only one of which—the Global Equity Portfolio—is relevant herein.

4. The investment objective of the Global Equity Portfolio is long-term growth of capital and income consistent with reasonable risk. The production of current income is a secondary consideration for the portfolio. The Global Equity Portfolio normally invests primarily in common stocks (including securities convertible into common stocks) of domestic and foreign companies in sound financial condition, which common stocks are expected to show above-average price appreciation. Under normal circumstances, the portfolio will invest its total assets in domestic and foreign securities with at least 65% of such assets invested in equity securities primarily traded in at least three countries, including the United States.

5. Lord, Abbett & Co. (''Lord Abbett'') is the investment manager of the Lord Abbett Fund. Lord Abbett retains Dunedin Fund Managers Limited as a sub-adviser to the Global Equity Portfolio. Lord Abbett receives a monthly management fee, based on average daily net assets for each month, at an annual rate of .75 of 1%. Since inception of the Global Equity Portfolio, Lord Abbett has voluntarily waived this management fee and reimbursed a portion of the expenses of the portfolio. Lord Abbett is under no legal obligation to continue fee waivers and expense reimbursements.

6. The shares of Cova Trust are sold exclusively to separate accounts of Cova Life (including Variable Account One) and its affiliated insurance companies to fund benefits under the Contracts and certain other variable annuity contracts issued by affiliates of Cova Life. Cova Trust is an unincorporated business trust that was established under Massachusetts law by a Declaration of Trust dated July 9, 1987. Cova Trust is registered under the 1940 Act as an open-end management investment company of the series type. Cova Trust currently offers eleven portfolios, only one of which—the International Equity Portfolio—is relevant herein.

7. The investment objective of the International Equity Portfolio is to provide a high total return from a portfolio of equity securities of foreign corporations. In normal circumstances, the International Equity Portfolio should be essentially fully invested with at least 65% of the value of its total assets in equity securities of foreign issuers, consisting of common stocks and other securities with equity characteristics such as preferred stock, warrants, rights and convertible securities.

8. Cova Investment Advisory Corporation (''Cova Advisory'') is the investment adviser for Cova Trust. Cova Advisory is a wholly-owned subsidiary of Cova Life Management Company, which is a wholly-owned subsidiary of Cova Corporation, which is a wholly-owned subsidiary of General American Life Insurance Company. Cova Advisory has engaged J.P. Morgan Investment Management Inc., a wholly-owned subsidiary of J.P. Morgan & Co., Inc., as sub-adviser to the International Equity Portfolio. The maximum management fee Cova Advisory receives is .85% of the net assets of the International Equity Portfolio. Cova Advisory has undertaken to pay the expenses of the International Equity Portfolio until May 1, 1998, to the extent that expenses of the portfolio, other than investment advisory fees, exceed the annual rate of 10% of the portfolio's average net assets.

9. The Global Equity Portfolio commenced operations on April 9, 1990. After experiencing slow sales of portfolio shares the management of Cova Life and the management of Lord Abbett determined that it was unlikely that the Global Equity Portfolio would grow to a sufficient size to promote consistent investment performance or to reduce operating expenses. The sale of shares of the Global Equity Portfolio to Variable Account One was discontinued on May 1, 1992 (except for the acceptance of certain additional purchase payments received after that date in connection with dollar cost averaging program of Cova Life).

10. International Equity Portfolio began selling its shares to Variable Account One on May 1, 1996. As of December 31, 1996, the portfolio had $15,619,255 in net assets, more than six times the asset size of the Global Equity Portfolio. Management of Cova Life believes that the International Equity Portfolio will continue to grow at a steady pace. In addition to sales to Variable Account One, Cova Life anticipates commencing sales of the International Equity Portfolio to additional separate accounts of Cova Life and its affiliates in the near future; that should result in a further increase in the net assets of the International Equity Portfolio.

11. Applicants propose to substitutes shares of the International Equity Portfolio of Cova Trust (the ''substitute fund'') for shares of the Global Equity Portfolio of Lord Abbett Fund (the ''removed fund''). The prospectuses for the Contracts will be amended by supplement to describe the proposed substitution. The supplement will be distributed to all Contract owners.

12. Affected Contract owners will not incur any fees or charges as a result of the substitution, nor will their rights or the obligations of Cova Life under the Contracts be altered in any way.

13. From the date of the supplement until the date of the proposed substitution, Contract owners may transfer any or all of their respective Contract value invested in the Global Equity sub-account to another sub-account of Variable Account One without any limitation or charge. For the 30-day period following the substitution, Cova Life will permit transfers from the International Equity sub-account to any other sub-account of Variable Account One without any limitation or charge being imposed. The proposed substitution will not be considered a ''transfer'' for purposes of calculating any transfer fee that may otherwise be payable under a Contract.

14. The proposed substitution will take place at net asset value with no change in the amount of any Contract owner's Contract value or in the dollar

value of his or her investment in Variable Account One. Cova life will redeem shares of the Global Equity Portfolio in cash and purchase shares of the International Equity Portfolio with the proceeds.

15. Contract owners will not incur any fees or charges as a result of the proposed substitution, nor will their rights under the Contracts be altered in any way. All expenses incurred in connection with the proposed substitution, including legal, accounting and other fees and expenses, will be paid by Cova Life. The proposed substitution will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitution than before the proposed substitution.

16. Within five days of the substitution, affected Contract owners will receive written notice of the substitution reiterating their right to make transfers from the International Equity sub-account to any other sub-account of Variable Account One for a period of 30 days from the date of the notice without any limitation or charge being imposed. Cova Life will include in such mailing a supplement to the prospectus of Variable Account One which describes the substitution.

17. Following the substitution, Contract owners will be afforded the same contract rights, including surrender and other transfer rights with regard to amounts invested under the Contracts, as they currently have.

Applicants' Legal Analysis and Conditions

1. Section 26(b) of the 1940 Act provides, in pertinent part, that ''[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution.'' Applicants assert that the purpose of Section 26(b) is to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate the shares of a particular issuer, and to prevent unscrutinized substitutions which in effect might force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Section 26(b) affords this protection to investors by preventing a depositor or trustee of a unit investment trust holding the shares of one issuer from substitution for those shares the shares of another issuer, unless the Commission approves that substitution.

2. Applicants maintain that the purposes, terms and conditions of the Substitution are consistent with the principles and purposes of Section 26(b) and do not entail any of the abuses that Section 26(b) is designed to prevent. Applicant assert that the substitute fund is a suitable and appropriate investment vehicle for Contract owners. Applicants further assert that effecting the proposed substitution will not result in greater (aggregate) fees and charges under the Contracts.

3. Applicants represent that the proposed substitution will not result in the type of costly forced redemption that section 26(b) was intended to guard against, and is consistent with the protection of investors and the purposes fairly intended by the 1940 Act for the following reasons: prior to the substitution and for a period of thirty (30) days thereafter, Contract owners may transfer Global Equity sub-account values to any other sub-account of Variable Account One without any limitation or charge being imposed; the investment objective of the substitute fund is similar to that of the removed fund; the substitution will be at the net asset value of the respective portfolio shares, with no change in a Contract owner's contract value or in the dollar value of the Contract owner's investment in Variable Account One; Contract owners will not incur any fees or charges as a result of the proposed substitution, nor will their rights under the Contracts be altered in any way; all expenses incurred in connection with the proposed substitution, including legal, accounting and other fees and expenses, will be paid by Cova Life; the proposed substitution will not impose any tax liability on Contract owners; Contract owners may choose to withdraw amounts credited to them following the substitution under the conditions that currently exist, subject to any applicable deferred sales charge.

4. Applicants assert that the substitute fund is substantially larger than the removed fund, and that the substitute fund should grow further. Applicants anticipate that, after the proposed substitution, the substitute fund will provide Contract owners with comparable or more favorable investment results than would be the case if the proposed substitution did not take place.

5. Applicants also note that within 5 days after the proposed substitution, any affected Contract owners will be sent a written notice informing them that shares of the International Equity Portfolio have been substituted for shares of the Global Equity Portfolio. Cova Life will include in such a mailing a supplement to the prospectus of Variable Account one which describes the substitution.

Conclusion

For the reasons set forth above, Applicants represent that the order requested, approving the proposed substitution, is necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act and should be granted.

For the Commission, by the Division of Investment management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7645 Filed 3–25–97; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22574; 811–7854]

The U.S. Stock Portfolio; Notice of Application

March 20, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: The U.S. Stock Portfolio.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application has filed on February 21, 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 14, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Elizabethan Square, Shedden

Road, George Town, Grand Cayman, Cayman Islands, B.W.I.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or H.R. Hallock, Jr., Special Counsel, 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 from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company organized as a trust under the laws of the State of New York. On July 6, 1993, applicant filed a notification of registration on Form N–8A and a registration statement on Form N–1A. Applicant's registration statement has not been declared effective.

2. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. 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.

4. Applicant has terminated its existence under New York law.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7646 Filed 3–25–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38417; File No. SR–NASD–97–17]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. Relating to Fees Charged for the Nasdaq Level 1 Service

March 18, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 3, 1997, the National Association of Securities Dealers, Inc. (''NASD'') and the Nasdaq Stock Market, Inc. (''Nasdaq'') (hereinafter referred to collectively as ''Nasdaq'' or the ''Nasdaq Stock Market'') 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 Nasdaq. On March 18, 1997, the Nasdaq Stock Market filed Amendment No. 1 to the proposal.[1] 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 proposed rule change amends NASD Rule 7010(a) to increase the monthly fee charged for Nasdaq Level 1 Service. Below is the text of the proposed rule change. Proposed new language is italicized and proposed deletions are bracketed.

Rule 7000. CHARGES FOR SERVICES AND EQUIPMENT

7010. System Services

(a) Nasdaq Level 1 Service

The charge to be paid by the subscriber for each terminal receiving Nasdaq Level 1 Service is $*20* [19] per month. This Service includes the following data:

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Nasdaq Stock Market proposes to establish a fee increase for Nasdaq Level 1 Service to reflect the increased value of the data being disseminated via this Service. Under the new SEC Order Handling Rules, Nasdaq quotations now contain additional information that was not previously available to subscribers. That is, pursuant to SEC Rule 11Ac1–4, customer limit orders are now displayed in market maker quotations. In addition, Nasdaq's Level 1 Service includes price information from electronic communications networks (''ECNs'') that was not previously available through this Service. Thus, to reflect the increased value of the transparency of Nasdaq quotes under these new rules and the price discovery information available in the Nasdaq Stock Market, Nasdaq believes that the fee for such service should be increased.

Nasdaq proposes to increase by $1.00 the current monthly fee for the receipt of Nasdaq quote and trade information, resulting in a $20 fee per month per authorized device for Level 1 Service. As noted above, the Nasdaq Level 1 Service will include limit order information (i.e., the best priced orders to buy and sell) and ECN prices. This information provides valuable information to investors and other market participants and helps in price discovery. However, this fee increase will not become effective until the latter of April 1, 1997, or such time when more than half of Nasdaq securities as measured by median daily dollar volume are subject to the new SEC Order Handling Rules. Nasdaq believes that it is appropriate to delay the implementation of the increased fee until the Level 1 Service reflects a substantial increase in this new information. Once Nasdaq's higher volume securities are subject to the new rules, the value of the Level 1 Service will have substantially increased and the fee should reflect that added value.

Nasdaq believes that the above-referenced fee is consistent with the provisions of Section 15A(b)(5) of the Act.[2] Section 15A(b)(5) specifies that the rules of a national securities association shall provide for the equitable allocation of reasonable dues, fees and charges among members, issuers and other persons using any facility or system that the association operates or controls. The increased fee to be charged for this valuable information results in an equitable allocation of the cost of providing this information in a way that the costs are applied fairly and uniformly to all users of the system. Nasdaq has attempted to equitably spread the costs associated with the information gathered pursuant to the new SEC Order Handling Rules over a broad base of end users, as was

[1] In Amendment No. 1, Nasdaq clarifies that the filing is made on behalf of the NASD and the Nasdaq Stock Market, Inc. Amendment No. 1 also includes additional discussion regarding the statutory basis for the fee increase for Nasdaq Level 1 Service. Finally, Amendment No. 1 corrects several typographical errors in the original filing. See letter from Eugene A. Lopez, Assistant General Counsel, Office of General Counsel, The Nasdaq Stock Market Inc., to Michael Walinskas, Senior Special Counsel, Office of Market Supervision, Division of Market Regulation, Commission, dated March 17, 1997 (''Amendment No. 1'').

[2] 15 U.S.C. 78o–3.

done in the dissemination of OTC Bulletin Board information in 1991.[3]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Nasdaq Stock Market 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 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. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–17 and should be submitted by April 16, 1997.

[3] See Securities Exchange Act Release No. 29616 (August 27, 1991), 56 FR 43826 (September 4, 1991).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7642 Filed 3–25–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38420; International Series Release No. 1066; File No. SR–PSE–96–46]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1 Thereto by the Pacific Stock Exchange, Inc. Relating to Foreign Broker/Dealers

March 19, 1997.

On December 16, 1996, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify its rules to specify that the term ''broker/dealer,'' as used in PSE Rules 6.52(a), 6.86 and 6.87, includes foreign broker/dealers. The PSE also proposed to adopt a definition of the term ''foreign broker/dealer.'' Notice of the proposed rule change was published for comment and appeared in the **Federal Register** on January 30, 1997.[3] No comment letters were received on the proposal. On March 12, 1997, the Exchange filed amendment No. 1 to the proposed rule change.[4] This order approves the PSE proposal, as amended.

I. Description of the Proposal

PSE Rules 6.52(a), 6.86 and 6.87, relating to option transactions only, currently distinguish between orders for broker/dealers and orders for non-broker/dealers. Under these rules, only non-broker/dealer customer orders are eligible to be placed on the public limit order book,[5] to be entered for automatic execution,[6] or are eligible for a guaranteed minimum execution of 20 contracts on the floor of the Exchange.[7]

The purpose of the proposed rule change is to clarify the meaning of the term ''broker/dealer,'' as used in Rules 6.52(a), 6.86 and 6.87, by specifying that it includes foreign broker/dealers. The Exchange is also proposing to adopt the following definition of ''foreign broker/dealers,'' which would be applicable to PSE Rules 6.52(a), 6.86 and 6.87:

Foreign Broker/Dealer: The term ''foreign broker/dealer''

means any person or entity that is registered, authorized or licensed by a foreign governmental agency or foreign regulatory organization (or should be so registered, authorized or licensed) to perform the function of a broker or dealer in securities, or both. The terms ''broker'' and ''dealer'' mean the same as set out in Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934, provided that a ''broker'' or ''dealer'' may be a bank.[8]

In light of the current globalization of the securities markets, the Exchange believes that the subject rules should be applied consistently. In this regard, PSE asserts that an exchange specialist (or functional equivalent) in Canada or Mexico, for example, should be subject to the same rules applicable to trading on the PSE as an exchange specialist in the United States, and should not have a competitive advantage over United States broker/dealers.[9]

[4] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] See Securities Exchange Act Release No. 38203 (January 24, 1997), 62 FR 4564 (January 30, 1997).

[4] In amendment No. 1 the Exchange revises the definition of ''foreign broker/dealer'' to include those persons or entities which are required to be registered, authorized or licensed by a foreign governmental agency or foreign regulatory organization, even if they are not so registered, authorized or licensed. See letter from Michael D. Pierson, Senior Attorney, Regulation Policy, PSE, to James T. McHale, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Division''), Commission, dated March 11, 1997 (''Amendment No. 1'').

[5] Rule 6.52(a) provides in part that ''[o]nly non-broker/dealer customer orders may be placed with an Order Book Official pursuant to this Rule.'' *Cf.* SEC Rule 11Ac1–4(a)(6) (equity ''customer limit orders'' that must be displayed pursuant to Rule 11Ac1–4 include those that are ''not for the account of either a broker or dealer'') (effective January 20, 1997).

[6] Rule 6.87(a) provides: ''Only non-broker/dealer customer orders are eligible for execution on the Exchange's Automatic Execution System (''Auto-Ex'').''

[7] Rule 6.86(a) provides: ''Each trading crowd is required to provide a depth of twenty (20) option contracts for all non-broker/dealer customer orders, at the bid/offer that is displayed as the disseminated market quote at the time such orders are announced or displayed at the trading post designated for trading the subject option class.''

[8] Sections 3(a)(4) and 3(a)(5) of the Act provide:

(4) The term ''broker'' means any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank.

(5) The term ''dealer'' means any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business.

[9] The Commission notes that a non-broker/dealer customer executing a trade through a foreign broker/dealer would be treated as a public customer for purposes of PSE Rules 6.52(a), 6.86 and 6.87, as revised. Telephone conversation between Michael D. Pierson, Senior Attorney, Regulation Policy, PSE, and James T. McHale, Attorney, OMS, Division, Commission, on March 3, 1997.

The Exchange believes that the proposed definition is sufficiently specific to ensure fair enforcement of the affected rules.[10] The PSE asserts that it will be able to verify whether a person or entity is registered, authorized or licensed by a foreign governmental agency or a foreign regulatory organization to perform the specified functions of a broker/dealer. The PSE notes that, as a member of the Intermarket Surveillance Group (''ISG''),[11] the Exchange may promptly obtain from ISG members and affiliates information on the accounts of persons or entities entering orders for execution on the PSE, including whether such orders have been entered for the account of a broker or dealer. The Exchange may also obtain such information from foreign exchanges or foreign regulatory authorities with whom the Exchange has an effective surveillance sharing agreement or from a foreign exchange or regulatory authority that is subject to a memorandum of understanding with the Commission that would require those entities to provide such information to the Exchange upon request.

Based upon its review of the applicable regulatory structures of various foreign jurisdictions, the Exchange believes that the proposed definition is sufficiently specific to cover the foreign equivalents of U.S. brokers and dealers. These foreign jurisdictions include, but are not limited to, the following: Australia, Canada, the Czech Republic, France, Germany, Hong Kong, Hungary, Japan, Luxembourg, Mexico, the Netherlands, Poland, South Africa, South Korea, the Slovak Republic, Switzerland, and the United Kingdom.[12]

The Exchange also believes that the proposed definition of ''foreign broker/dealer'' contains objective criteria for its application and is narrower in scope than the definition of ''foreign broker or dealer'' specified in SEC Rule 15a–6(b)(3).[13] In addition, the Exchange notes the proposed definition is substantially similar in form and substance to SEC Rule 17a–7(c) (definition of nonresident brokers and dealers) and Exchange Act Sections 3(a)(50) (definition of foreign securities authority) and 3(a)(52) (definition of foreign financial regulatory authority).

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5)[14] in that it is designed to facilitate transactions in securities, promote just and equitable principles of trade, protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers, and dealers. Additionally, the PSE's proposal is consistent with Section 11A(a)(1)(c)(ii) of the Act[15] because it will promote fair competition among brokers and dealers.

Specifically, with regard to PSE Rule 6.87, the Commission notes that it has previously determined that limiting execution of options orders through Auto-Ex to non-broker/dealer customer orders is appropriate and consistent with the Act, because automatic execution systems were developed, in part, to aid public customers by providing nearly instantaneous execution of small orders at a guaranteed price.[16] Although the originally adopted rule and related Commission order did not specifically address or define the term ''non-broker/dealer,'' it is consistent with the purpose of the rule to treat foreign broker/dealers in a manner similar to U.S. broker/dealers. Therefore, the amendment to Rule 6.87 properly clarifies that all broker/dealers, whether U.S. registered or foreign, are prohibited from utilizing Auto-Ex for execution of their own trades.

With regard to Rule 6.86, PSE's ''firm quote'' or ''20-up'' rule, the Commission finds that the amendment similarly serves to clarify which market participants are entitled to a guaranteed execution of 20 option contracts. The Commission believes that it is reasonable and consistent with the purpose of Rule 6.86 to not require PSE market makers to provide a guaranteed minimum level of liquidity to broker/dealer option orders, regardless of whether the broker/dealer is registered in the United States or is a foreign broker/dealer. Limiting the 20 contract minimum to non-broker/dealers also furthers the purposes of the Act by helping to ensure that market makers' volume guarantees will not be exhausted by competitors to the detriment of public customers.[17] Similarly, the Commission also believes that interpreting ''broker/dealer'' to include foreign broker/dealers in determining which orders may be placed with an Order Book Official pursuant to Rule 6.52, is reasonable and consistent with the Act. Prohibiting the entry of limit orders by broker/dealers, whether U.S. registered or foreign, is consistent with the purpose of Rule 6.52 to provide bona fide public customers only with the benefits of the Exchange's customer limit order book, including certain enhanced order priority.[18]

Finally, the Commission believes that the PSE's proposed definition of foreign broker/dealer provides an objective and verifiable standard that is capable of fair enforcement.[19] Specifically, the Exchange's Options Surveillance staff should be able to confirm relatively quickly whether a person or entity is registered, authorized or licensed by a foreign governmental agency or foreign regulatory organization to perform the functions of a broker or dealer as defined in the Act. Moreover, the Exchange has represented that an attorney in their Compliance Department will review the determination made by the Options Surveillance staff.[20]

The Commission finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register.** Amendment No. 1

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[10] See Securities Exchange Act Release No. 37695 (September 17, 1996), 61 FR 50366 (September 25, 1996) (order approving SR–PSE–96–19).

[11] ISG was created in February 1981 to design, develop and implement a coordinated intermarket surveillance system among securities markets in the United States. On July 14, 1983, the exchanges participating in the ISG entered into an agreement to coordinate more effectively surveillance and investigative information sharing agreements in stock and options markets. In 1989, with the active participation of the SEC and Commodity Futures Trading Commission, the ISG created an ''affiliate'' category for futures exchanges and non-U.S. self-regulatory organizations. Currently, the ISG is comprised of nine members and 13 affiliates.

[12] See generally H. Bloomenthal & S. Wolff, International Capital Markets and Securities Regulation (1996).

[13] SEC Rule 15a–6(b)(3) provides: the term 'foreign broker or dealer' shall mean any non-U.S. resident person (including any U.S. person engaged in business as a broker or dealer entirely outside the United States, except as otherwise permitted by this rule) that is not an office or branch of, or a natural person associated with, a registered broker or dealer, whose securities activities, if conducted in the United States, would be described by the definition of 'broker' or 'dealer' in sections 3(a)(4) or 3(a)(5) of the Act.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k–1(a)(1)(c)(ii).

[16] See Securities Exchange Act Release No. 37695 (September 17, 1996), 61 FR 50366 (September 25, 1996). (order approving SR–PSE–96–19).

[17] See Securities Exchange Act Release Nos. 34891 (October 25, 1994), 59 FR 54653 (November 1, 1994); and 34400 (July 19, 1994), 59 FR 38011 (July 26, 1994).

[18] See PSE Rule 6.75, ''Priority of Bids and Offers.''

[19] The discussion and analysis in this approval order is intended only to address the PSE's proposed definition of foreign broker/dealer. It is not intended to address the meaning of foreign broker/dealer under the statutes, rules and regulations of the federal securities laws.

[20] Telephone conversation between Michael D. Pierson, Senior Attorney, Regulation Policy, PSE, and James T. McHale, Attorney, OMS, Division, Commission, on March 5, 1997.

revises the PSE's definition of ''foreign broker/dealer'' to include those persons or entities which are required to be registered, authorized or licensed by a foreign governmental agency or foreign regulatory organization even if they are not so registered, authorized or licensed.[21] The Commission finds that Amendment No. 1 strengthens the proposal by including within the Exchange's definition those individuals or entities performing the function of a broker or dealer, but not complying with foreign regulatory requirements to become registered, authorized, or licensed. Essentially, the amendment attempts to avoid a potential loophole under the original proposal whereby a party could assert that it was technically a public customer because it was not formally registered as a foreign broker/dealer, even though it performs broker/dealer functions and is required to be approved for such activity. The Commission believes that the amendment properly provides that an individual or entity attempting to avoid the registration, authorization, or licensing process of a foreign regulator is not deemed a public customer on the Exchange. The Commission also notes that no comments were received on the original PSE proposal, which was subject to the full 21-day comment period. Accordingly, the Commission believes that it is consistent with Section 6(b)(5) of the Act to approve Amendment No. 1 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 1 to the proposed rule change. 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. Copies of such filing with also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR–PSE–96–46 and should be submitted by April 16, 1997.

[21] See note 4, *supra.*

For the foregoing reasons, the Commission finds that the PSE's proposal, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–PSE–96–46) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Jonathan G. Katz,

Secretary.

[FR Doc. 97–7643 Filed 3–25–97; 8:45 am]

BILLING CODE 8010–01–M

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of promulgation of temporary, ''emergency'' guideline amendments increasing penalties for alien smuggling, fraudulent use of government-issued documents, and involuntary servitude, peonage, and slave trade offenses and a proposal to re-promulgate these amendments as permanent amendments.

SUMMARY: The Sentencing Commission hereby gives notice of the following actions: (1) Pursuant to its authority under sections 203, 211, and 218 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the Commission is promulgating temporary, emergency amendments to §§ 2L1.1, 2L2.1, 2L2.2, and 2H4.1 and accompanying commentary; and (2) pursuant to section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994(a) and (p)), the Commission further proposes to re-promulgate these amendments as permanent, non-emergency amendments.

DATES: The Commission has specified an effective date of May 1, 1997, for the emergency amendments increasing the penalties for offenses involving alien smuggling (§ 2L1.1), immigration document fraud (§§ 2L2.1, 2L2.2), and involuntary servitude, peonage, and slave trade (§ 2H4.1).

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Information Specialist, Telephone: (202) 273–4590.

Authority. 28 U.S.C. 994 (a), (o), (p), (x).

Richard P. Conaboy,

Chairman.

Amendments to the Sentencing Guidelines, Policy Statements, and Official Commentary

Emergency Amendment—Alien Smuggling

1. Amendment: Section 2L1.1(a)(1) is amended by deleting ''20'' and inserting in lieu thereof ''23''.

Section 2L1.1(a)(2) is amended by deleting ''9'' and inserting in lieu thereof ''12''.

Section 2L1.1(b) is amended by deleting subdivision (1) in its entirety and inserting the following in lieu thereof:

''(1) If (A) the defendant committed the offense other than for profit, or the offense involved the smuggling, transporting, or harboring only of the defendant's spouse or child (or both the defendant's spouse and child), and (B) the base offense level is determined under subsection (a)(2), decrease by 3 levels.''.

Section 2L1.1(b)(2) is amended in the column captioned ''Increase in Level'' by deleting ''2'' and inserting in lieu thereof ''3''; by deleting ''4'' and inserting in lieu thereof ''6''; and by deleting ''6'' and inserting in lieu thereof ''9''.

Section 2L1.1 is amended by deleting (b)(3) in its entirety and by inserting the following in lieu thereof:

''(3) If the defendant committed any part of the instant offense after sustaining (A) a conviction for a felony immigration and naturalization offense, increase by 2 levels; or (B) two (or more) convictions for felony immigration and naturalization offenses, each such conviction arising out of a separate prosecution, increase by 4 levels.''.

Section 2L1.1(b) is amended by inserting the following additional subdivisions:

''(4) (Apply the greatest):

(A) If a firearm was discharged, increase by 6 levels, but if the resulting offense level is less than level 22, increase to level 22.

(B) if a dangerous weapon (including a firearm) was brandished or otherwise used, increase by 4 levels, but if the resulting offense level is less than level 20, increase to level 20.

(C) if a dangerous weapon (including a firearm) was possessed, increase by 2 levels, but if the resulting offense level is less than level 18, increase to level 18.

(5) If the offense involved intentionally or recklessly creating a substantial risk of death or serious bodily injury to another person, increase

by 2 levels, but if the resulting offense level is less than level 18, increase to level 18.

(6) If any person died or sustained bodily injury, increase the offense level according to the seriousness of the injury:

Death or degree of injury	Increase in level
(1) Bodily Injury	Add 2 levels.
(2) Serious Bodily Injury ..	Add 4 levels.
(3) Permanent or Life-Threatening Bodily Injury.	Add 6 levels.
(4) Death	Add 8 levels''.

Section 2L1.1 is amended by inserting the following additional subsection:

''(c) Cross Reference

If any person was killed under circumstances that would constitute murder under 18 U.S.C. 1111 had such killing taken place within the special maritime and territorial jurisdiction of the United States, apply the appropriate murder guideline from Chapter Two, Part A, Subpart 1.''.

The Commentary to § 2L1.1 captioned ''Application Notes'' is amended in Note 1 by inserting at the beginning ''For purposes of this guideline''; by deleting the first sentence in its entirety and inserting in lieu thereof '' 'The defendant committed the offense other than for profit'' means that there was no payment or expectation of payment for the smuggling, transportation, or harboring of any of the unlawful aliens.'; by inserting as the second paragraph '' 'Aggravated felony' is defined in the Commentary to § 2L1.2 (Unlawfully Entering or Remaining in the United States).''; by inserting as the third paragraph '' 'Child' has the meaning set forth in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).''; by inserting as the fourth paragraph '' 'Spouse' has the meaning set forth in 101(a)(35) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(35)).''; and by inserting as the fifth paragraph ''An 'immigration and naturalization offense' means any offense covered by this Part.''.

The Commentary to § 2L1.1 captioned ''Application Notes'' is amended by deleting Note 3 in its entirety and by redesignating Note 4 as Note 3.

The Commentary to § 2L1.1 captioned ''Application Notes'' is amended in Note 5 by deleting ''dangerous or inhumane treatment, death or bodily injury, possession of a dangerous weapon, or'' immediately following ''involved''; and by redesignating Note 5 as Note 4.

The Commentary to § 2L1.1 captioned ''Application Notes'' is amended by deleting Note 6 in its entirety.

The Commentary to § 2L1.1 captioned ''Application Notes'' is amended by inserting the following additional notes:

''5. Prior felony conviction(s) resulting in an adjustment under subsection (b)(3) are also counted for purposes of determining criminal history points pursuant to Chapter Four, Part A (Criminal History).

6. Reckless conduct to which the adjustment from subsection (b)(5) applies includes a wide variety of conduct (*e.g.,* transporting persons in the trunk or engine compartment of a motor vehicle, carrying substantially more passengers than the rated capacity of a motor vehicle or vessel, or harboring persons in a crowded, dangerous, or inhumane condition.) If subsection (b)(5) applies solely on the basis of conduct related to fleeing from a law enforcement officer, do not apply an adjustment from § 3C1.2 (Reckless Endangerment During Flight). Additionally, do not apply the adjustment in subsection (b)(5) if the only reckless conduct that created a substantial risk of death or serious bodily injury is conduct for which the defendant received an enhancement under subsection (b)(4).''.

The Commentary to § 2L1.1 captioned ''Background'' is amended by deleting the second and third sentences; and, in the last sentence, by inserting ''smuggling, transporting, or harboring'' immediately following ''scale''.

Reason for Amendment: This amendment implements section 203 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which directs the Commission to amend the guidelines for offenses related to smuggling, transporting, or harboring illegal aliens.

Emergency Amendment—Alien Document Fraud

2. Amendment: Section 2L2.1(a) is amended by deleting ''9'' and inserting ''11'' in lieu thereof.

Section 2L2.1(b) is amended by deleting subdivision (1) in its entirety and inserting the following in lieu thereof:

''(1) If the defendant committed the offense other than for profit, or the offense involved the smuggling, transporting, or harboring only of the defendant's spouse or child (or both the defendant's spouse and child), decrease by 3 levels.''.

Section 2L2.1(b)(2) is amended in the column captioned ''Increase in Level'' by deleting ''2'' and inserting in lieu thereof ''3''; by deleting ''4'' and inserting in lieu thereof ''6''; and by deleting ''6'' and inserting in lieu thereof ''9''.

Section 2L2.1(b) is amended by inserting the following additional subdivision:

''(4) If the defendant committed any part of the instant offense after sustaining (A) a conviction for a felony immigration and naturalization offense, increase by 2 levels; or (B) two (or more) convictions for felony immigration and naturalization offenses, each such conviction arising out of a separate prosecution, increase by 4 levels.''.

The Commentary to § 2L2.1 captioned ''Application Notes'' is amended in Note 1 by inserting at the beginning ''For purposes of this guideline—''; by deleting the first sentence in its entirety and inserting in lieu thereof '' 'The defendant committed the offense other than for profit' means that there was no payment or expectation of payment for the smuggling, transportation, or harboring of any of the unlawful aliens.''; by inserting as the second paragraph ''An 'immigration and naturalization offense' means any offense covered by this Part.''; by inserting as the third paragraph '' 'Child' has the meaning set forth in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1)).''; and by inserting as the fourth paragraph '' 'Spouse' has the meaning set forth in 101(a)(35) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(35)).''.

The Commentary to § 2L2.1 captioned ''Application Notes'' is amended by inserting the following additional notes:

''4. Prior felony conviction(s) resulting in an adjustment under subsection (b)(4) are also counted for purposes of determining criminal history points pursuant to Chapter Four, Part A (Criminal History).

5. If the offense involved substantially more than 100 documents, an upward departure may be warranted.''.

Section 2L2.2(a) is amended by deleting ''6'' and inserting in lieu thereof ''8''.

Section 2L2.2(b) is amended by deleting ''Characteristic'' and inserting in lieu thereof ''Characteristics''; and by inserting the following additional subdivision:

''(2) If the defendant committed any part of the instant offense after sustaining (A) a conviction for a felony immigration and naturalization offense, increase by 2 levels; or (B) two (or more) convictions for felony immigration and naturalization offenses, each such conviction arising out of a separate prosecution, increase by 4 levels.''.

The Commentary to § 2L2.2 captioned ''Application Note'' is amended by deleting ''Note'' and inserting in lieu thereof ''Notes''; by redesignating Note 1

as Note 2; and by inserting the following as the new Note 1:

''1. For purposes of this guideline—

'Immigration and naturalization offense' means any offense covered by Chapter Two, Part L.''.

The Commentary to § 2L2.2 captioned ''Application Note'' is amended by inserting the following as Note 3.

''3. Prior felony conviction(s) resulting in an adjustment under subsection (b)(2) are also counted for purposes of determining criminal history points pursuant to Chapter Four, Part A (Criminal History).''.

Reason for Amendment: This amendment implements section 211 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which directs the Commission to amend the guidelines for offenses related to the fraudulent use of government-issued documents.

Emergency Amendment—Involuntary Servitude

3. Amendment: Section 2H4.1(a) is amended by deleting ''(Apply the greater)'' and inserting in lieu thereof '': 22''; and by deleting subdivisions (1) and (2) in their entirety.

Section 2H4.1 is amended by inserting the following additional subsection:

''(b) Specific Offense Characteristics

(1)(A) If any victim sustained permanent or life-threatening bodily injury, increase by 4 levels; (B) if any victim sustained serious bodily injury, increase by 2 levels.

(2) If a dangerous weapon was used, increase by 2 levels.

(3) If any victim was held in a condition of peonage or involuntary servitude for (A) more than one year, increase by 3 levels; (B) between 180 days and one year, increase by 2 levels; or (C) more than 30 days but less than 180 days, increase by 1 level.

(4) If any other felony offense was committed during the commission of, or in connection with, the peonage or involuntary servitude offense, increase to the greater of:

(A) 2 plus the offense level as determined above, or

(B) 2 plus the offense level from the offense guideline applicable to that other offense, but in no event greater than level 43.''.

The Commentary to § 2H4.1 captioned ''Statutory Provisions'' is amended by inserting ''241,'' immediately before ''1581''.

The Commentary to § 2H4.1 captioned ''Application Note'' is amended by deleting ''Note'' and inserting in lieu thereof ''Notes''; by deleting Note 1 in its entirety and inserting in lieu thereof the following new note:

''1. For purposes of this guideline—

'A dangerous weapon was used' means that a firearm was discharged, or that a firearm or dangerous weapon was otherwise used.

Definitions of 'firearm,' 'dangerous weapon,' 'otherwise used,' 'serious bodily injury,' and 'permanent or life-threatening bodily injury' are found in the Commentary to § 1B1.1 (Application Instructions).''; and by inserting the following additional notes:

''2. Under subsection (b)(4), 'any other felony offense' means any conduct that constitutes a felony offense under federal, state, or local law (other than an offense that is itself covered by this subpart). When there is more than one such other offense, the most serious such offense (or group of closely related offenses in the case of offenses that would be grouped together under § 3D1.2(d)) is to be used. See Application Note 3 of § 1B1.5 (Interpretation of References to other Offense Guidelines).

3. If the offense involved the holding of more than ten victims in a condition of peonage or involuntary servitude, an upward departure may be warranted.''.

The Commentary to § 2H4.1 captioned ''Background'' is deleted in its entirety.

Reason for Amendment: This amendment implements section 218 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which directs the Commission to review the guideline for peonage, involuntary servitude and slave trade offenses and amend the guideline.

Note: The Commission proposes to re-promulgate and submit to Congress by May 1, 1997, as permanent amendments the forgoing emergency amendments. When the Commission again considers these amendments for re-promulgation as permanent amendments, it may adopt an amended version of § 2L1.1(b)(1)(A) and § 2L2.1(b)(1). The amended version would provide for a three-level decrease if ''an offense was committed other than for profit or the offense involved the smuggling, transporting, or harboring only of the defendant's spouse or child (or both the defendant's spouse and child).'' Such a change could be expected to restrict somewhat the number of defendants who might otherwise qualify for the offense level reduction. On the other hand, this approach may provide a more realistic measure of whether the overall character of the smuggling offense was a not-for-profit venture.

[FR Doc. 97–7607 Filed 3–25–97; 8:45 am]

BILLING CODE 2210–40–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Request for Management and Technical Assistance''.

Type of Request: Revision of a Currently Approved Collection.

Form No.: SBA Form 641B.

Description of Respondents: Individuals that use the Business Information Centers (BIC's).

Annual Responses: 60,000.

Annual Burden: 120,000.

Comments: Send all comments regarding this information collection to Eunice Ricks, Business Initiatives Specialist, Office Business Initiatives, Small Business Administration, 409 3rd Street, S.W., Suite 6100 Washington, D.C. 20416. Phone No.: 202–205–7422.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: March 20, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–7553 Filed 3–25–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 2461]

Office of Defense Trade Controls; Statutory Debarment Under the International Traffic in Arms Regulations

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that Electrodyne Systems Corporation has

been statutorily debarred pursuant to § 127.7(c) of the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120–130).

EFFECTIVE DATE: October 16, 1996.

FOR FURTHER INFORMATION CONTACT: Philip S. Rhoads, Chief, Compliance Enforcement Branch, Office of Defense Trade Controls, Department of State (703–875–6644, Ext. 3).

SUPPLEMENTARY INFORMATION: Section 38(g)(4)(A) of the Arms Export Control Act (AECA), 22 U.S.C. 2778, prohibits licenses or other approvals for the export of defense articles and defense services to be issued to a person, or any party to the export, who has been convicted of violating certain U.S. criminal statutes, including the AECA. The term ''person,'' as defined in 22 CFR 120.14 of the International Traffic in Arms Regulations (ITAR), means a natural person as well as a corporation, business association, partnership, society, trust, or any other entity, organization or group, including governmental entities. The ITAR, specifically § 126.7(e), defines the term ''party to the export'' to include the president, the chief executive officer, and other senior officers and officials of the license applicant; the freight forwarders or designated exporting agent of the license applicant; and any consignee or end-user of any item to be exported. The statute permits certain limited exceptions to this prohibition to be made on a case-by-case basis. 22 U.S.C. 2778(g)(4).

The ITAR, Section 127.7, authorizes the Assistant Secretary of State for Political-Military Affairs to prohibit certain persons convicted of volating, or conspiring to violate, the AECA, from participating directly or indirectly in the export of defense articles or in the furnishing of defense services for which a license or approval is required. Such a prohibition is referred to as a ''statutory debarment,'' which may be imposed on the basis of judicial proceedings that resulted in a conviction for violating, or of conspiring to violate, the AECA. *See* 22 CFR 127.7(c). The period for debarment will normally be three years from the date of conviction. At the end of the debarment period, licensing privileges may be reinstated at the request of the debarred person following the necessary interagency consultations, after a thorough review of the circumstances surrounding the conviction, and a finding that appropriate steps have been taken to mitigate any law enforcement concerns, as required by the AECA, 22 U.S.C. 2778(g)(4).

Statutory debarment is based solely upon a conviction in a criminal proceeding, conducted by a United States court. Thus, the administrative debarment procedures, as outlined in the ITAR, 22 CFR part 128, are not applicable in such cases.

The Department of State will not consider applications for licenses or requests for approvals that involve any person or any party to the export who has been convicted of violating, or of conspiring to violate, the AECA during the period of statutory debarment. Persons who have been statutorily debarred may appeal to the Under Secretary for International Security Affairs for reconsideration of the ineligibility determination. A request for reconsideration must be submitted in writing within 30 days after a person has been informed of the adverse decision. 22 CFR 127.7(d).

The Department of State policy permits debarred persons to apply for reinstatement of export privileges one year after the date of the debarment, in accordance with the AECA, 22 U.S.C 2778(g)(4)(A), and the ITAR, Section 127.7. A reinstatement request is made to the Director of the Office of Defense Trade Controls. Any decision to reinstate export privileges can be made only after the statutory requirements under Section 38(g)(4) of the AECA have been satisfied through a process administered by the Office of Defense Trade Controls. If reinstatement is granted, the debarment will be suspended.

Pursuant to the AECA, 22 U.S.C. 2778(g)(4)(A), and the ITAR, 22 CFR 127.7, the Assistant Secretary for Political-Military Affairs has statutorily debarred Electrodyne Systems Corporation, who has been convicted of conspiring to violate or violating the AECA. On October 16, 1996, Electrodyne Systems Corporation pled guilty to one count of violating section 38 of the AECA.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercise of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: October 16, 1996.

Thomas E. McNamara,

Assistant Secretary, Bureau of Political-Military Affairs, Department of State.

[FR Doc. 97–7561 Filed 3–25–97; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–021]

National Boating Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The National Boating Safety Advisory Council (NBSAC) and its subcommittees on boat occupant protection, ''Prevention Through People,'' navigation lights, life saving index and boating accident reporting will meet to discuss various issues relating to recreational boating safety. All meetings will be open to the public.

DATES: The meeting of NBSAC will be held on Monday and Tuesday, April 28 and 29, 1997, from 8:30 a.m. to 5 p.m. Meetings of the Boat Occupant Protection, Prevention Through People, and Boating Accident Reporting Subcommittees will be held on Saturday, April 26, 1997, from 1:30 p.m. to 5 p.m. Meetings of the Navigation Light and Life Saving Index Subcommittees will be held on Sunday, April 27, 1997, from 9 a.m. to 12 noon. Written material and requests to make oral presentations should reach the Coast Guard on or before April 12, 1997.

ADDRESSES: The meeting of NBSAC will be held at the Radisson Hotel Memphis, 185 Union Avenue, Memphis, Tennessee. The meetings of the subcommittees will be held at the same address. Written material and requests to make oral presentations should be sent to Mr. Albert J. Marmo, Commandant (G–OPB–1), U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Mr. Albert J. Marmo, Executive Director of NBSAC, telephone (202) 267–0950, fax (202) 267–4285.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

National Boating Safety Advisory Council (NBSAC). The agenda includes the following:

(1) Executive Director's report.
(2) Chairman's session.
(3) Boat Occupant Protection Subcommittee report.
(4) Prevention Through People Subcommittee report.
(5) Navigation Light Subcommittee report.
(6) Life Saving Index Subcommittee report.

(7) Boating Accident Reporting Subcommittee report.

(8) Recreational Boating Safety Program report.

(9) National Association of State Boating Law Administrators report.

(10) Discussion of mandatory personal flotation device wearing requirements request for comments.

(11) Discussion of mandatory boating safety education request for comments.

(12) Discussion of waterways management issues.

(13) Discussion of life rafts and emergency position indicator beacons.

(14) Presentation on the Global Maritime Distress and Safety System and National Distress System modernization projects.

(15) Discussion on personal watercraft issues.

(16) Report and discussion of nonprofit grants.

(17) Discussion of regulations review.

Boat Occupant Protection Subcommittee. The agenda includes the following:

(1) Review actions to date related to progress on the Propeller Injury Prevention Initiative with discussion by the subcommittee.

(2) Review of boat occupant protection research completed and planned.

(3) Discuss risk avoidance alternatives.

Prevention Through People Subcommittee. The agenda includes the following:

(1) Continue development of a Prevention Through People action plan for integration into boating safety education, awareness and promotional activities.

Navigation Light Subcommittee. The agenda includes the following:

(1) Review and discuss issues and data concerning the proper display and installation of navigation lights.

(2) Review aspects of display and installation of navigation lights that need to be addressed through safety program intervention and recommend courses of corrective actions.

Life Saving Index Subcommittee. The agenda includes the following:

(1) Assist in developing an action plan for establishment of a Life Saving Index standard.

(2) Review personal flotation device (PFD) impact protection issues and recommend a course of action.

(3) Establish a definition for ''high speed'' activity.

(4) Discuss other PFD issues.

Boating Accident Reporting Subcommittee. The agenda includes the following:

(1) Review Coast Guard efforts and plans to attack under-reporting of recreational boating accidents.

(2) Provide input for a Coast Guard report to Congress on ways of increasing boating accident reporting.

Procedural

All meetings are open to the public. At the Chairpersons' discretion, members of the public may make oral presentations during the meetings. Persons wishing to make oral presentations at the meetings should notify the Executive Director no later than April 12, 1997. Written material for distribution at a meeting should reach the Coast Guard no later than April 19, 1997. If a person submitting material would like a copy distributed to each member of the committee or subcommittee in advance of a meeting, that person should submit 25 copies to the Executive Director no later than April 12, 1997.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: March 20, 1997.

Thomas J. Meyers,

Captain, U.S. Coast Guard, Acting Director of Operations Policy.

[FR Doc. 97–7622 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–14–M

[CGD 97–016]

National Preparedness for Response Exercise Program (PREP)

AGENCY: Coast Guard, DOT.

ACTION: Notice of a public workshop and the exercise schedule for calendar years 1997, 1998, and 1999; requests for comments.

SUMMARY: The Coast Guard, the Environmental Protection Agency (EPA), the Research and Special Programs Administration (RSPA) and the Minerals Management Service (MMS), in concert with the states, the oil industry and concerned citizens, developed the Preparedness for Response Exercise Program (PREP). This notice announces the next PREP workshop and the next triennial PREP schedule. The schedule covers calendar years 1997, 1998, and 1999. This notice requests industry volunteers for industry-and government-led exercises.

DATES: The workshop will be held on April 8, 1997 from 5:30 PM to 7:30 PM. Comments must be received on or before April 30, 1997.

ADDRESSES: The workshop will be held in rooms 203/204 at the Greater Fort Lauderdale/Broward County Convention Center, 1950 Eisenhower Boulevard, Fort Lauderdale, FL 33316. Written comments should be submitted to COMMANDANT (G–MOR–2), Room 2100, U.S. Coast Guard Headquarters, 2100 Second Street, SW; Washington, DC, 20593–0001. ATTN: Ms. Karen Sahatjian.

FOR FURTHER INFORMATION CONTACT: For general information regarding the PREP program and the schedule, contact Ms. Karen Sahatjian, Marine Safety and Environmental Protection Directorate, Office of Response, (G–MOR–2), (202) 267–2850. The schedule and exercise design manual is available on the internet at http://www.navcen.uscg.mil or to obtain a hard copy of the design manual, contact Ms. Toni Hundley at the Office of Pipeline Safety at (202) 366–4397. The 1994 PREP Guidelines and Training Elements are available at no cost by writing or faxing the TASC Dept Warehouse, 3341 Q 75th Avenue, Landover, MD 20785, fax: 301–386–5394. The stock numbers of each manual are: PREP Guidelines—USCG–X0191; the Training Reference—USCG–X0188. Please indicate the quantity when ordering. Quantities are limited to 10 per order.

SUPPLEMENTARY INFORMATION:

Background Information

The workshop will address several issues that have been raised by exercise participants and response plan holders. The topics to be discussed at the workshop include, but are not limited to: (1) Developing and Evaluating an Oil Spill Response Exercise, (2) government-initiated unannounced exercises, (3) minor changes to existing PREP Guidelines, and (4) the proposed triennial exercise schedule. The following information is provided as background in preparation for the workshop.

The Coast Guard, EPA, RSPA and MMS developed the National Preparedness for Response Exercise Program (PREP) to provide guidelines for compliance with the Oil Pollution Act of 1990 (OPA 90) pollution response exercise requirements (33 U.S.C. 1321(j)). OPA 90 requires periodic unannounced drills. See 33 U.S.C. 1321(j)(7). However, the working group (comprised of Coast Guard, EPA, RSPA, MMS, state representatives, and industry representatives) determined that the PREP Guidelines should also include announced drills. See 33 CFR

154.1055(a)(5) and 155.1060(c), and 40 CFR 112. The guiding principles for PREP distinguish between internal and external exercises. Internal exercises are conducted within the plan holder's organization. External exercises extend beyond the plan holder's organization to involve other members of the response community. External exercises are separated into two categories: (1) Area exercises, and (2) Government-initiated unannounced exercises. These exercises are designed to evaluate the entire response mechanism in a given area to ensure adequate pollution response preparedness.

1. Guidelines for Developing and Evaluating an Oil Spill Response Exercise

The PREP Guidelines have been extremely valuable to exercise participants. However, the Coast Guard and other federal agencies received numerous requests for a more detailed guide to develop Area exercises, especially for Industry-led exercises. A manual used by the National Strike Force Coordination Center (NSFCC) to develop government-led exercises was rewritten to provide guidance to exercise participants.

This document is not intended to replace exercise designs already used by companies following the PREP Guidelines. It is meant to augment or provide further explanation for companies without exercise experience.

The Coast Guard realizes that some companies have their own staff to plan and execute exercises and that these exercises may differ between companies. The emphasis of these guidelines is guidance to plan holders who do not have employees experienced in developing exercises or the financial resources to hire contractors to meet their triennial exercise requirement. The Coast Guard is interested in ensuring that the response community does not neglect the exercise requirement because of lack of knowledge. This document will not be used to evaluate how well an exercise is executed. The Coast Guard would like to hear comments from the public regarding these guidelines.

2. Government-Initiated Unannounced Exercises

Recently, the Coast Guard began conducting more Government-initiated unannounced exercises. The unannounced exercises provide the opportunity for the Captain of the Port (COTP) to determine if an adequate level of preparedness exists in an area and whether the plan holder is prepared to activate the plan during an incident.

As a result of these exercises and the input of other interested parties, several issues have been identified by both industry and government. The Coast Guard is requesting comments on the following issues as outlined below.

a. Equipment Deployment

It may not always be necessary to deploy equipment as part of an unannounced exercise. Equipment deployment is typically included as part of the scenario. However, the Coast Guard may decide to test other important elements of the response plan. If the plan holder recently conducted an equipment deployment exercise, it may be redundant to have the equipment deployed again. Equipment may be used in circumstances where the COTP wants to determine the availability of equipment through Oil Spill Removal Organizations (OSROs). To afford the COTP the opportunity to ensure the Area is prepared for a spill greater than an average most probable discharge, the scenario may exceed the current 50 bbl limit.

b. Length of Exercise

To prevent the exercises from exceeding a duration of ''approximately four hours'', they should be focused on no more than four of the 15 objectives listed in the PREP Guidelines (August 1994). The COTP has the discretion to choose the number of objectives, but the should not exceed four.

c. Unannounced Exercise Credit

A plan holder will not be given credit for a Government-Initiated Unannounced Exercise if the plan holder does not use or follow the industry response plans. Although the planning requirements in 33 CFR 154 and 155 and 40 CFR 112 should be used as guidance, they are not performance measures for responses. For example, if the plan holder calls the OSRO and the OSRO arrives within 1½ hours (not 1 hour) because of road traffic, the plan holder should not be penalized for missing the 1 hour planning reference. Contrarily, if the plan holder does not call the OSRO until an hour into the exercise, and the plan holder has no facility owned equipment to deploy, then the Coast Guard may deny credit for the exercise. If the plan holder does not receive credit for an unannounced exercise, then the Coast Guard may return in less than 36 months to conduct another exercise. Once the plan holder receives credit from the COTP, then the plan holder will not be exercised for 36 months.

3. Changes to PREP Guidelines

Since August 1994, several commenters have highlighted discrepancies in the PREP Guidelines. The Coast Guard has determined that minor corrections to the PREP Guidelines are needed. Accordingly, the guidelines should be adjusted as follows:

Page 3–3: Currently, under objectives for QI Notification Exercises, telex could only be used if other means were not available. A telex can be used if this is the means of communication that would normally be used to report an incident. The objective should be changed to: Contact by telephone, radio-message-pager, telex, or facsimile and confirmation must be made with a qualified individual or designee as designated in the plan. The QI must acknowledge receipt of the message and action being taken.

Page 3–7: Under frequency for Emergency Procedures Exercises, change quarterly to annually.

Page 3–20: Currently, under Government-initiated unannounced exercise, the guidelines read that industry can take credit for this exercise after an actual spill. This was never the intent of the Government-initiated Unannounced Exercises. Therefore, the credit paragraph should be changed to: Plan holders participating in this exercise should take credit for appropriate internal exercises if they meet the objectives stated in the guidelines.

4. Proposed Triennial Exercise Schedule

This notice announces the PREP Schedule for Calendar Years 1997, 1998, and 1999. There are several changes since the schedule was published in the **Federal Register** on November 13, 1995 (60 FR 57050). Because of the North Cape Oil Spill in Rhode Island in 1996, Area Exercise credit was given to the Area and the company. The Incident Specific Preparedness Report will serve as the Joint Evaluation Report. Providence Area was moved to 1999 and the Caribbean Area will conduct a Government-led Area Exercise during the first quarter of 1997. As stated in 60 FR 57050, the only dates/quarters are listed for those exercises where an industry participant has already volunteered for an Industry-led Area Exercise. The industry volunteer should work with the COTP to schedule a mutually acceptable date to conduct the exercise. The dates for the Government-led Exercises will not vary much because the National Strike Force Coordination Center is under time constraints throughout the year.

Dated: March 17, 1997.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

PREP SCHEDULE—GOVERNMENT-LED AREA EXERCISES

Area	Agency	Date/qtr[1]	Participant
1997			
Caribbean Area (MSO Puerto Rico OSC)	CG	2/12–13	Sun Oil.
Duluth-Superior Area (MSO Duluth OSC)	CG w/RSPA	4/16–17	Lakehead Pipeline.
Jacksonville Area (MSO Jacksonville OSC)	CG	6/13–14	ST Services/Compliance System.
Southeast Alaska Area (MSO Juneau OSC)	CG	8/11–12	
EPA Region IX (EPA OSC)	EPA	9/10–11	
New Orleans Area (MSO New Orleans OSC)	CG w/MMS	12/10–11	
1998			
Guam Area (MSO Guam OSC)	CG	1	
San Diego, CA Area (MSO San Diego OSC)	CG		
Savannah Area (MSO Savannah OSC)	CG	2	
EPA Region VII Area (EPA OSC)	EPA	3	
Long Island Sound Area (COTP Long Island Sound)	CG	3	
Morgan City Area (MSO Morgan City)	CG	4	
1999			
LA/LB North Area (MSO LA/LB OSC)	CG	1	
Prince William Sound Area (MSO Valdez OSC)	CG	2	
Boston Area (MSO Boston OSC)	CG	2	
EPA Region VI (EPA OSC)	EPA	3	
Buffalo, NY Area (MSO Buffalo OSC)	CG	4	
Virginia Coastal Area (MSO Hampton Rds OSC)	CG	4	

PREP SCHEDULE—INDUSTRY-LED EXERCISES

Area	Ind	Date/qtr	Lead
1997			
North Coast Area (MSO San Francisco OSC)	v[2]		
Northeast North Carolina Coastal Area (MSO Hampton Rds OSC).	v		
Commonwealth of N. Mariannas Islands Area (MSO Guam OSC)	v	1	Mobil Corp.
Florida Panhandle Area (MSO Mobile OSC)	v	2	Kirby Corp.
Western Lake Erie Area (MSO Toledo OSC)	f (mtr)[2]		
EPA Alaska Area (EPA OSC)	p[2]		
Houston/Galveston Area (MSO Houston OSC)	v	3	Aramco Services.
EPA Region IV Area (EPA OSC)	p		
Detroit Area (MSO Detroit OSC)	f (mtr)		Mobil Corp.
EPA Region X Area (EPA OSC)	f (nonmtr)[2]		
1998			
New York, NY Area (COTP NY OSC)	v		OMI Corp.
Southern Coastal NC Area (MSO Wilmington OSC)	v		
San Francisco Bay & Delta Region Area (MSO San Francisco OSC)	f (mtr)		
Cleveland, OH Area (MSO Cleveland OSC)	f (mtr)		
EPA Region V Area (EPA OSC)	p		
EPA Region III Area (EPA OSC)	f (nonmtr)		
Saulte Ste. Marie, MI Area. (COTP Saulte Ste. Marie OSC)	f (mtr)		
South Texas Coastal Zone Area (MSO Corpus Christi OSC)	f (mtr)		
Maryland Coastal Area (MSO Baltimore OSC)	v		
SW Louisana/SE Texas Area (MSO Port Arthur OSC)	v		
Puget Sound Area (MSO Puget Sound)	f		
Tampa, FL Area (MSO Tampa OSC)	v		
EPA Region I Area (EPA OSC)	p		
LA/LB South Area (MSO LA/LB OSC)	v		
EPA Region II (EPA OSC)	f (nonmtr)		
Philadelphia Coastal Area (MSO Phila OSC)	v		
Chicago Area (MSO Chicago OSC)	f (mtr)		

PREP SCHEDULE—INDUSTRY-LED EXERCISES—Continued

Area	Ind	Date/qtr	Lead
1999			
Alabama/Mississippi Area (MSO Mobile OSC)	f (mtr)		
South Florida Area (MSO Miami OSC)	f (mtr)		
Portland, OR Area (MSO Portland OSC)	v		
EPA Region VIII (EPA OSC)	f (nonmtr)		
Hawaii/Samoa Area (MSO Honolulu OSC)	v		
Central Coast Area (MSO San Francisco OSC)	v		
Western Alaska Area (MSO Anchorage OSC)	v		
Eastern Wisconsin Area (MSO Milwaukee Area)	f (mtr)		
EPA Region Oceania Area (EPA OSC)	f (nonmtr)		
Maine & New Hampshire Area (MSO Portland OSC)	v		
Charleston, SC Area (MSO Charleston OSC)	v		
EPA Region II Area (EPA Caribbean OSC)	f (nonmtr)		
Providence Area (MSO Providence OSC)	v		

[1] Quarters: 1 (Jan–March); 2 (April–June); 3 (July–Sept); 4 (Oct–Dec).
[2] Industry: v—vessel; f (mtr) —marine transportation-related facility; f (nonmtr)—nonmarine transportation-related facility; p—pipeline.

[FR Doc. 97–7621 Filed 3–25–97; 8:45 am]
BILLING CODE 4910–14–P

Federal Aviation Administration

Noise Exposure Map Notice, Naples Municipal Airport, Naples, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the revised noise exposure maps submitted by the Naples Airport Authority for Naples Municipal Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is March 18, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822, (407) 812–6331, Extension 29.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the revised noise exposure maps submitted for Naples Municipal Airport are in compliance with applicable requirements of part 150, effective March 18, 1997.

Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the revised noise exposure maps and related descriptions submitted by the Naples Airport Authority. The specific maps under consideration are ''1996 EXISTING CONDITIONS NOISE EXPOSURE MAP'' and ''2001 FORECAST CONDITIONS REVISED NOISE EXPOSURE MAP'' in the submission. The FAA has determined that these maps for Naples Municipal Airport are in compliance with applicable requirements. This determination is effective on March 18, 1997. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the revised noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, Orlando Airports District Office, 5950 Hazeltine National Drive, Suite 400, Orlando, Florida 32822

Naples Airport Authority, 160 Aviation Drive North, Naples, FL 34104

Questions may be directed to the individual named above under the

heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Orlando, Florida, March 18, 1997.

Charles E. Blair,

Manager, Orlando Airports District Office.

[FR Doc. 97–7665 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Ontario International Airport (ONT), Ontario, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Ontario International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before April 25, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Room 3024, Lawndale, CA 90261.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Jerald K. Lee, Deputy Executive Director, Los Angeles Department of Airports, One World Way, Los Angeles, CA 90045.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Los Angeles Department of Airports under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: John Milligan, Supervisor, Standards Section, AWP–621, Airports Division, Federal Aviation Administration, 15000 Aviation Blvd., Room 3024, Lawndale, CA 90261, Telephone (310) 725–3621. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at the Ontario International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On February 26, 1997 the FAA determined that the application to use the revenue from a PFC submitted by the Los Angeles Department of Airports was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 24, 1997.

The following is a brief overview of the application.

PFC application number: PFC No. 95–02–U–00–ONT.

Level of PFC: $3.00.

Actual charge effective date: July 1, 1993.

Actual charge expiration date: November 30, 1997.

Total net PFC revenue collected: $33,148,439.00.

Total net PFC revenue to be used: $33,148,439.00.

Brief description of the proposed use project: ONT Terminal Development Program.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Los Angeles Department of Airports.

Issued in Los Angeles, California on March 11, 1997.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 97–7666 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

Maglev Study Advisory Committee; Notice of Fourth Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of fourth meeting of the Maglev Study Advisory Committee.

SUMMARY: As required by Section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2 (1988) and 41 CFR Part 101–6, section 101–6, 1015(a), the Federal Railroad Administration (FRA) gives notice of the fourth meeting of the Maglev Study Advisory Committee (''MSAC'). The purpose of the meeting is to advise DOT/FRA on the Congressionally mandated study of the near-term applications of maglev technology in the United States.

DATES: The fourth meeting of the MSAC is scheduled for 8:30 a.m. to 4:30 p.m. EST on Monday and Tuesday, April 7 and 8, 1997.

ADDRESSES: The fourth meeting of the MSAC will be held in the 7th floor Conference Room at FRA Headquarters, 1120 Vermont Avenue NW., Washington, DC. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Those with special needs should inform Mr. Mongini 5 days in advance of the meeting so appropriate facilities can be provided.

FOR FURTHER INFORMATION CONTACT: Arrigo Mongini, Deputy Associate Administrator for Railroad Development, FRA RDV–2, 400 Seventh Street SW., Washington, DC 20590 (mailing address only) or by telephone at (202) 632–3286.

SUPPLEMENTARY INFORMATION: The fourth meeting of the Maglev Study Advisory Committee (MSAC) will be held on April 7 and 8 from 8:30 a.m. to 4:30 p.m. at the Federal Railroad Administration (FRA) headquarters, 1120 Vermont Avenue, NW., Washington, DC, in the 7th floor conference room. The meeting is open to the public.

The MSAC was created by the National Highway System Designation Act to advise the Secretary of Transportation in the preparation of a report to be submitted by the Secretary to the Congress evaluating the near term applications of magnetic levitation transportation technology in the U.S. ''with particular emphasis on identifying projects warranting immediate application of such technology.'' The Act further specifies that the study also ''evaluate the use of innovative finance techniques for the construction and operation of such projects.'' The eight committee members collectively have experience in magnetic levitation transportation, design and construction, public and private finance, and infrastructure policy disciplines. The conference report on the National Highway System Designation Act specifies that ''[t]he Committee should identify and analyze specific magnetic levitation projects, such as a connector from New York City to its airports, the transportation project under development between Baltimore, Maryland and Washington, DC, and technology transfer efforts underway in Pittsburgh, Pennsylvania, so that Congress can better assess how near-term magnetic levitation technology

could complement existing modes of transportation * * *.'' The Secretary has assigned responsibility for preparing the report to the Federal Railroad Administrator, working closely with the MSAC. The Secretary's report to the Congress will discuss the extent to which the above and other potential magnetic levitation projects warrant immediate application, taking into account such factors as ability to be financed, benefits vs. costs, extent of public commitment and support, and national significance.

This meeting will focus on the financing of near-term applications of maglev technology. Experts with backgrounds in the financing of public-private partnerships have been invited to address the Committee.

Jolene M. Molitoris,

Administrator.

[FR Doc. 97–7564 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

Announcing a Meeting of the Crash Avoidance Research Subcommittee of the Motor Vehicle Safety Research Advisory Committee

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Meeting Announcement.

SUMMARY: This notice announces a public meeting of the Crash Avoidance Research Subcommittee of the Motor Vehicle Safety Research Advisory Committee (MVSRAC). The MVSRAC was established in accordance with the provisions of the Federal Advisory Committee Act to obtain dependent advice on motor vehicle safety research. Discussions at this meeting will include specific topics in NHTSA's Crash Avoidance research programs.

DATE AND TIME: The meeting is scheduled from 9:00 a.m. to 12 noon on April 14, 1997.

ADDRESSES: The meeting will be held in room 6244–6248 of the U. S. Department of Transportation Building, which is located at 400 Seventh Street, S.W., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: In May 1987, the Motor Vehicle Safety Research Advisory Committee was established. The purpose of the Committee is to provide an independent source of ideas for motor vehicle safety research. The MVSRAC will provide information, advice and recommendations to NHTSA on matters relating to motor vehicle safety research, and provide a forum for the development, consideration, and communication of motor vehicle safety research, as set forth in the MVSRAC Charter. The Crash Avoidance Research Subcommittee will provide information, advice, and recommendation to NHTSA on matters relating to NHTSA crash avoidance research.

The meeting is open to the public, but attendance may be limited due to space availability. Participation by the public will be determined by the Committee Chairperson.

A public reference file (Number 88–01) has been established to contain the products of the Committee and will be open to the public during the hours of 9:30 a.m. to 4:00 p.m. at the National Highway Traffic Safety Administration's Technical Reference Division in room 5108 at 400 Seventh Street, S.W., Washington, DC 20590, telephone: (202) 366–2768.

FOR FURTHER INFORMATION CONTACT: Mrs. Donna Stemski, Office of Crash Avoidance Research and Development, 400 Seventh Street, S.W., room 6206, Washington, DC 20590, telephone: (202) 366–5662.

Issued on: March 18, 1997.

Joseph N. Kanianthra,

Chairperson, Crash Avoidance Subcommittee, Motor Vehicle Safety Research Advisory Committee.

[FR Doc. 97–7555 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 97–017; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1990 Porsche 928 S4 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1990 Porsche 928 S4 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1990 Porsche 928 S4 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 25, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne'') (Registered Importer 90–009) has petitioned NHTSA to decide whether 1990 Porsche 928 S4 passenger cars are eligible for importation into the United States. The vehicle which Champagne believes is substantially similar is the 1990 Porsche 928 S4 that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1990 Porsche 928 S4 to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Champagne submitted information with its petition intended to demonstrate that the non-U.S. certified 1990 Porsche 928 S4, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1990 Porsche 928 S4 is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence . . . .,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 203 *Impact Protection for the Driver From the Steering Control System,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion, and* 302 *Flammability of Interior Materials.*

Additionally, petitioner contends that the non-U.S. certified 1990 Porsche 928 S4 complies with the Bumper Standard found in 49 CFR Part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) installation of a seat belt warning lamp that displays the appropriate symbol; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model headlamp assemblies; (b) installation of U.S.-model front and rear sidemarker/reflector assemblies; (c) installation of U.S.-model taillamp assemblies; (d) installation of a high-mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the convex passenger side rearview mirror.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* (a) Installation of a U.S. model seat belt in the driver's position, or a belt webbing actuated microswitch inside the driver's seat belt retractor; (b) installation of an ignition switch actuated seat belt warning lamp and buzzer; (c) replacement of the driver's side air bag and knee bolster with U.S. model components. The petitioner states that the vehicle is equipped with a combination lap and shoulder restraint that adjusts by means of an automatic retractor and releases by means of a single push button in each front designated seating position, and with a combination lap and shoulder restraint that releases by means of a single push button in each rear designated seating position.

Standard No. 214 *Side Impact Protection:* installation of reinforcing beams.

Standard No. 301 *Fuel System Integrity:* installation of a rollover valve in the fuel tank vent line.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 20, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–7577 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–125; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1989 Alfa Romeo 164 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1989 Alfa Romeo 164 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1989 Alfa Romeo 164 that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 25, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register**

of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer No. R–90–009) has petitioned NHTSA to decide whether 1989 Alfa Romeo 164 passenger cars are eligible for importation into the United States. The vehicle which to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP 196 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1989 Alfa Romeo 164 is substantially similar to a 1989 Alfa Romeo Milano originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 20, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–7578 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–094; Notice 2]

Denial of Petition for Import Eligibility Decision

This notice sets forth the reasons for the denial of a petition submitted to the National Highway Traffic Safety Administration (NHTSA) under 49 U.S.C. 30141(a)(1)(A). The petition, which was submitted by Champagne Imports, Inc. of Lansdale, Pennsylvania (''Champagne''), a registered importer of motor vehicles, requested NHTSA to decide that a 1995 Audi S6 Avant Quattro Wagon that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States. In the petition, Champagne contended that this vehicle is eligible for importation on the basis that (1) it is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards (the 1995 Audi A6 Quattro Wagon), and (2) it is capable of being readily altered to conform to the standards.

NHTSA published a notice in the **Federal Register** on September 6, 1996 (61 FR 46900) that contained a thorough description of the petition, and solicited public comments upon it. One comment was received in response to the notice, from Volkswagen of America, Inc. (''Volkswagen''), the United States representative of Audi AG, the vehicle's manufacturer. In this comment, Volkswagen contended that the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon is ineligible for importation because it is not substantially similar to a vehicle that was originally manufactured and certified for sale in the United States and is not capable of being readily altered to conform to the standards. Specifically, Volkswagen observed that the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon is equipped with a 4.2 liter V8 engine, which it claimed is significantly larger and heavier than either the 2.8 liter V6 engine that is installed in the U.S. certified 1995 Audi A6 Quattro Wagon or the 2.2 liter 5 cylinder engine that is installed in the U.S. certified 1995 Audi S6 Quattro Wagon. Volkswagen stated that no dynamic testing has been performed that would be necessary to certify that the vehicle, when equipped with the larger engine, will meet the requirements of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*. Additionally, Volkswagen noted that the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon is not equipped with a knee bolster that is necessary to meet the automatic restraint requirements of Standard No. 208.

NHTSA accorded Champagne an opportunity to respond to Volkswagen's comments. In its response, Champagne expressed strong disagreement with Volkswagen's contention that the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon is not substantially similar to a vehicle originally manufactured and certified for sale in the United States. Champagne asserted that the vehicle's larger engine size does not have a significant impact on the crashworthiness of the vehicle or on its compliance with Standard No. 208. Specifically, Champagne contended that the 2.2 liter ''in line'' 5 cylinder engine installed in the U.S. certified 1995 Audi S6 Quattro Wagon is very close in length to the V8 engine installed in the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon. Additionally, Champagne observed that because of the extensive use of aluminum in larger engines, the weight of vehicles equipped with each of these engines would differ by only ''a few percent.''

In a subsequent response, Champagne elaborated on these comments by stating that the additional length and weight of the V8 engine installed in the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon will not significantly affect the crash performance of the vehicle when compared to a comparable model equipped with the 2.8 liter V6 engine that is installed in the U.S. certified 1995 Audi S6 Quattro. Specifically, Champagne alleged that the total distance from the back edge of the engine block to the front edge of the fire wall in the non-U.S. certified 1995 Audi S6 Avant Quattro is two inches, a measurement that it asserts is identical to that found in the U.S. certified 1995 Audi S6 Quattro equipped with the 2.8 liter V6 engine. Based on this similarity, Champagne theorized that ''in a frontal crash, the V8 engine will affect the passenger compartment in a similar manner as the V6 engine.'' Additionally, Champagne contended that both the non-U.S. certified 1995 Audi S6 Avant Quattro and its U.S. certified counterpart are ''designed so that in a severe frontal crash the engine and drivetrain are directed downward and rearward, under the passenger compartment.'' According to Champagne, ''[t]his minimizes the effect [of these components] on the safety characteristics of the frontal crush zone,'' and results in both the U.S. and non-U.S. certified versions of the vehicle ''having substantially similar [Standard No. 208] compliance results * * *. Champagne further reiterated that the V8 is only three percent heavier that the V6, and only one percent heavier than the 5 cylinder engine when engine weight is measured as a percentage of total vehicle weight. Champagne asserted that this difference ''is not significant, and will not have a significant impact on [Standard No. 208] compliance.''

NHTSA accorded Volkswagen an opportunity to respond to Champagne's comments. In its response, Volkswagen discounted the significance of the distance between the back of the engine and the vehicle firewall as an indicator of the engine's effect on crash

performance. In contrast, Volkswagen observed that ''[t]he greater overall size of the 4.2 liter engine and transaxle combination versus the 2.8 liter V6 actually reduces the available crush space at the back of the engine/transaxle system and alters the crash deceleration pulse.'' Volkswagen contended that ''[t]he effect of such crash pulse differences is greater on an unbelted dummy than on a belted dummy,'' and ''[f]or that reason verification of compliance to FMVSS 208 of the S6 vehicle with the 4.2 liter V8 engine would require a crash test.'' Additionally, Volkswagen asserted that contrary to Champagne's claim, there is no design feature incorporated into Audi vehicles ''for the engine and drivetrain to be directed downward and rearward under the passenger compartment to minimize their effect on the safety characteristics of the frontal crush zone.''

NHTSA has fully considered the comments from both Volkswagen and Champagne. In light of Volkswagen's claim that a 1995 Audi S6 Avant Quattro Wagon equipped with a 4.2 liter V8 engine has never been subjected to the dynamic test requirements of Standard No. 208, Champagne had the burden of producing test data or other information to demonstrate that the vehicle is capable of meeting those requirements when equipped with that engine. Champagne's plain assertion that the 4.2 liter V8 engine is close to the size and weight of the 2.2 liter 5 cylinder engine installed in the U.S. certified 1995 Audi A6 Quattro, and is located the same distance from the firewall as the 2.8 liter V6 engine installed in the U.S. certified 1995 Audi S6 Quattro, without further supporting information, is not sufficient to meet this burden. Accordingly, NHTSA has concluded that the petition does not clearly demonstrate that the non-U.S. certified 1995 Audi S6 Avant Quattro Wagon is eligible for importation. The petition must therefore be denied under 49 CFR 593.7(e).

In accordance with 49 U.S.C. 30141(b)(1), NHTSA will not consider a new import eligibility petition covering this vehicle until at least three months from the date of this notice.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.7; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 20, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–7579 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–59–P

Research and Special Programs Administration

[Notice No. 97–1]

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of filing requirements.

SUMMARY: The Hazardous Materials Registration Program will enter registration year 1997–98 on July 1, 1997. Persons who transport or offer for transportation certain hazardous materials are required to annually file a registration statement and pay a fee to the Department of Transportation. Persons who registered for the 1996–97 registration year will be mailed a registration statement form and informational brochure in May.

FOR FURTHER INFORMATION CONTACT: David W. Donaldson, Office of Hazardous Materials Planning and Analysis, DHM–60 (202–366–4109), Hazardous Materials Safety, 400 Seventh Street SW., Washington, DC 20590–0001, or by E-mail to REGISTER@rspa.dot.gov.

SUPPLEMENTARY INFORMATION: This notice is intended to notify persons who transport or offer for transportation certain hazardous materials of an annual requirement to register with the Department of Transportation. Each person, as defined by the Federal hazardous materials transportation law (49 U.S.C. 5101 *et seq.*), who engages in any of the specified activities relating to the transportation of hazardous materials is required to register annually with the Department of Transportation and pay a fee. The regulations implementing this program are in Title 49, Code of Federal Regulations, §§ 107.601–107.620.

Proceeds from the fee are used to fund grants to State, local, and Indian tribal governments for emergency response training and planning. Grants were awarded to all states, three territories, and 15 Native American tribes during FY 1996. By law, 75 percent of the Federal grant monies awarded to the States is further distributed to local emergency response and planning agencies. The FY 1995 funds helped to provide: (1) Training for 121,000 emergency response personnel; (2) approximately 500 commodity flow studies and hazard analyses; (3) 4,500 emergency response plans updated or written for the first time; (4) assistance to 2,150 local emergency planning committees; and (5) 770 emergency exercises.

The persons affected by these regulations are those who offer or transport in commerce any of the following materials:

A. Any highway route-controlled quantity of a Class 7 (radioactive) material;

B. More than 25 kilograms (55 pounds) of a Division 1.1, 1.2, or 1.3 (explosive) material in a motor vehicle, rail car, or freight container;

C. More than one liter (1.06 quarts) per package of a material extremely toxic by inhalation (that is, a ''material poisonous by inhalation'' that meets the criteria for ''hazard zone A');

D. A hazardous material in a bulk packaging having a capacity equal to or greater than 13,248 liters (3,500 gallons) for liquids or gases or more than 13.24 cubic meters (468 cubic feet) for solids; or

E. A shipment, in other than a bulk packaging, of 2,268 kilograms (5,000 pounds) gross weight or more of a class of hazardous materials for which placarding of a vehicle, rail car, or freight container is required for that class.

The following persons are excepted from the registration requirement:

A. Agencies of the Federal Government;

B. Agencies of States;

C. Agencies of political subdivisions of States;

D. Employees of those agencies listed in A, B, or C with respect to their official duties;

E. Hazmat employees, including the owner-operator of a motor vehicle which transports in commerce hazardous materials if that vehicle, at the time of those activities, is leased to a registered motor carrier under a 30-day or longer lease as prescribed in 49 CFR Part 1057 or an equivalent contractual relationship; and

F. Persons domiciled outside the United States who offer, solely from locations outside the United States, hazardous materials for transportation in commerce, if the country in which they are domiciled does not impose registration or a fee upon U.S. companies for offering hazardous materials into that country. However, persons domiciled outside the United States who carry the types and quantities of hazardous materials that require registration within the United States are subject to the registration requirement.

The 1996–97 registration year ends on June 30, 1997. The 1997–98 registration year will begin on July 1, 1997, and end on June 30, 1998. Any person who engages in any of the specified activities during the 1997–98 registration year

must file a registration statement and pay the associated fee of $300.00 before July 1, 1997, or before engaging in any of the activities, whichever is later. All persons who registered for the 1996–97 registration year will be mailed a registration statement form and an informational brochure in May 1997. Other persons wishing to obtain the form and any other information relating to this program should contact RSPA at the address given above. The brochure and form can also be downloaded from the RSPA registration Internet home page at http://ohm.volpe.dot.gov/ohm/register.htm.

The registration statement has not been revised for the 1997–98 registration year. Registrants should file a registration statement and pay the associated fee at least four weeks before July 1, 1997, in order to ensure that a 1997–98 certificate of registration has been obtained by that date to comply with the recordkeeping requirements. These include the requirement that the registration number be made available on board each truck and truck tractor (not including trailers and semi-trailers) and each vessel used to transport hazardous materials subject to the registration requirements. A certificate of registration is generally mailed within ten days of RSPA's receipt of a properly completed registration statement.

Persons who engage in any of the specified activities during a registration year are required to register for that year. Persons who engaged in these activities during registration year 1992–93 (September 16, 1992, through June 30, 1993), 1993–94 (July 1, 1993, through June 30, 1994), 1994–95 (July 1, 1994, through June 30, 1995), 1995–96 (July 1, 1995, through June 30, 1996), or 1996–97 (July 1, 1996, through June 30, 1997), and have not filed a registration statement and paid the associated fee of $300.00 for each year for which registration is required should contact RSPA to obtain the required form (DOT F 5800.2). A copy of the form that will be distributed for the 1997–98 registration year may be used to register for previous years. Persons who fail to register for any registration year in which they engaged in such activities are subject to civil penalties for each day a covered activity is performed. The legal obligation to register for a year in which any specified activity was conducted does not end with the registration year.

Issued in Washington, DC, on March 21, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 97–7664 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–60–P

Actions on Exemption Application

AGENCY: Research and Special Programs Administration, D.O.T.

ACTION: Notice of actions on exemption applications.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the actions on exemption applications in February–June 1996. The modes of transportation involved are identified by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions. Issued in Washington, DC, on February 26, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

MODIFICATION AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3216	DOT–E 3216	E.I. DuPont de Nemours & Co., Wilmington, DE.	49 CFR 173.314(c)	Authorizes the use of a DOT Specification 110A300W tank car tank for transportation of certain compressed gases. (modes 1,3).
3630–P	DOT–E 3630	Mallinckrodt Baker, Inc., Phillipsburg, NJ.	49 CFR 177.839(a), 177.839(b).	To become a party to exemption 3630 (mode 1).
4453–P	DOT–E 4453	Blastrite Services, Inc., Van Wyck, SC.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E 4453	Rimrock Explosives, Inc., Hayden Lake, ID.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E 4453	Southern Explosives Corporation, Glasgow, KY.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E 4453	United Explosives Company of Ohio, Findlay, OH.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E 4453	Explosives Energies, Inc., Greenfield, MO.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E 4453	Explosives Energies, Inc., dba Arkansas Explosives, Mabelvale, AR.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E 4453	Explo-Tech, Inc., Spring City, PA.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–P	DOT–E 4453	North Star Explosives, Ketchikan, AK.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4453–P	DOT–E 4453	IRECO of Florida, Inc., Miramar, FL.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	To become a party to exemption 4453 (modes 1, 2, 3).
4453–X	DOT–E 4453	Sierra Chemical Company, Reno, NV.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	Authorizes the use of a non-DOT specification bulk, hopper-type tank for transportation of Division 1.5 or ammonium nitrate-fuel oil mixtures. (modes 1, 2, 3).
4453–X	DOT–E 4453	Mining Services International Inc. (MSI), Salt Lake City, UT.	49 CFR 172.101, 173.62, 176,415, 176.83, Column (8C).	Authorizes the use of a non-DOT specification bulk, hopper-type tank for transportation of Division 1.5 or ammonium nitrate-fuel oil mixtures. (modes 1, 2, 3).
5206–P	DOT–E 5206	Mt. State Bit Service, Inc., Morgantown, WV.	49 CFR 173.24(c), 173.3(a), 173.3(b), 173.60.	To become a party to exemption 5206 (mode 1).
6016–X	DOT–E 6016	Weiler Welding Company, Inc., Dayton, OH.	49 CFR 173.315(a)	Authorizes the shipment of oxygen, refrigerated liquid, nitrogen, refrigerated liquid, and argon, refrigerated liquid in non-DOT specification portable tanks. (mode 1).
6691–P	DOT–E 6691	Corp Brothers, Inc., Providence, RI.	49 CFR 173.34(e)(15)(i), Part 107, Subpart B, Appendix B (2).	To become a party to exemption 6691 (modes 1, 2, 3, 4, 5).
6971–P	DOT–E 6971	Absolute Standards, Inc., Hamden, CT.	49 CFR Parts 100–199 ..	To become a party to exemption 6971 (modes 1, 2, 3, 4, 5).
6971–X	DOT–E 6971	Crescent Chemical Co., Inc., Hauppauge, NY.	49 CFR Parts 100–199 ..	Authorizes the transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes overpacked in a strong wooden or fiberboard box. (modes 1, 2, 3, 4, 5).
7073–X	DOT–E 7073	Ethyl Corporation, Baton Rouge, LA.	49 CFR 173.242(c), 173.243(c), 173.244(c), 174.63(c)(1).	Authorizes the use of non-DOT specification portable tanks for transportation of a Class B poisonous liquid. (modes 1, 2, 3).
7517–P	DOT–E 7517	DXI Industries, Inc., Houston, TX.	49 CFR 173.314(c)	To become a party to exemption 7517 (modes 1, 2, 3).
7517–X	DOT–E 7517	Trinity Industries, Inc., Dallas, TX.	49 CFR 173.314(c)	Authorizes the manufacture, marking, and sale of non-DOT specification fusion welded tank car tanks, for transportation of a Division 2.2 material. (modes 1, 2, 3).
7737–P	DOT–E 7737	Cliff Acquisition Corporation, Eastlake, OH.	49 CFR 173.192, 173.201(c), 173.302(a), 173.304(a), 173.304(d), 173.337, 175.3, 178.42.	To become a party to exemption 7737 (modes 1, 2, 3, 4).
7774–P	DOT–E 7774	Pomrenke Wireline Services, Inc., Rock Springs, WY.	49 CFR 173.228, 175.3, Part 107, Appendix B, Subpart B, Paragraph 1.	To become a party to exemption 7774 (modes 1, 2, 3, 4).
7811–P	DOT–E 7811	Mallinckrodt Baker, Inc., Phillipsburg, NJ.	49 CFR 173.119(a) (23), 173.125, 173.245(a)(18), 173.346(a)(21), 173.347(a)(8), 175.3, 178.210.	To become a party to exemption 7811 (modes 1, 2, 3, 4).
7835–P	DOT–E 7835	BOC Gases, Murray Hill, NJ.	49 CFR 177.848(d)	Authorizes the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (mode 1).
7835–X	DOT–E 7835	American Welding Supply, San Jose, CA.	49 CFR 177.848(d)	Authorizes the transport of compressed gas cylinders bearing the flammable gas label, the oxidizer label, or the poison gas label and tank car tanks bearing the poison gas label on the same vehicle. (mode 1).
7835–P	DOT–E 7835	Praxair Distribution, Inc., Austin, TX.	49 CFR 177.848(d)	To become a party to exemption 7835 (mode 1).
8008–P	DOT–E 8008	Wheaton, Inc., Millville, NJ.	49 CFR 173.1200, 173.305, 173.306(a), 175.3.	To become a party to exemption 8008 (modes 1, 2, 3, 4).
8009–P	DOT–E 8009	Columbia Gas of Kentucky, Columbus, OH.	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	To become party to exemption 8009 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8009–P	DOT–E 8009	Columbia Gas of Maryland, Columbus, OH.	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	To become a party to exemption 8009 (mode 1).
8009–P	DOT–E 8009	Columbia Gas of Ohio, Columbus, OH.	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	To become a party to exemption 8009 (mode 1).
8009–P	DOT–E 8009	Columbia Gas of Pennsylvania, Columbus, OH.	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	To become a party to exemption 8009 (mode 1).
8009–P	DOT–E 8009	Commonwealth Gas (Virginia), Columbus, OH.	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	To become a party to exemption 8009 (mode 1).
8009–X	DOT–E 8009	Texas Gas Transmission Corporation, Owensboro, KY.	49 CFR 173.301(d)(2), 173.302(a)(3), 178.37–5.	Authorizes the use of DOT Specification 3AAX cylinders made of 4130X steel for transportation of a compressed natural gas. (mode 1).
8125–X	DOT–E 8125	Compagnie Des Containers Reservoirs, Paris, FR.	49 CFR 173.123, 173.315.	Authorizes the use of non-DOT specification IMO Type 5 portable tanks for transportation of certain flammable and nonflammable gases and flammable liquids. (modes 1, 2, 3).
8131–X	DOT–E 8131	NASA, Washington, DC	49 CFR 173.301(d), 173.302(d), 173.34(d), 175.3.	Authorizes the use of non-DOT specification container made of inconel 718 metal for shipment of a nonflammable gas. (modes 1, 2, 4).
8196–X	DOT–E 8196	Compagnie Des Containers Reservoirs, Paris, FR.	49 CFR 173.119, 173.315(a), 178.245.	Authorizes the use of a non-DOT specification portable tank for the transportation of certain compressed gases. (modes 1, 2, 3).
8230–P	DOT–E 8230	Mallinckrodt Baker, Inc., Phillipsburg, NJ.	49 CFR 173.268(b)(6), 173.269(a)(4).	To become a party to exemption 8230 (modes 1, 2, 3, 4).
8249–X	DOT–E 8249	LPS Industries Inc., Newark, NJ.	49 CFR 172.203, 172.400, 172.402, 172.504, 173.150, 173.151, 173.152, 173.153, 173.154, 173.201, 173.202, 173.203, 173.211, 173.212, 173.213, 173.25, 175.3.	Authorizes hazardous materials, which are required to bear the POISON label, or dangerous when wet placard, to be transported without the label or placard when shipped in prescribed packaging. (modes 1, 2, 4, 5).
8273–P	DOT–E 8273	Takata Restraint Systems, Greenwood, MS.	49 CFR 171.11 (see paragraph 8.d.), 173.125, 173.152.	To become a party to exemption 8273 (modes 1, 2, 3, 4).
8390–P	DOT–E 8390	Mallinckrodt Baker, Inc., Phillipsburg, NJ.	49 CFR 173.272, 178.210, 178.24a.	To become a party to exemption 8390 (mode 1).
8445–P	DOT–E 8445	21st Century Environmental Management, Inc. of RI, Warwick, RI.	49 CFR Part 173, Subparts D, E, F, H.	To become a party to exemption 8445 (mode 1).
8445–P	DOT–E 8445	Chemical Pollution Control, Inc. of New York, Bay Shore, NY.	49 CFR Part 173, Subparts D, E, F, H.	To become a party to exemption 8445 (mode 1).
8445–X	DOT–E 8445	Superior Special Services, Inc., Port Washington, WI.	49 CFR Part 173, Subparts D, E, F, H.	Authorizes the shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum only for the purposes of disposal, repackaging or reprocessing. (mode 1).
8451–P	DOT–E 8451	National Aeronautics & Space Administration (NASA), Washington, DC.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–P	DOT–E 8451	Eagle-Picher Industries, Inc., Joplin, MO.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–X	DOT–E 8451	Thiokol Corporation, Brigham City, UT.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Ensign-Bickford Company, Simsbury, CT.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8451–X	DOT–E 8451	Hercules, Inc., Wilmington, DE.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Pacific Scientific, Energy Systems Division, Chandler, AZ.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Atlantic Research Corporation, Gainesville, VA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Ethyl Corporation, Richmond, VA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Western Atlas International, Inc., Houston, TX.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Dyno Nobel, Inc., Salt Lake City, UT.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Loral Vought Systems Corporation, Dallas, TX.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Pyrotechnic Specialties, Inc., Byron, GA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Tracor Aerospace, Inc., East Camden, AR.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Technical Ordnance, Inc., St. Bonifacius, MN.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Owen Oil Tools, Inc., Fort Worth, TX.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Organic Technology, Inc., Fort Worth, TX.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	SRI International, Menlo Park, CA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Breed Technologies, Inc., Lakeland, FL.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	United Technologies Chemical Systems, San Jose, CA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Alliant Techsystems, Inc. New Brighton, MN.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8451–X	DOT–E 8451	U.S. Department of Energy, Washington, DC.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Automotive Systems Laboratory, Inc. (ASL), Farmington Hills, MI.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Day & Zimmermann, Inc., Texarkana, TX.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–P	DOT–E 8451	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8451–X	DOT–E 8451	Takata Moses Lake, Inc., Moses Lake, WA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Morton International, Inc., Ogden, UT.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	ECONEX, Inc., Pittsfield, IL.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Quantic Industries, Inc., Hollister, CA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Reactives Management Corporation, Chesapeake, VA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Accurate Arms Company, Inc., McEwen, TN.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Diablo Transportation, Inc., Byron, CA.	49 CFR 173.3, 173.54, 173.60,174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Advanced Environmental Technical Services (AETS), Flanders, NJ.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Special Devices, Inc., Newhall, CA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Motorola, Inc., Scottsdale, AZ.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–X	DOT–E 8451	Universal Propulsion Company, Phoenix, AZ.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8451–P	DOT–E 8451	Action manufacturing Company, Philadelphia, PA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	To become a party to exemption 8451 (modes 1, 2, 4).
8453–P	DOT–E 8453	Dyno Southeast, Inc., Whitesburg, GA.	49 CFR 173.114a	To become a party to exemption 8453 (modes 1, 3).
8453–P	DOT–E 8453	Mt. State Bit Service, Inc., Morgantown, WV.	49 CFR 173.114a	To become a party to exemption 8453 (modes 1, 3).
8453–X	DOT–E 8453	Kesco, Inc., Butler, PA ...	49 CFR 173.114a	Authorizes the use of non-DOT specification cargo and tanks and DOT Specification MC–306, MC–307, or MC–312 stainless steel cargo tanks for transport of a Division 1.5 material. (modes 1, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8554–P	DOT–E 8554	IRECO of Florida, Inc., Miramar, FL.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
8554–P	DOT–E 8554	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
8554–X	DOT–E 8554	ECONEX, Inc., Pittsfield, IL.	49 CFR 173.114a, 173.154, 173.93.	Authorizes the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3).
8554–X	DOT–E 8544	Mt. State Bit Service, Inc., Morgantown, WV.	49 CFR 173.114a, 173.154, 173.93.	Authorizes the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3).
8554–X	DOT–E 8554	Cherokee Products, Inc., Jefferson City, TN.	49 CFR 173.114a, 173.154, 173.93.	Authorizes the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3).
8554–X	DOT–E 8554	Western Explosive Systems Company (WESCO), Salt Lake City, UT.	49 CFR 173.114a, 173.154, 173.93.	Authorizes the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3).
8554–X	DOT–E 8554	Bennett Explosives, Inc., Manchester, IA.	49 CFR 173.114a, 173.154, 173.93.	Authorizes the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3).
8554–P	DOT–E 8554	Evenson Explosives, LLC, Morris, IL.	49 CFR 173.114a, 173.154, 173.93.	To become a party to exemption 8554 (modes 1, 3).
8554–X	DOT–E 8554	Vet's Explosives, Inc., Torrington, CT.	49 CFR 173.114a, 173.154, 173.93.	Authorizes the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3).
8915–P	DOT–E 8915	Solkatronic Chemicals, Fairfield, NJ.	49 CFR 173.301(d), 173.302(a)(3).	To become a party to exemption 8915 (modes 1, 3).
9198–P	DOT–E 9198	Minnesota Department of Natural Resources, Brainerd, MN.	49 CFR 175.5(a)(2)	To become a party to exemption 9198 (mode 4).
9271–X	DOT–E 9271	Florida East Coast Railway Company, St. Augustine, FL.	49 CFR 174.90	Authorizes deviation from car separation requirements for transportation of Division 1.1 and 1.2 explosives. (mode 2).
9271–X	DOT–E 9271	Missouri Pacific Railroad Company, Omaha, NE.	49 CFR 174.90	Authorizes deviation from car separation requirements for transportation of Division 1.1 and 1.2 explosives. (mode 2).
9275–P	DOT–E 9275	Bayer Corporation (formerly Miles, Inc.), Pittsburgh, PA.	49 CFR Parts 100–199 ..	To become a party to exemption 9275 (modes 1, 2, 3, 4, 5).
9275–P	DOT–E 9275	SmithKline Beecham, King of Prussia, PA.	49 CFR Parts 100–199 ..	To become a party to exemption 9275 (modes 1, 2, 3, 4, 5).
9275–P	DOT–E 9275	Ohmeda, Inc., Liberty Corner, NJ.	49 CFR Parts 100–199 ..	To become a party to exemption 9275 (modes 1, 2, 3, 4, 5).
9346–X	DOT–E 9346	Arrow Terminals, Industry, PA.	49 CFR 174.67(a)(2), Part 107, Subpart B, Appendix B.	Authorizes setting of the brakes and blocking the wheels of the first and last tank cars on up to a 12 tank car assembly, instead of each individual car, when engaged in unloading crude oil and petroleum. (mode 2).
9346–X	DOT–E 9346	Consumers Power Co., Essexville, MI.	49 CFR 174.67(a)(2), Part 107, Subpart B, Appendix B.	Authorizes setting of the brakes and blocking the wheels of the first and last tank cars on up to a 12 tank car assembly, instead of each individual car, when engaged in unloading crude oil and petroleum. (mode 2).
9393–X	DOT–E 9393	Sexton Can Company, Inc., Martinsburg, WV.	49 CFR 173.304(a), 175.3, 178.65.	Authorizes the manufacture, marking and sale of non-DOT specification steel cylinders in compliance with DOT Specification 39, with certain exceptions, for transportation of nonflammable gases (modes 1, 2, 3, 4).
9617–P	DOT–E 9617	John Joseph, Inc., Ringwood, NJ.	49 CFR 176.83(a), 177.835(g), 177.848(f), Part 107, Appendix B(1).	To become a party to exemption 9617 (modes 1, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9617–P	DOT–E 9617	Explosives Supply, Inc., Ringwood, NJ.	49 CFR 176.83(a), 177.835(g), 177.848(f), Part 107, Appendix B(1).	To become a party to exemption 9617 (modes 1, 3).
9617–P	DOT–E 9617	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 176.83(a), 177.835(g), 177.848(f), Part 107, Appendix B(1).	To become a party to exemption 9617 (modes 1, 3).
9623–P	DOT–E 9623	Blastrite Services, Inc., Van Wyck, SC.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	Rimrock Explosives, Inc., Hayden Lake, ID.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	Southern Explosives Corporation, Glasgow, KY.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	United Explosives Company of Ohio, Findlay, OH.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	Explosives Energies, Inc., Greenfield, MO.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	Explosives Energies, Inc., dba Arkansas Explosives, Mabelvale, AR.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	Explo-Tech, Inc., Spring City, PA.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	North Star Explosives, Ketchikan, AK.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9623–P	DOT–E 9623	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 177.835(c)(3)	To become a party to exemption 9623 (mode 1).
9657–P	DOT–E 9657	PVS Chemicals, Inc. (New York), Buffalo, NY.	49 CFR 173.272, 179.201–1.	To become a party to exemption 9657 (mode 2).
9657–X	DOT–E 9657	Hoover Materials Handling Group, Inc., Beatrice, NE.	49 CFR 173.272, 179.201–1..	Authorizes the use of DOT Specification 111A100W2 tank cars with bottom outlets, for transportation of sulfuric acid or oleum, Class 8 materials (mode 2).
9676–P	DOT–E 9676	Mallinckrodt Baker, Inc., Phillipsburg, NJ.	49 CFR 173.119(b)(4), 173.125, 178.205.	To become a party to exemption 9676 (mode 1).
9694–P	DOT–E 9694	Elf Atochem North America, Portland, OR.	49 CFR 177.315(i)(13), 173.33(f)(9), 173.33(h)(5)(i).	To become a party to exemption 9694 (mode 1).
9716–X	DOT–E 9716	Q3 Comdyne Cylinders, Inc., West Liberty, OH.	49 CFR 173.302(a)(1), 173.304 (a), (d), 175.3.	Authorize the manufacture, marking and sale of non-DOT specification, fiber reinforced plastic, full composite cylinder for shipment of certain Division 2.1 and Division 2.2 gases. (modes 1, 2, 3, 4).
9723–P	DOT–E 9723	Clark Environmental, Inc., Ft. Pierce, FL.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	21st Century Environmental Management, Inc. of RI, Warwick, RI.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Eagle Environmental Services, Corp., Barceloneta, PR.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Crown Trucking Company, Inc., Oklahoma City, OK.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Envirosolve Waste Services, Inc., Tulsa, OK.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Dillard Environmental Services, Byron, CA.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Envirosolve Southwest, Inc., Albuquerque, NM.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Dynecol, Inc., Detroit, MI	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Autumn Industries, Inc., Warren, OH.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Pollution Solutions of Vermont, Inc. (PSOV), Williston, VT.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9723–P	DOT–E 9723	Envirochem Environmental Services, Inc., Apex, NC.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–P	DOT–E 9723	Chemical Pollution Control, Inc. of New York, Bay Shore, NY.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9723–X	DOT–E 9723	Superior Hazardous Waste Group, Inc., Port Washington, WI.	49 CFR 177.848	Authorizes the shipment of ''lab-packs'' containing cyanides and cyanide mixture with ''lab-packs'' containing acids and corrosive liquids in the same transport vehicle (modes 1, 2).
9723–X	DOT–E 9723	Eastern Chemical Waste Systems-Caribe, Inc., Silver Spring, MD.	49 CFR 177.848	Authorizes the shipment of ''lab-packs'' containing cyanides and cyanide mixture with ''lab-packs'' containing acids and corrosive liquids in the same transport vehicle (modes 1, 2).
9723–X	DOT–E 9723	REMAC USA, Inc., Silver Spring, MD.	49 CFR 177.848	Authorizes the shipment of ''lab-packs'' containing cyanides and cyanide mixture with ''lab-packs'' containing acids and corrosive liquids in the same transport vehicle (modes 1, 2).
9723–X	DOT–E 9723	Tonawanda Tank Transport Service, Inc., Buffalo, NY.	49 CFR 177.848	Authorizes the shipment of ''lab-packs'' containing cyanides and cyanide mixture with ''lab-packs'' containing acids and corrosive liquids in the same transport vehicle (modes 1, 2).
9723–P	DOT–E 9723	Seacoast Ocean Services, Incorporated, Portland, ME.	49 CFR 177.848	To become a party to exemption 9723 (modes 1, 2).
9741–X	DOT–E 9741	Batteries Recovery Services, Inc., Medley, FL.	49 CFR 17e.260(a)(3)	Authorizes the shipment of batteries palletized and shipped as a unit without means of protection from any superimposed weight. (modes 1, 2, 3)..
9741–X	DOT–E 9741	Celtic Trading of Florida, Inc., Seminole, FL.	49 CFR 173.260(a)(3)	Authorizes the shipment of batteries palletized and shipped as a unit without means of protection from any superimposed weight. (modes 1, 2, 3).
9741–X	DOT–E 9741	Moura Batteries Company, Inc., Medley, FL.	49 CFR 173.260(a)(3)	Authorizes the shipment of batteries palletized and shipped as a unit without means of protection from any superimposed weight. (modes 1, 2, 3).
9741–X	DOT–E 9741	Overseas Trading Company, Inc., McAdoo, PA.	49 CFR 173.260(a)(3)	Authorizes the shipment of batteries palletized and shipped as a unit without means of protection from any superimposed weight. (modes 1, 2, 3).
9769–P	DOT–E 9769	ECOFLO, Inc., Greensboro, NC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Inland Waters Pollution Control, Inc., Detroit, MI.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	City Environmental, Inc., Detroit, MI.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Universal Waste and Transit, Inc., Tampa, FL.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Tri-State Motor Transit Co., Joplin, MO.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Federal Aviation Administration (Alaska Region), Anchorage, AK.	49 CFR 173.12, 174.81, 176.83, 177.848.	Authorizes the multi-modal transportation of lab-packs with partial relief from segretation requirements. (modes 1, 2, 3).
9769–P	DOT–E 9769	EOG Environmental, Inc., Milwaukee, WI.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	HazMat Environmental Group, Inc., Buffalo, NY.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Bryson Industrial Services, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (FS), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (North East), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (TG), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9769–P	DOT–E 9769	Laidlaw Environmental Services of California Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services of Illinois, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (TS), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (TES), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Svcs. de Mexico, SA de C.V., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (Quebec), Ltd., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services, Ltd., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (Recovery), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services of South Carolina, Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services of Bartow, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services (WT), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Laidlaw Environmental Services of Chattanooga, Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Municipal Services Corporation, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Solvent Service Company, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Masters Wash Products, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Clean Venture, Inc., Elizabeth, NJ.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9769–P	DOT–E 9769	Chemical Conservation Corporation, Orlando, FL.	49 CFR 173.12, 174.81, 176.83, 177.848.	To become a party to exemption 9769 (modes 1, 2, 3).
9781–P	DOT–E 9781	U.S. Department of Energy, Germantown, MD.	49 CFR 173.304(a)(2), 173.34 (d), (e).	To become a party to exemption 9781 (modes 1, 2).
10001–P	DOT–E 10001	Wakeman Industries, Inc., Charlestown, NH.	49 CFR 173.316, 173.320.	To become a party to exemption 10001 (mode 1).
10001–P	DOT–E 10001	Tristate Airgas, Inc., d/b/a Randall-Graw Co., Inc., La Crosse, WI.	49 CFR 173.316, 173.320.	To become a party to exemption 10001 (mode 1).
10031–P	DOT–E 10031	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 178.338.	To become a party to exemption 10031 (modes 1, 3).
10130–X	DOT–E 10130	U.F. Strainrite, Lewiston, ME.	49 CFR Part 173 Subparts E, F, and H.	Authorizes the manufacture, marking and sale of collapsible, disposable polyethylene-lined woven polypropylene bulk bags for shipment of oxidizers, flammable, corrosive, and poison B solids (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10151–X	DOT–E 10151	Air Liquide America Corporation, Houston, TX.	49 CFR 173.119, 173.302, 173.304, 173.328, 173.34, 173.346.	Authorizes the use of a non-DOT specification full removable head salvage cylinder of 45 gallon capacity for overpacking damaged or leaking packages of pressurized and nonpressurized hazardous materials (mode 1).
10288–P	DOT–E 10288	Chevron Chemical Company, Houston, TX.	49 CFR 173.31(c), 179.101–1(a).	To become a party to exemption 10288 (mode 2).
10298–P	DOT–E 10298	Woods Air Fuel, Inc., Palmer, AK.	49 CFR 172.101, column (6)(b), 173.119, 175.320.	To become a party to exemption 10298 (mode 4).
10298–P	DOT–E 10298	Woods Air Fuel, Inc., Palmer, AK.	49 CFR 172.101, column (6)(b), 173.119, 175.320.	To become a party to exemption 10298 (mode 4).
10298–P	DOT–E 10298	Rotor Air Alaska, Inc., Soldotna, AK.	49 CFR 172.101, column (6)(b), 173.119, 175.320.	To become a party to exemption 10298 (mode 4).
10298–X	DOT–E 10298	Air Logistic of Alaska, formerly Heli-Lite, Inc., Fairbanks, AK.	49 CFR 172.101, column (6)(b), 173.119, 175.320.	Authorizes the shipment of liquid fuels that are Class 3 liquids in non-DOT specification collapsible, rubber containers up to 500 gallon capacity by cargo aircraft within and to only remote Alaska locations. (Mode 4).
10307–P	DOT–E 10307	LCI, Ltd., Jacksonville Beach, FL.	49 CFR 179.200–18(b)(2)(iii), 179.201–1, 179.201–7.	To become a party to exemption 10307 (mode 2).
10307–P	DOT–E 10307	Elf Atochem North America, Portland, OR.	49 CFR 179.200–18(b)(2)(iii), 179.201–1, 179.201–7.	To become a party to exemption 10307 (mode 2).
10307–P	DOT–E 10307	Elf Atochem North America, Inc., Philadelphia, PA.	49 CFR 179.200–18(b)(2)(iii), 179.201–1, 179.201–7.	To become a party to exemption 10307 (mode 2).
10307–X	DOT–E 10307	Georgia Gulf Corporation, Plaquemine, LA.	49 CFR 179.200–18(b)(2)(iii), 179.201–1, 179.201–7.	Authorizes the use of DOT Specification 111A100W1, W2, W3 and W5 series tank cars, containing certain corrosive materials, with a safety relief device rated at 135 percent of the tank test pressure. (mode 2).
10326–X	DOT–E 10326	Allied Signal Inc., Tempe, AZ.	49 CFR 173.302(a)(2), 175.3, 178.44.	Authorizes the manufacture, marking and sale of a non-DOT specification welded pressure vessel comparable to DOT 3HT cylinder with certain exceptions. (modes 1, 4).
10327–X	DOT–E 10327	CTI-Cryogenics Division of Helix Technology Corp., Mansfield, MA.	49 CFR 173.306(f)(1), 173.306(f)(2), 173.306(f)(3), 175.3.	Authorizes shipment of a refrigeration system consisting of various accumulators and components, containing helium, which is a Division 2.2 gas. (modes 1, 2, 4, 5).
10429–X	DOT–E 10429	Champion Technologies, Inc., Houston, TX.	49 CFR 177.834(h), part 107 appendix B(1), part 173 subparts D and F.	Authorizes the discharge of certain Class 3 and Class 8 liquids from DOT Specification 57 stainless steel portable tanks without removing the tanks from the vehicle on which it is transported (mode 1).
10429–X	DOT–E 10429	Petrolite Corp., St. Louis, MO.	49 CFR 177.834(h), part 107 appendix B(1), part 173 subparts D and F.	Authorizes the discharge of certain Class 3 and Class 8 liquids from DOT Specification 57 stainless steel portable tanks without removing the tanks from the vehicle on which it is transported (mode 1).
10441–P	DOT–E 10441	21st Century Environmental Management, Inc. of, RI Warwick, RI.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441	ECOFLO, Inc., Greensboro, NC.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441	Eagle Environmental Services, Corp., Barceloneta, PR.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441	Erickson, Inc., Richmond, CA.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441	Autumn Industries, Inc., Warren, OH.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441	United States Pollution control, Inc., Columbia, SC.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441	Chemical Pollution Control, Inc. of New York, Bay Shore, NY.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10441–X	DOT–E 10441	REMAC USA, Inc., Silver Spring, MD.	49 CFR 173.12(b)(6), 177.848(b).	Authorizes the transportation by highway of lab pack quantities of cyanides on the same motor vehicle with non-lab packed acidic materials not to exceed 55 gallons per container (mode 1).
10441–X	DOT–E 10441	Eastern Chemical Waste Systems-Caribe, Inc., Silver Spring, MD.	49 CFR 173.12(b)(6), 177.848(b).	Authorizes the transportation by highway of lab pack quantities of cyanides on the same motor vehicle with non-lab packed acidic materials not to exceed 55 gallons per container (mode 1).
10441–P	DOT–E 10441	Superior Special Services, Inc., Port Washington, WI.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–P	DOT–E 10441	Environmental Options, Inc., Rocky Mount, VA.	49 CFR 173.12(b)(6), 177.848(b).	To become a party to exemption 10441 (mode 1).
10441–X	DOT–E 10441	Environmental Waste Resources, Inc., Waterbury, CT.	49 CFR 173.12(b)(6), 177.848(b).	Authorizes the transportation by highway of lab pack quantities of cyanides on the same motor vehicle with non-lab packed acidic materials not to exceed 55 gallons per container (mode 1).
10497–P	DOT–E 10497	Lockheed Martin Astro Space Division, Princeton, NJ.	49 CFR 173.336, 177.834(m), 179.300.	To become a party to exemption 10497 (modes 1, 3).
10589–P	DOT–E 10589	Dow Chemical, USA, Midland, MI.	49 CFR 173.31(c)(3)	To become a party to exemption 10589 (mode 2).
10589–P	DOT–E 10589	K & K Consultants, Inc., St. Charles, MO.	49 CFR 173.31(c)(3)	To become a party to exemption 10589 (mode 2).
10589–P	DOT–E 10589	Occidental Chemical Corporation, Deer Park, TX.	49 CFR 173.31(c)(3)	To become a party to exemption 10589 (mode 2).
10738–X	DOT–E 10738	Rotonics Manufacturing Inc., Gardena, CA.	49 CFR 173.118a, 173.119, 173.256, 173.266, 176.340, 178.19, 178.253.	Authorizes the manufacture, marking and sale of non-DOT specification rotationally molded, crosslinkable high density, polyethylene portable tank with a plastic base, for shipment of Class 8 materials, Class 3 liquids, or a Division 5.1 material (modes 1, 2).
10751–P	DOT–E 10751	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 177.848	To become a party to exemption 10751 (mode 1).
10795–X	DOT–E 10795	Mobil Oil Corporation, Fairfax, VA.	49 CFR 173.31(b)(1), 174.67(a)(7).	Authorizes the loading of tank cars coupled in a series with the bottom discharge outlet caps in place on all cars except the first and last, the setting of the hand brake and the blocking of a wheel in both directions on the first and last cars of a series of coupled tank cars prior to unloading (mode 2).
10798–P	DOT–E 10798	Niacet Corporation, Niagara Falls, NY.	49 CFR 174.67 (i) and (j)	To become a party to exemption 10798 (mode 2).
10814–P	DOT–E 10814	Lorad Industrial Imaging, Danbury, CN.	49 CFR 173.302, 175.3	Authorizes the manufacture, marking and sale of a industrial X-ray instrumentation for the transportation of nonliquefied sulfur hexafluoxidde (modes 1, 2, 3, 4, 5).
10818–P	DOT–E 10818	T.J. Egan Waste Systems, Bloomfield, NJ.	49 CFR 173.197	To become a party to exemption 10818 (mode 1).
10821–P	DOT–E 10821	Micro-Med Industries, Inc., Jacksonville, FL.	49 CFR 171.8, 172.101 Column (8c), 173.197.	To become a party to exemption 10821 (mode 1).
10867–P	DOT–E 10867	Pacific Scientific, Duarte, CA.	49 CFR 173.302, 175.3, 178.44.	To authorize the manufacture, mark and sell of non-DOT specification welded titanium cylinder having 35 cubic inches maximum water capacity and 3,200 psig maximum service pressure for use in transporting nitrogen, with 5% trace of helium gas, classed as non-flammable gas (modes 1, 2, 4, 5).
10867–P	DOT–E 10867	Pacific Scientific, Duarte, CA.	49 CFR 173.302, 175.3, 178.44.	To authorize the manufacture, mark and sell of non-DOT specification welded titanium cylinder have 35 cubic inches maximum water capacity and 3,200 psig maximum service pressure for use in transporting nitrogen, with 5% trace of helium gas, classed as non-flammable gas (modes 1, 2, 4, 5).
10880–P	DOT–E 10880	Blastrite Services, Inc., Van Wyck, SC.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10880–P	DOT–E 10880	Rimrock Explosives, Inc., Hayden Lake, ID.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	Southern Explosives Corporation, Glasgow, KY.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	United Explosives Company of Ohio, Findlay, OH.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	Explosives Energies, Inc., Greenfield, MO.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	Explosives Energies, Inc. dba Arkansas Explosives, Mabelvale, AR.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	Explo-Tech, Inc., Spring City, PA.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	North Star Explosives, Ketchikan, AK.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	St. Lawrence Explosives Corp., Adams Center, NY.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10880–P	DOT–E 10880	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 172.101 column (8c), 173.114, 173.35(b).	To become a party to exemption 10880 (mode 1).
10933–P	DOT–E 10933	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Master Wash Products, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Solvent Services Company, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services (North East), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services of Chattanooga, Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services of South Carolina, Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services of Illinois, Inc. Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services of (WT), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services of Bartow, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services, Ltd., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services (Quebec), Ltd., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services (FS), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services (TS), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services (TG), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10933–P	DOT–E 10933	Laidlaw Environmental Services (TES), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services (Recovery), Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services of California, Inc. Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Laidlaw Environmental Services de Mexico, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Bryson Industrial Services, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	United States Pollution Control, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Municipal Service Corporation, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	PPM of Georgia, Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	EOG Environmental, Inc., Milwaukee, WI.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Envirotech Systems, Inc., Seattle, WA.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	ECOFLO, Inc., Greensboro, NC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Eagle Environmental Services, Corp., Barceloneta, PR.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Safeway Chemical Transportation, Inc., Wilmington, DE.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Republic Environmental Systems (Transp. Group), Hatfield, PA.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Tri-State Motor Transit Co., Joplin, MO.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Environmental Options, Inc., Rocky Mount, VA.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10933–P	DOT–E 10933	Hydrocarbon Recyclers, Inc., Columbia, SC.	49 CFR 173.12, 174.81, 176.83 and 177.848.	To become a party to exemption 10933 (modes 1, 2, 3).
10949–P	DOT–E 10949	21st Century Environmental Management, Inc., of RI Warwick, RI.	49 CFR 177.848(d)	To become a party to exemption 10949 (mode 2).
10949–P	DOT–E 10949	Dynecol, Inc., Detroit, MI	49 CFR 177.848(d)	To become a party to exemption 10949 (mode 2).
10949–P	DOT–E 10949	United States Pollution Control, Inc., Columbia, SC.	49 CFR 177.848(d)	To become a party to exemption 10949 (mode 2).
10949–P	DOT–E 10949	Chemical Pollution Control, Inc. of New York, Bay Shore, NY.	49 CFR 177.848(d)	To become a party to exemption 10949 (mode 2).
10996–P	DOT–E 10996	Kosdon Enterprises of Ventura, California, Ventura, CA.	49 CFR 173 Subpart C ..	To become a party to exemption 10996 (modes 1, 2).
10996–P	DOT–E 10996	Vulcan Systems, Inc., Colorado Springs, CO.	49 CFR 173 Subpart C ..	To become a party to exemption 10996 (modes 1, 2).
10996–P	DOT–E 10996	Hybridine Aerospace Corp., Inc., Nicholson, GA.	49 CFR 173 Subpart C ..	To become a party to exemption 10996 (modes 1, 2).
11043–P	DOT–E 11043	Advanced Environmental Technical Services (AETS), Flanders, NJ.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043	Chemical Analytics, Inc., Romulus, MI.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043	Environmental Response, Inc., Hendersonville, TN.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11043–P	DOT–E 11043	21st Century Environmental Management, Inc. of RI Warwick, RI.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043	ECOFLO, Inc., Greensboro, NC.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–P	DOT–E 11043	Erickson, Inc., Richmond, CA.	49 CFR 177.848(D)	To become a party to exemption 11043 (mode 1).
11043–X	DOT–E 11043	S&W Waste, Inc., South Kearny, NJ.	49 CFR 177.848(D)	Authorizes the transportation of materials classed as Division 2.3 on the same transport vehicle with materials classed as Class 3, Class 4, Class 5, and Class 8 (mode 1).
11070–X	DOT–E 11070	National Aeronautics & Space Administration, (NASA) Washington, DC.	49 CFR 173.304	Authorizes the shipment of anhydrous ammonia, classed as Division 2.2, in non-DOT specification cylinders described as part of a closed loop thermal control system for space program (mode 1).
11088–P	DOT–E 11088	Advanced Materials Laboratories, Inc., Forest Hills, NY.	49 CFR 172.102	To become a party to exemption 11088 (modes 1, 3, 4, 5).
11109–P	DOT–E 11109	Alaska-Pacific Powder Company, Olympia WA.	49 CFR 176.170(b)	To become a party to exemption 11109 (mode 3).
11151–P	DOT–E 11151	Pollution Control Industries, East Chicago, IN.	49 CFR 177.848(d)	To become a party to exemption 11151 (mode 1).
11153–P	DOT–E 11153	Pollution Control Industries, East Chicago, IN.	49 CFR 177.848(d)	To become a party to exemption 11153 (mode 1).
11156–P	DOT–E 11156	Econex North Incorporated, Standish, MI.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156	John Joseph, Inc, Ringwood, NJ.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156	Explosives Supply, Inc., Ringwood, NJ.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156	Mt. State Bit Service, Inc., Morgantown, WV.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156	Hilltop Energy, Inc., Mineral City, OH.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11156–P	DOT–E 11156	Buckley Powder Co. of Oklahoma, Inc., Mill Creek, OK.	49 CFR 173.212(b), 173.62.	To become a party to exemption 11156 (mode 1).
11189–P	DOT–E 11189	Mitsubishi Motor Manufacturing of America, Inc., Normal, IL.	49 CFR 172.101, 173.56, 173.116.	To become a party to exemption 11189 (modes 1, 2, 3, 4, 5).
11197–P	DOT–E 11197	CalResources LLC, Houston, TX.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	Shell Chemical Company, Houston, TX.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	Shell Oil Products Company, Houston, TX.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	Shell Western E&P, Inc., Houston, TX.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	Shell Offshore, Inc. Houston, TX.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	Thiokol Corporation, Brigham City, UT.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	IT Corporation, Inc., Torrance, CA.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	Halliburton Energy Services, Duncan, OK.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	INDSPEC Chemical Corporation, Pittsburgh, PA.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11197–P	DOT–E 11197	Shell Norco Refining Company, Norco, LA.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11197–P	DOT–E 11197	Quanterra, Inc., Englewood, CO.	49 CFR Part 172, Subparts C and D except 172.312.	To become a party to exemption 11197 (mode 1).
11200–P	DOT–E 11200	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.31(a)(4) and 179–300–15.	To become a party to exemption 11200 (modes 1, 3).
11207–P	DOT–E 11207	Central Illinois Public Service Company, Springfield, IL.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207	Allegheny Power System, Greensburg, PA.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207	Potomac Edison Company, Hagerstown, MD.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207	Monongahela Power Company, Fairmont, WV.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207	West Penn Power Company, Greensburg, PA.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11207–P	DOT–E 11207	Central Louisiana Electric Co., Inc., Pineville, LA.	49 CFR 172.301(c), 173.202, 173.28(b)(2), Part 107, Appendix, Subpart B, Paragraph (2).	To become a party to exemption 11207 (mode 1).
11221–P	DOT–E 11221	Rotor Air Alaska, Inc., Soldotna, AK.	49 CFR 172.101, 173.315.	To become a party to exemption 11221 (mode 4).
11227–P	DOT–E 11227	Western Atlas International, Houston, TX.	49 CFR 173.62 Packing Instruction E–114.	To become a party to exemption 11227 (modes 1, 3, 4).
11230–P	DOT–E 11230	Ed's Drilling & Blasting Company, Washington, MO.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
11230–P	DOT–E 11230	Edward N. Rau Contractor Co., Washington, MO.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
11230–P	DOT–E 11230	S.A.S. Contracting Corporation, Chesterhill, OH.	49 CFR 173.62(c) Packing Method US004, 177.835(g)(3)(i), 177.848(f) Table.	To become a party to exemption 11230 (mode 1).
11241–P	DOT–E 11241	Hoechst Celanese Chemical Group, Ltd., Dallas, TX.	49 CFR 172.203(a), 173.31(c)(1), 179.13, Part 107, Appendix B, Subpart B, Paragraph (2).	To become a party to exemption 11241 (mode 2).
11294–P	DOT–E 11294	Ashland Chemical Company, Columbus, OH.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	California Advanced Environmental Technology Corp., Richmond, CA.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Advanced Environmental Technology Corporation, Flanders, NJ.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11294–P	DOT–E 11294	Advanced Environmental Technical Services, Flanders, NJ.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	EOG Environmental, Inc., Milwaukee, WI.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Frank's Vacuum Truck Service, Inc., Niagara Falls, NY.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	21st Century Environmental Management, Inc. of RI, Warwick, RI.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Tri-S Inc., Ellington, CT ..	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	United States Pollution Control, Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Laidlaw Environmental Services (Northeast), Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Laidlaw Environmental Services of Illinois Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Laidlaw Environmental Services of California, Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Laidlaw Environmental Services (TES), Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Laidlaw Environmental Services (TG), Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Laidlaw Environmental Services (TS), Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Bryson Industrial Services, Inc., Columbia, SC.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Autumn Industries, Inc., Warren, OH.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Tri-State Motor Transit Co., Joplin, MO.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–P	DOT–E 11294	Pollution Solutions of Vermont, Inc. (PSOV), Williston, VT.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11294–X	DOT–E 11294	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 177.848	Authorizes the transportation of certain lab pack quantities of hazardous materials with other materials in lab packs, which partial relief from certain segregation requirements (mode 1).
11294–P	DOT–E 11294	Precision Industrial Maintenance, Inc., Scotia, NY.	49 CFR 177.848	To become a party to exemption 11294 (mode 1).
11296–P	DOT–E 11296	21st Century Environmental Management, Inc., of RI, Warwick, RI.	49 CFR 173.306	To become a party to exemption 11296 (modes 1, 2).
11296–P	DOT–E 11296	Ashland Chemical, Inc., Dublin, OH.	49 CFR 173.306	Authorizes the transportation in commerce of certain waste aerosol cans containing flammable gas propellants, including isobutane and propane, overpacked in removalbe head DOT Specification 17H for UN1A2 steel drum, or disposal (modes 1, 2).
11296–P	DOT–E 11296	Chemical Pollution Control, Inc. of New York, Bay Shore, NY.	49 CFR Section 173.306	To become a party to exemption 11296 (modes 1, 2).
11329–P	DOT–E 11329	Degesch America, Inc., Weyer Cave, VA.	49 CFR 172.500, 172.504, 172.506.	To authorize transportation in commerce of aluminum phosphide, Division 4.3, for pest control operations in private owned vehicles without placards (mode 1).
11335–P	DOT–E 11335	Procor Limited, Subsidiary of Union Tank Car Co., East Chicago, IN.	49 CFR 172.302(c), 172.203(a) and 173.31(c(9), Paras 1 & 2 of Appendix b to Subpart B of Part 107.	To become a party to exemption 11335 (mode 2).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11335–P	DOT–E 11335	Trinity Industries, Inc., Dallas, TX.	49 CFR 172.302(c), 172.203(a) and 173.31(c(9), Paras 1 & 2 of Appendix b to Subpart B of Part 107.	Authorizes the use of nondestructive testing techniques, in lieu of a hydrostatic test, to qualify repairs of DOT Specification tank car tanks (mode 2).
11335–X	DOT–E 11335	Union Tank Car Company, East Chicago, IN.	49 CFR 172.302(c), 172.203(a) and 173.31(c(9), Paras 1 & 2 of Appendix b to Subpart B of Part 107.	Authorizes the use of nondestructive testing techniques, in lieu of a hydrostatic test, to qualify repairs of DOT Specification tank car tanks (mode 2).
11335–X	DOT–E 11335	Procor Limited, Subsidiary of Union Tank Car Co., East Chicago, IN.	49 CFR 172.302(c), 172.203(a) and 173.31(c(9), Paras 1 & 2 of Appendix b to Subpart B of Part 107.	Authorizes the use of nondestructive testing techniques, in lieu of a hydrostatic test, to qualify repairs of DOT Specification tank car tanks (mode 2).
11373–P	DOT–E 11373	SOCO–Lynch Corporation, Los Angeles, CA.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373	Southchem, Inc., Durham, NC.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373	Textile Chemical Company, Inc., Reading, PA.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11373–P	DOT–E 11373	P.B. & S. Chemical Company, Inc., Henderson, KY.	49 CFR 177.848(d)	To become a party to exemption 11373 (mode 1).
11412–X	DOT–E 11412	Starr Display Fireworks, Inc./Wizard Works Inc., Walcott, ND.	49 CFR 173.56(j)	Authorizes the transportation of certain approved Division 1.3G fireworks devices that may, when packaged, marked and offered for transportation and transported fully in accordance with he conditions of this exemption, be classed during transportation as Division 1.4G fireworks (modes 1, 2).
11432–X	DOT–E 11432	Western Atlas International Houston, TX.	49 CFR 173.61(c), 173.62, E–141, 177.848(g).	To authorize the transportation in commerce of detonators and igniters, Division 1.4S and 1.4G to be transported in the same specially designed packaging (modes 1, 3, 4).
11454–P	DOT–E 11454	Accurate Arms Company, Inc., McEwen, TN.	49 CFR 173.171	To become a party to exemption 11454 (mode 3).
11454–P	DOT–E 11454	Olin Corporation, East Alton, IL.	49 CFR 173.71	To become a party to exemption 11454 (mode 3).
11454–P	DOT–E 11454	Olin Ordnance, St. Marks, FL.	49 CFR 173.71	To become a party to exemption 11454 (mode 3).
11458–P	DOT–E 11458	Carter-Wallace, Inc., Cranbury, NJ.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306(a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).
11458–P	DOT–E 11458	American Home Food Products, Inc., Milton, PA.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173,155(b), 173.306(a) & (h), Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).
11458–P	DOT–E 11458	Prestone Products Corporation, Danbury, CT.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306(a) & (h), Part 107, Subpart B, Appendix B, Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11458–P	DOT–E 11458	Sherwin-Williams Diversified Brands, Inc., Solon, OH.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (h), Part 107, Subpart B, Appendix B.	To become a party to exemption 11458 (mode 1).
11458–X	DOT–E 11458	Best Foods, Inc., Englewood Cliffs, NJ.	49 CFR 172.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (h), Part 107, Subpart B, Appendix B.	To authorize the transportation in commerce of consumer commodities eligible for reclassification as ORM–D in pallet-sized display packs that exceed the gross weight limit for limited quantity packages (mode 1).
11472–P	DOT–E 11472	Industrial Solid Propulsion, Inc., Las Vegas, NV.	49 CFR 177.848(f)	To become a party to exemption 11472 (mode 1).
11472–P	DOT–E 11472	Aero Tech, Inc., Las Vegas, NV.	49 CFR 177.848(f)	To become a party to exemption 11472 (mode 1).
11509–P	DOT–E 11509	Alliance Petroleum Corporation.	49 CFR 180.405(b), 180.405(g)(2), 180.405(g)(3), 180.407(c).	To authorize on an emergency basis for alternative testing date for cargo tanks used for transportation of various classes of hazardous materials (mode 1).
11510–P	DOT–E 11510	McCall & Wilderness Air Taxi, Inc., McCall, ID.	49 CFR 107.103, 107.113, 107.115(b) (1) & (2).	Authorizes the transportation of certain DOT specification cylinders containing propane, a Division 2.1 gas, which is forbidden for shipment aboard passenger carrying aircraft (mode 2).
11571–P	DOT–E 11571	AlliantTechsystems Inc., New Brighton, MN.	49 CFR 172.101	To authorize the transportation of Division 4.1 material in bulk in DOT Specification MC307 and MC312 cargo tank (mode 1).
11588–P	DOT–E 11588	Browing-Ferris Industries, Washington, DC.	49 CFR 173.134, 173.196, 173.197.	To allow discarded cultures and stocks of infectious substances to be transported as regulated medical waste, UN 3291, subject to the HMR packaging standards of 49 CFR 173.197 for a period of 90 days (mode 1).
11588–P	DOT–E 11588	SafeWaste Corporation Charlotte, NC.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	T.J. Egan Waste Systems, Bloomfield, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Health Care Waste Services, Inc., Bronx, NY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Micro-Med Industries, Inc., Jacksonville, FL.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Sharps Incinerator of Fort, Inc., Fort Atkinson, WI.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Allegro Carting & Recycling, Inc., Hoboken, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Interboro Disposal & Recycling Corp., Hoboken, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Interboro Disposal & Recycling Corp., Hoboken, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Oregon Refuse & Recycling Association, Salem, OR.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Med Compliance Services, Inc. of Texas, El Paso, TX.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Regional Carting, Inc., Keyport, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Sci-Med Waste Systems, Inc., Glen Allen, VA.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Biosystems, Farmingdale, NY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Environmental Waste Reductions, Inc., Atlanta, GA.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Envirotech Enterprises, Inc., Tucson, AZ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11588–P	DOT–E 11588	Applied Recovery, Inc., Beaver Dam, KY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Bluegrass Med-Waste, Inc., Beaver Dam, KY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Bluegrass Med-Waste of PA, Inc., Beaver Dam, KY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	CAL–VA, Inc., Chantilly, VA.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	City Medical Wastes Services, Hamtramck, MI.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Laidlaw Medical Services, Inc., Haverhill, MA.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	New York Environmental Services Corporation, Oneonta, NY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Waste Management of Ohio, Livonia, MI.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Medico Environmental Services, Inc., Clearwater, FL.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Trans Med, Ltd., Ronkonkoma, NY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	A–1 Medical Waste Removal, Inc., Staten Island, NY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Stericycle, Deerfield, IL ..	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Med Compliance Service, Inc., Albuquerque, NM.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Solid Waste Technologies, Inc., Jamesburg, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Regniers Refrigerated Express, New Castle, DE.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Coast Medial Services, Inc., Fair Haven, NJ.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Medical Waste Institute, Washington, DC.	49 CFR 173.134, 173.196, 173.197.	Authorizes the offering and transportation of certain cultures and stocks of infectious substances, when described and packaged as regulated medical waste under the provisions of 49 CFR 173.134 and 173.197 subject to the HMR packaging standards of 49 CFR 173.197 (mode 1).
11588–P	DOT–E 11588	American Type Culture Collection, Rockville, MD.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Culver Enterprises, Inc., Salisbury, MD.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Safety Disposal System, Inc., Opa Locka, FL.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	Health Care Incinerators, Fargo, ND.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11588–P	DOT–E 11588	GRP & Associates, Inc., Clear Lake, IA.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
11658–P	DOT–E 11658	AFR Arbel Fauvet Rail, Douai, France.	49 CFR 178.245–1(b)	To authorize the emergency transportation in commerce of certain Division 2.1 and 2.2 gases in non-DOT specification IMO Type 5 portable tanks which are comparable to DOT specification 51 except the tank has bottom outlets (modes 1, 2, 3).

MODIFICATION AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11661–P	DOT–E 11661	AFR Arbel Fauvet Rail, Paris, France.	49 CFR 178.245–1	To authorize the manufacture, marking and sale of non-DOT specification IMO Type 5 portable tanks which conform with DOT Specification 51 except that all openings are not grouped in one location, to be used for the transportation in commerce of Division 2.1 and Division 2.2 materials (modes 1, 2, 3).

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10606–N	DOT–E 10606	General Oil Equipment Co., Inc., Tonawanda, NY.	49 CFR 173.119, 173.29(c)(2).	To authorize the shipment of residue flammable liquids in non-specification containers for calibration of meters. (mode 1).
10704–N	DOT–E 10704	Air Liquide America Corporation, Houston, TX.	49 CFR 173.11, 173.12(a).	To authorize the shipment of flammable and non-flammable gas aerosols in containers complying with DOT Specification 2P or 2Q containers. (modes 1, 2).
10740–N	DOT–E 10740	CSXT/BIDS, Philadelphia, PA.	49 CFR 174.67(I), (J)	To authorize tank cars containing various hazardous materials to remain connected during unloading without the physical presence of an unloader. (mode 1).
11151–N	DOT–E 11151	SET Environmental, Inc., Wheeling, IL.	49 CFR 177.848(d)	To authorize the transportation of hazardous waste, classed as Division 6.1, Hazard Zone A material in combination packaging in the same transport vehicle with Class 3 and 8, Division 4.1, 4.2, 4.3, 5.1 and 5.2. (mode 1).
11153–N	DOT–E 11153	SET Environmental, Inc., Wheeling, IL.	49 CFR 177.848(d)	To authorize the shipment of lab packs containing hazardous wastes, classed as Division 4.2 and Class 8 in the same transport vehicle. (mode 1)
11284–N	DOT–E 11284	Webb Chemical Service Corp., Muskegon, MI.	49 CFR 174.67(i)	To authorize rail cars containing certain hazardous materials, Class 8 and 9 to remain connected without the physical presence of an unloader. (mode 2).
11395–N	DOT–E 11395	Dart Polymers, Inc., Leola, PA.	49 CFR 173.35	To authorize the transportation in commerce of polystrene beads, expandable, Class 9, in reusable fiberboard bulk boxes. (modes 1, 2).
11401–N	DOT–E 11401	Hewlett Packard Co., Santa Clara, CA.	49 CFR 172, 173.124, 173.125, 174, 175, 176, 177.	To authorize the transportation in commerce of unpowered cesium devices classed as Division 4.3 consisting of a stainless-steel cylinder, overpacked in strong fiberboard boxes. (modes 1, 2, 3, 5).
11435–N	DOT–E 11435	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.318(a), 176.76(h)(4).	To authorize the manufacture, mark and sale of non-DOT specification portable tank designed and constructed in accordance with ASME Code enclosed in ISO type frame for use in transporting Division 2.2 material. (modes 1, 3).
11459–N	DOT–E 11459	Quality Containment Co., Owensboro, KY.	49 CFR 173.34, 173.302, 173.304.	To authorize the manufacture, mark and sale of a recovery cylinder for use in transporting damaged sulfur dioxide cylinders. (mode 1).
11472–N	DOT–E 11472	American Pyrotechnics Assoc. et al, Chestertown, MD.	49 CFR 177.848(f)	To authorize the transportation in commerce of pyrotechnic articles classed as Division 1.4G explosives on the same vehicle and in the same storage area that contain other 1.4 explosive articles. (mode 1).
11476–N	DOT–E 11476	Schrupp Industries Inc., Parker, PA.	49 CFR 173.302(a)(1), 173.306(f), 173.5.	To authorize the manufacture, mark and sale of hydraulic accumulators for use in transporting nitrogen, Division 2.2. (modes 1, 2, 3, 5).
11487–N	DOT–E 11487	Whittaker Electronic Systems, Simi Valley, CA.	49 CFR 178.36(9)	To authorize the transportation of a specially designed bottle assembly equipped with seal welded cylinder for use in transporting compressed gas mixtures of hydrogen and nitrogen, Division 2.1 and 2.2. (modes 1, 4, 5).
11513–N	DOT–E 11513	Thiokol Corp., Brigham City, UT.	49 CFR 172.101	To authorize the transportation cyclotetramethyle tetranitramine (HMX) dry, Division 1.1D containing less than 10 percent water transported in non-DOT specification 25 lb. plastic bags overpacked in 21–C or UN approved container. (mode 1).

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11520–N	DOT–E 11520	Albemarle Corp., Baton Rouge, LA.	49 CFR 173.249(b)	To authorize the one-time shipment of a partial load of bromine, Class 8, PIH (approximately 754 gallons) in a 1788 gallon capacity nickel-clad DOT Specification MC–312 cargo tank. (mode 1).
11531–N	DOT–E 11531	Grand Aire Express, Inc., Monroe, MI.	49 CFR 171.11, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), part 107, appendix B.	To authorize the transportation in commerce of Division 1.1, 1.2, 1.3, 1.4, explosives that are not permitted for shipment by air or are in quantities greater than those authorized. (modes 4, 5).
11539–N	DOT–E 11539	C–CAM International L.L.C. Sand Springs, OK.	49 CFR 173.315(a), 178.245–1(b).	To authorize the manufacture, mark and sale of non-DOT specification IMO Type 5 portable tanks to be used for the transportation in commerce of Division 2.1, 2.2, and 2.3 materials. (modes 1, 2, 3).
11545–N	DOT–E 11545	Bernzomatic, Medina, NY.	49 CFR 173.304(d)(ii)	To authorize the transportation in commerce of a DOT Specification 2Q canister with a butane propane mixture, with a vapor pressure of 55 psig maximum at 70 degrees F. (modes 1, 2, 4).
11546–N	DOT–E 11546	Trinity River Authority of Texas, Grand Prairie, TX.	49 CFR 174.67(i)	To authorize rail cars to remain connected during the unloading process without the physical presence of an unloader (mode 2).
11548–N	DOT–E 11548	Akzo Nobel, Chicago, IL	49 CFR 173.211, 173.212, 173.213.	To authorize the transportation in commerce of various solid hazardous materials in compressed gas type cylinders except for specification 8 and 3HT type. (mode 1).
11555–N	DOT–E 11555	USA Fertilizer, Inc., Blackfoot, ID.	49 CFR 174.67(j)	To authorize rail cars to remain connected during unloading of sulfuric acid, Class 8 without the physical presence of an unloader. (mode 2).
11560–N	DOT–E 11560	Trans Continental Airlines, Inc., Ypsilanti, MI.	49 CFR 107, subpart B, 172.101, 172.204(c)(3), 173.27, 175.30(a)(1).	To authorize the transportation in commerce of Division 1 explosives and ammunition presently forbidden or in quantities greater than those authorized. (mode 4).
11568–N	DOT–E 11568	Equipment & Meter Services Inc., Linden, NJ.	49 CFR 172.200, 172.602, 173.242.	To authorize the transportation of a non-DOT specification device known as a meter prover for use in calibration of various hazardous materials. (mode 1).
11570–N	DOT–E 11570	KYB Corp., Lombard, IL	49 CFR 172.200, 172.300, 173.306(f)(2)(iii), 173.306(f)(3)(i), 174.24, 177.817.	To authorize the manufacture, mark and sale of certain shock absorbers, struts, and shock absorber cartridges, for transportation in commerce as accumulators to be shipped without required labels, markings or shipping papers. (modes 1, 2, 3, 4, 5).
11573–N	DOT–E 11573	Colorite Polymers Co., Burlington, NJ.	49 CFR 174.67 (i) & (j) ..	To authorize tank cars containing vinyl chloride, Division 2.1, to remain connected during unloading without the physical presence of an unloader. (mode 2).
11575–N	DOT–E 11575	Chem-Nuclear Systems, Inc., Columbia, SC.	49CFR 172.201(a)(1), 172.203(d).	To authorize the transportation of low-level radioactive material with shipping papers which deviate from the requirements of 49 CFR. (modes 1, 2, 3, 4, 5).
11579–N	DOT–E 11579	Dyno Nobel Inc., Salt Lake City, UT.	49 CFR 177.848(e)(2)	To authorize the transportation in commerce of Division 1 material and Class 8 material in the same non-DOT specification compartmented vehicles. (mode 1).
11580–N	DOT–E 11580	The Columbiana Boiler Co., Columbiana, OH.	49 CFR 173.158 (b)(g) & (h), 173.192(a), 173.201, 173.202, 173.203, 173.226, 173.227, 173.336, 173.40(a).	To authorize the manufacture, mark and sale of non-DOT specification stainless steel cylinders conforming to DOT 4BW welded steel cylinder for use in transporting certain hazardous materials. (modes 1, 2, 3, 4, 5).
11585–N	DOT–E 11585	Prillaman Chemical Corp., Suffolk, VA.	49 CFR 176.67 (i) & (j) ..	To authorize tank cars to remain connected during unloading of chlorine without the physical presence of an unloader. (mode 2).
11589–N	DOT–E 11589	CO.ME.F Carpenteria s.r.l., Tradate, Italy.	49 CFR 178.245–1(b)	To authorize the transportation in commerce of non-DOT specification steel portable tank mounted in an ISO frame for use of transporting Division 2.2 and 2.2 material. (modes 1, 2, 3).
11595–N	DOT–E 11595	B.F. Goodrich, Cleveland, OH.	49 CFR 174.67 (i), (j) & (k).	To authorize rail cars to remain connected during unloading of carbon disulfide, Class 3, without the physical presence of an unloader. (mode 2).

NEW EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11596–N	DOT–E 11596	Matheson Gas Products, Secaucus, NJ.	49 CFR 173.314	To authorize the transportation in commerce of hydrogen sulfide german contained in IMO/IMDG approve containers. (modes 1, 3).
11600–N	DOT–E 11600	Strombecker Corporation, Chicago, IL.	49 CFR 172.101	To authorize the transportation in commerce of toy caps as ORM–D consumer commodity instead of Division 1.4S. (modes 1, 2, 3, 4).
11601–N	DOT–E 11601	Hampton & Branchville RR Co. Inc., Hampton, SC.	49 CFR 174.85 (c) & (d)(2).	To authorize the transportation of rail cars containing certain hazardous materials without space cars in required sequence. (mode 2).
11602–N	DOT–E11602	The American Aluminum Association, et al, Cleveland, OH.	49 CFR 172.101, 172.301(c), 173.22a, 173.241, 173.242, appendix B to part 107.	To authorize the transportation in commerce of sift-proof bulk packagings comparable to those described in Section 173.240 and SP B54 for the shipment of aluminum processing by products, including drosses and spent potliner. (modes 1, 2, 3).
11604–N	DOT–E 11604	G.R.P. Trasporti Ferroviari S.A. Switzerland.	49 CFR 178.245–1(b)	To authorize the transportation in commerce of IMO Type 5 portable tanks equipped with bottom outlets similar to DOT Specification 51, except for location of openings for use in transporting Division 2.2 material. (modes 1, 2, 3).
11607–N	DOT–E 11607	Degussa Corporation, Ridgefield Park, NJ.	49 CFR 173.32C(j)	To authorize transportation in commerce of disodium tetrasulfide, Class 8, (corrosive solid) in IMO Type 1 tanks of 5000 liters capacity which are loaded to a filling density less than 80% by volume. (modes 1, 2, 3).
11624–N	DOT–E 11624	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 173.173(b)(2)	To authorize the transportation in commerce of household hazardous waste identified as paint or paint related material, Class 3 material, in quantities greater than those presently authorized. (mode 1).
11634–N	DOT–E 11634	Avon Products, Inc., New York, NY.	49 CFR 173.24a(a)(3)	To authorize the transporation in commerce of materials classed as ORM–D consumer commodities without inner packagings being packed, secured and cushioned to control their movement within the outer packaging. (modes 1, 2).
11644–N	DOT–E 11644	United States Can Company, Elgin, Il.	49 CFR 173.1200(a)(8), 173.304(e), 173.306(a), 178.33a.	To authorize the transportation in commerce of a non-DOT specification three-piece inside metal container with welded side seam and double seamed ends comparable to DOT-Specification 2Q for use in transporting R–134a (1, 1, 2 tetrafluoroethane). (modes 1, 2, 3, 4).
7954–N	DOTE–E 11657	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.301(d)(2), 173.302(a)(3).	Authorizes the shipment of nonflammable gases in manifolded DOT Specification 3A2400, 3AA2400 or 3AAX2400 cylinders. (mode 2).

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE4453–X	DOT–E 4453	Mine Equipment & Mill Supply Company, Dawson Springs, KY.	49 CFR 172.101, 173.62, 176.415, 176.83, Column(8C).	Authorizes the use of a non-DOT specification bulk, hopper-type tank for transportation of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixtures. (modes 1, 2, 3).
EE 8451–P	DOT–E 8451	Rockwell International Corporation, Canoga Park, CA.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
EE 8451–P	DOT–E 8451	General Electric Company, Cincinnati, OH.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of Division 1.1 materials and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
EE 8554–X	DOT–E 8554	Hilltop Energy, Inc., Lisbon, OH.	49 CFR 173.114a, 173.154, 173.93.	Authorizes the transport of propellant explosives and blasting agents in DOT Specification MC–306, MC–307, and MC–312 cargo tanks. (modes 1, 3).
EE 9741–P	DOT–E 9741	International Trade Partners, Inc., Medley, FL.	49 CFR 173.260(a)(3)	Authorizes the shipment of batteries palletized and shipped as a unit without means of protection from any superimposed weight. (modes 1, 2, 3).

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 10818–P	DOT–E 10818	T.J. Egan Waste Systems, Bloomfield, NJ.	49 CFR 173.197	Authorizes the use of non-DOT specification roll-off steel shuttles as outer packagings for the transportation of regulated medical waste in dual packagings. (mode 1).
EE 10996–P	DOT–E 10996	Vulcan Systems, Inc., Colorado Springs, CO.	49 CFR 173 Subpart C ..	To become a party to exemption 10996 (modes 1, 2).
EE 11490–X	DOT–E 11490	Lockheed Martin, Princeton, NJ.	49 CFR 106, 107, 171–180.	Authorizes the one-time transportation of methylhydrazined, Class 8 material, in DOT Specification 110A500W multi-unit tank car tanks which are not fitted with a pressure relief device and Class 8 in DOT-specification 110A500W multi-unit tank cars not equipped with pressure relief devices. (modes 1, 3).
EE 11510–X	DOT–E 11510	McCall & Wilderness Air Taxi, Inc., McCall, ID.	49 CFR 107.103, 107.113, 107.115(b) (1) & (2).	Authorizes the transportation of certain DOT specification cylinders containing propane, a Division 2.1 gas, which is forbidden for shipment aboard passenger carrying aircraft. (mode 2).
EE 11512–X	DOT–E 11512	Alaska Eskimo Whaling Commission (AEWC), Barrow, AK.	49 CFR 172.101, Column (9B), 175.30.	Authorizes the transportation of approximately 150 pounds of black powder, Division 1.1D, by cargo aircraft only. (mode 4).
EE 11588–P	DOT–E 11588	New York Environmental Services Corporation, Oneonta, NY.	49 CFR 173.134, 173.196, 173.197.	To become a party to exemption 11588 (mode 1).
EE 11588–P	DOT–E 11588	CAL–VA, Inc., Chantilly, VA.	49 CFR 173.134, 173.196, 173.197.	To allow discarded cultures and stocks of infectious substances to be transported as regulated medical waste, UN 3291, subject to the HMR packaging standards of 49 CFR 173.197 for a period of 90 days. (mode 1).
EE 11588–P	DOT–E 11588	City Medical Wastes Services, Hamtramck, MI.	49 CFR 173.134, 173.196, 173.197.	To allow discarded cultures and stocks of infectious substances to be transported as regulated medical waste, UN 3291, subject to the HMR packaging standards of 49 CFR 173.197 for a period of 90 days. (mode 1).
EE 11588–P	DOT–E 11588	Laidlaw Medical Services, Inc., Haverhill, MA.	49 CFR 173.134, 173.196, 173.197.	To allow discarded cultures and stocks of infectious substances to be transported as regulated medical waste, UN 3291, subject to the HMR packaging standards of 49 CFR 173.197 for a period of 90 days. (mode 1).
EE 11588–P	DOT–E 11588	Trans Med, Ltd., Ronkonkoma, NY.	49 CFR 173.134, 173.196, 173.197.	Authorizes the offering and transportation of certain cultures and stocks of infectious substances, when described and packaged as regulated medical waste under the provisions of 49 CFR 173.197 for a period of 90 days. (mode 1).
EE 11628–X	DOT–E 11628	SOS Gases Inc., Kearney, NJ.	49 CFR 123	To authorize the emergency loading of oxygen gas from a non-DOT specification cargo tank at the pier. (mode 3).
EE 11629–N	DOT–E 11629	Department of Defense, Falls Church, VA.	49 CFR 106, 107, 171–180.	To authorize the emergency transportation of commerce of certain simulators that have a history of outgassing hydrogen due to a reaction between the magnesium based pyrotechnic compounds and internal moisture. (mode 1).
EE 11630–N	DOT–E 11630	K.A. Steel Chemicals, Lemont, IL.	49 CFR ?	To authorize the emergency transportation of chlorine ton cylinders containing residue with an emergency ''B'' kit applied to fusible plug. (mode 4).
EE 11637–N	DOT–E 11637	Spraytech, Inc., Wichita, KS.	49 CFR 178.320(a)	To authorize the emergency manufacture, mark and sale of MC–306 tanks without required ''U'' stamp for use in transporting resin solution, Class 3. (mode 1).
EE 11639–N	DOT–E 11639	Consolidated Rail Corp., Philadelphia, PA.	49 CFR 173.29(a), 173.31(a), 174.3.	To authorize the one-time transportation of a DOT-Specification 105A500W tank car meeting all DOT specification requirements except that the tank car has jacket, sill, coupler requirements except that the tank car has jacket, sill, coupler, and safety appliance damage. (mode 2).
EE 11640–N	DOT–E 11640	Consolidated Rail Corp., Philadelphia, PA.	49 CFR 173.29(a), 173.31(a), 174.3, 179.100–6(a).	To authorize the emergency one-time transportation of a DOT-Specification 105A500W tank car meeting all DOT specification requirement except that the tank car has a wheel score approximately 6″ long ⅓″ deep. (mode 2).

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11641–N	DOT–E 11641	Sun Co., Inc., Philadelphia, PA.	49 CFR 174.67(k), 174.9(b).	To authorize the transportation of a DOT Specification 111A100WI tank car, with defective interior heater coils, to remain capped to prevent leakage while in transportation. (mode 2).
EE 11642–N	DOT–E 11642	Maingas, Inc., Fairfield, MA.	49 CFR 174.67(k), 174.9	To authorize the offer of a DOT Specification 112T340W tank car, ACFX 1743, meeting all DOT specification requirements except that the liquid line valve is defective. The liquid line is pluged to prevent the release of any residue of product. (mode 2).
EE 11650–X	DOT–E 11650	Morton International, Ogden, UT.	49 CFR 178.65–9	To authorize the emergency transportation in commerce of non-DOT specifican non-refillable cylinders charged with pyrotechnic initiating device classed as igniters, Division 1.4G. (modes 1, 2, 3, 4).
EE 11651–N	DOT–E 11651	Bayer Corp., Pittsburgh, PA.	49 CFR 173.241(b)	To authorize the transportation in commerce of self-heating solid, organic, Division 4.2 material in non-DOT specification sift-proof cargo tanks. (mode 1).
EE 11655–N	DOT–E 11655	Americhem Co., Houston, TX.	49 CFR 174.9	To authorize the transportation in commerce of a empty tank with defective heater coils (PSPX 517) last contained Class 8 material (mode 2).
EE 11656–N	DOT–E 11656	Union Pacific RR Co., Omaha, NE.	49 CFR 123	To authorize the emergency transportation in commerce of tank car containing anhydrous ammonia, liquefied, Division 2.2 with torn jacket and insulation. (mode 2).
EE 11658–N	DOT–E 11658	AFR (Arbel Fauvet Rail), 59500 Douai, FR.	49 CFR 178.245–1(b)	To authorize the emergency transportation in commerce of certain Division 2.1 and 2.2 gases in non-DOT specification IMO Type 5 portable tanks which are comparable to DOT specification 51 except the tank has bottom outlets. (modes 1, 2, 3).
EE 11658–N	DOT–E 11658	AFR Arbel Fauvet Rail, Douai, France.	49 CFR 178.245–1(b)	To authorize the emergency transportation in commerce of certain Division 2.1 and 2.2 gases in non-DOT specification IMO Type 5 portable tanks which are comparable to DOT specification 51 except the tank has bottom outlets. (modes 1, 2, 3).
EE 11660–N	DOT–E 11660	Olsen Tuckpointing Co., Rollings Meadows, IL.	49 CFR 173.242	To authorize the emergency transportation of two flat bed trucks with attached hydrochloric acid solution tanks equipped with specially designed liner and pressure tested at 100 psi. (mode 1).
EE 11661–X	DOT–E 11661	AFR Arbel Fauvet Rail, Paris, France.	49 CFR 178.245–1	To authorize an emergency exemption to manufacture, mark, and sell certain non-DOT specification steel portable tanks permanently fitted within an ISO frame for the transportation of certain liquefied and non-flammable refrigerant gases. (modes 1, 2, 3).
EE 11674–N	DOT–E 11674	Olin Corp., Norwalk, CT	49 CFR 173.29(c)(2), 179.102(2).	To authorize the emergency transportation in commerce of a chlorine filled tank car DOT Specification 105A500W with a defective safety valve equipped with a ''C'' kit capping device. (mode 2).
EE 11675–N	DOT–E 11675	Union Pacific Railroad Co., Omaha, NE.	49 CFR 107, 171–180, Parts 106.	To authorize the emergency transportation of the specially modified Olympic Torch Relay Cauldron Car (Torch Car) containing a Division 2.1 material. (mode 2).
EE 11676–N	DOT–E 11676	Vulcan Chemicals Birmingham, AL.	49 CFR 173.24(b), 173.31(a), 179.100–12(c), 19.100–13.	To authorize the transportation of a DOT Specification 105A50W tank car, containing the residue of a Division 2.3 material, meeting all DOT requirements except that the tank car has a defective safety relief valve with a ''C'' kit attached. (mode 2).
EE 11683–N	DOT–E 11683	Clear Harbors Environmental, Braintree, MA.	49 CFR 173.31(a)(15)	To authorize the transportation of rail cars with defective pressure relief device previously contain Class 3 material (mode 2).
EE 11684–N	DOT–E 11684	Conrail Corp., Phila., PA	49 CFR 173.31	To authorize the transportation of rail (mode 2).

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 11685–N	DOT–E 11685	American Pyrotechnics Association, Chestertown, MD.	49 CFR 173.54, 173.56	To allow the limied shipment of approved fireworks devices classed as 1.4G or 1.3G explosives that have an approved electric match (igniter) attached to the device (mode 1).
EE 11685–P	DOT–E 11685	Remote Effects Systems, Inc., Prior Lake, MN.	49 CFR 173.54, 173.56	To become a party to exemption 11685 (mode 1).
EE 11685–P	DOT–E 11685	Banner Fireworks Display, Inc., Zimmerman, MN.	49 CFR 173.54, 173.56	To become a party to exemption 11685 (mode 1).
EE 11685–P	DOT–E 11685	National Fireworks Association, Inc., Harrisburg, PA.	49 CFR 173.54, 173.56	To become a party to exemption 11685 (mode 1).
EE 11689–N	DOT–E 11689	Chem Tech Systems, Los Angeles, CA.	49 CFR 173.227	To authorize the emergency one time transportation of one UN1H2 drum of RQ Waste Sulfur Trioxide, Uninhibited, Class 8, overpacked in a 600 gallon salvage drum filled with vermiculite (mode 1).
EE 11703–N	DOT–E 11703	Walter Kidde, Mebone, NC.	49 CFR 171.2(c), 172.301(h), 178.65.	To authorize the manufacture, marking and sale of non-Dot specifications cylinders comparable to DOT Specification 39 for shipment of certain gases (mode 1).
EE 11705–N	DOT–E 11705	Phone-Poulenc Inc., Shelton, CT.	49 CFR 179.13	To authorize the emergency one-time transportation of a loaded tank car that is not in accordance with the maximum allowable gross weight requirement of 49 CFR 179.13 (mode 1).
EE 11712–N	DOT–E 11712	Chemstam, Houston, TX	49 CFR 179.13	To authorize the transportation in commerce of a DOT specification 111A100W tank car, containing sulfur, a Class 9 material, overloaded by 4000 pounds, to be offered for transportation and to proceed to destination (mode 2).
EE 11713–N	DOT–E 11713	CSX Transportation, Inc., Jacksonville, FL.	49 CFR 173.29(a), 173.31(a), 174.3, 174.50(a).	To authorize the emergency transportation of a DOT Specification 111A100W5 tank car containing a Class 8 material (mode 2).

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3126–X	Hercules, Inc., Wilmington, DE.	49 CFR 173.62, 177.821, 177.822(b), 177.835(k).	Authorizes the transport of Class A explosives in DOT Specification 5 metal drums, or in DOT Specification 42B aluminum drums. (mode 1).
4453–X	Austin Powder Company, Cleveland, OH.	49 CFR 172.101, 173.62, 176.415, 176.83, Column (8C).	Authorizes the use of a non-DOT specification bulk, hopper-type tank for transportation of blasting agent, n.o.s. or ammonium nitrate-fuel oil mixtures. (modes 1, 2, 3).
4850–X	Austin Powder Company, Cleveland, OH.	49 CFR 173.56(b)(1)	Authorizes the shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grams per linear foot of a high explosive (modes 1, 2, 3, 4).
5112–X	Austin Powder Company, Cleveland, OH.	49 CFR 173.62(a), 177.834(L)(1), 177.835(k).	Authorizes the use of a specially designed kettle drum type aluminum container for transportation of a Class A explosive. (mode 1).
5243–X	Austin Powder Company, Cleveland, OH.	49 CFR 173.103(a), 173.66(g)(1), 177.835(g).	Authorizes the modification of DOT specification packaging for transportation of Class C or Class A explosives. (modes 1 2, 3).
6614–X	Allied Universal Corporation, Miami, FL.	49 CFR 173.202, 173.203	Authorizes the use of non-DOT specification polyethylene bottles, packed inside a high density polyethylene box for transportation of certain corrosive liquids. (mode 1).
6724–X	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.89, 175.3.	Authorizes the transport of caseless ammunition in an inside fiberboard box with egg crate separations and overpacked in a non-DOT specification strong wooden box. (modes 1, 4).
6922–X	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.314(c), 179.300–15.	Authorizes the use of a Dot Specification 106A500–X multi-unit tank car tank, for shipment of certain compressed gases. (modes 1, 2, 3).
7097–X	Plant Products Corporation, Vero Beach, FL.	49 CFR 173.377(f)	Authorizes the shipment of dry mixtures of parathion and tetraethyl dithio pyrophosphate from specification packaging requirements. (mode 1).
7247–X	U.S. Department of Defense, Falls Church, VA.	49 CFR 146.29–11(c)(19), 146.29–75(b)(2).	Authorizes the use of non-DOT specification portable tanks for shipment of certain nonflammable gases. (mode 3).

WITHDRAWAL EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8208–X	Jet Propulsion Laboratory, Pasadena, CA.	49 CFR 173.145, 173.276, 173.336.	Authorizes the shipment of liquid propellant samples, frozen, in non-DOT specification plywood boxes. (mode 1).
8256–X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.273(a)(4), 174.3, 179.102–16, 179.202–13.	Authorizes the shipment of stabilized sulfur trioxide in DOT Specification 105A100W and 111A100W2 tank cars equipped with standpipe electrical heaters and a modified safety relief device. (mode 2).
8451–X	TRW Vehicle Safety Systems, Inc., Queen Creek, AZ.	49 CFR 173.3, 173.54, 173.60, 174.3, 175.3, 177.801.	Authorizes the transport of not more than 25 grams of high explosives and pyrotechnic materials in a special shipping container. (modes 1, 2, 4).
8489–X	FMC Corporation, Carteret, NJ.	49 CFR 173.154, 173.182, 173.217, 173.245b.	Authorizes the shipment of certain oxidizers and a corrosive material in a non-DOT specification nonreusable, collapsible, flexible disposable bulk bag. (modes 1, 2, 3).
8978–X	Battery Engineering, Inc., Hyde Park, MA.	49 CFR 172.101, 175.3	Authorizes the transport of lithium cells containing more than 12, but not more than 50, grams of lithium metal in non-DOT specification, non-reusable, open head, steel drums. (modes 1, 2, 3, 4).
8999–X	Scott Aviation Div. of Figgie International, Inc., Lancaster, NY.	49 CFR 173.154, 175.3, 175.85, Part 172, Subpart C, Subpart D, E.	Authorizes the transport of emergency oxygen generators without marking, labeling, shipping papers or specification packaging. (modes 1, 2, 3, 4).
9190–P	Olin Corporation, Downey, CA	49 CFR 173.101, 177.821(c)	To become a party to exemption 9190 (mode 1).
10001–X	Linweld, Lincoln, NE	49 CFR 173.316, 173.320	Authorizes the transport of argon containing up to 10 percent oxygen as a refrigerated liquid in DOT Specification 4L cylinder. (mode 1).
10085–X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.3(a), 173.384, 177.841(b).	Authorizes the shipment of monochloracetone, inhibited, in a DOT Specification MC–312 cargo tank with no bottom outlets. (mode 1).
10094–X	Air Products & Chemicals, Inc., Allentown, PA.	49 CFR 173.154(a)(17)	Authorizes the transportation of ammonium nitrate solution in DOT Specification 111A100W1 lined and insulated tank car tanks. (mode 2).
10094–X	Air Products, Allentown, PA ...	49 CFR 173.154(a)(17)	Authorizes the transportation of ammonium nitrate solution in DOT Specification 111a100W1 lined and insulated tank car tanks. (mode 2).
10096–X	Energia Y Industrias Aragonesas, S.A., Madrid, Spain.	49 CFR 173.163	Authorizes the use of non-DOT specification multi-wall, plastic lined paper bags, palletized and shrink wrapped in plastic for shipment of an oxidizer. (modes 1, 2, 3).
10102–X	ENPAC Corporation, Jacksonville, FL.	49 CFR 173.3(c)	To authorize manufacture, marking, and sale of a polyethylene, removable head drum not to exceed 20 gallon capacity for overpacking damaged or leaking packaging for disposal of hazardous that have spilled or leadked; or for transporting certain hazardous materials. (modes 1, 2).
10227–X	Caire, Inc., Bloomington, MN	49 CFR 173.316, 175.3, 178.57(8)(b), 178.57–2, 178.57–8(c).	Authorizes the manufacture, marking, and sale of insulated non-DOT specification cylinders for shipments of liquid oxygen. (modes 1,4).
10232–P	Aerosol Systems, Macedonia, OH.	49 CFR 173.304	To become a party to exemption 10232 (modes 1, 2, 3, 4).
10242–P	ENPAC Corporation, Jacksonville, FL.	49 CFR 173, Subparts D, E, F, H.	To authorize manufacture, marking, and sale of a polyethylene, removable head drum not to exceed 20 gallon capacity for transporting certain solid hazardous materials. (modes 1, 2).
10360–P	Zeneca, Inc., Wilmington, DE	49 CFR 173.346	To become a party to exemption 10360 (mode 1).
10453–X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE.	49 CFR 173.300(i)	Authorizes a change in the definition of dispersant and refrigerant gases. (modes 1, 2).
10570–P	Albax, Inc., Holland, MI	49 CFR 173.245(b)	To become a party to exemption 10570 (modes 1, 2, 3).
10778–N	Liquid Carbonic Specialty Gas Corporation, Chicago, IL.	49 CFR 173.34(15)	To authorize alternative testing criteria for cylinders in service bans that have been used for transporting flammable and non-flammable gases or oxidizers. (mode 1).
10917–X	Eagle-Picher Industries, Inc., Joplin, MO.	49 CFR 172.101, 172.301, 172.400, 173.212, 173.213.	Authorizes the transportation of cells and batteries containing sodium (liquid or solid) and which may contain sulfur (liquid or solid). (modes 1, 2, 3, 4).
11031–P	Weyerhaeuser Company, Tacoma, WA.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Stone Forest Industries, Inc., Grants Pass, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Oregon Trucking Association, Inc., Roseburg, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Boise Cascade Corporation, Boise, ID.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Timber Products Trucking, Inc., Central Point, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).

WITHDRAWAL EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11031–P	Akzo Nobel Coatings Inc., Salem, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Empire Rubber & Supply Co., Portland, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Medite Corporation, Medford, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Williamette Industries, Inc., Portland, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11031–P	Oregon Trucking Associations, Inc., Portland, OR.	49 CFR Part 173, Subpart F ..	To become a party to exemption 11031 (mode 1).
11197–P	Chem Coast Inc., La Porte, TX.	49 CFR Part 172, Subparts C and D except 172.312.	To exempt from shipping papers, marking and labeling requirements limited quantities of various hazardous materials known as test kits in specially designed packaging. (mode 1).
11533–N	Research Products Co., Salina, KS.	49 CFR 172.500, 172.504, 172.506.	To authorize the transportation in commerce of an aluminum phosphide based pesticide which meets the definition of a Division 4.3 material to be shipped as aluminum phosphide pesticide, a Division 6.1 material. (mode 1).
11365–N	Akzo Nobel Chemicals, Inc., Chicago, IL.	49 CFR 176.83	To authorize transportation in commerce of Division 4.2 and 4.3 materials in the same cargo transport unit. (mode 3).
11426–N	Laidlaw Environmental Services Inc., LaPorte, TX.	49 CFR 177.848(d)	To authorize the transport, loading and storage of Division 4.2 hazardous wastes in non-bulk and bulk packages on the same transport vehicle with Class 8 liquid hazardous materials. (mode 1).
11427–N	Georgia Gulf Corp., Plaquemine, LA.	49 CFR 179.201–1, 179.201–7.	To authorize the transportation of safety vent rupture discs rated higher than 60 psig burst pressure on DOT 111A60W1 tank cars in sodium hydroxide solution service. (mode 2).
11488–N	Sea Containers, Washington, DC.	49 CFR 173.244	To authorize the transpiration of demountable ISO tank container built to DOT–51 specification constructed of 316L stainless steel for use in transporting titanium tetrachloride, Class 8. (modes 1, 2, 3).
11518–N	Petroleum Marketers Assoc. of America, Arlington, VA.	49 CFR 180.405(b), (c), (g), (h), (j), 180.407(c), (d)(1), (e), (g), (h), (i).	To authorize an alternative testing and inspection procedure of small cargo tanks of 3,500 gallons or less carrying petroleum products. (mode 1).
11532–N	APD Cryogencis Inc., Allentown, PA.	49 CFR 173.306	To authorize the transportation of a refrigeration machine that utilizes a mixture containing propane and nitrogen in quantities that exceed those specified. (modes 1, 3, 4, 5).
11544–N	DuPont Merck Pharmaceutical Co., N. Billerica, MA.	49 CFR 172.203(d)(4), 172.403(g)(2).	To authorize the transportation of non-bulk packages containing low-level radioactive isotopes with becquerel units for curie units specifying the quantity on shipping papers and labels transported by public highway without prior or subsequent air transport. (mode 1).
11547–N	RTS Technology, Inc., North Andover, MA.	49 CFR 173.431	To authorize the transportation of up to 27 curies of radioactive material in special form in Type A package. (modes 4, 5).
11556–N	Pursuit Marketing, Inc., Northbrook, IL.	49 CFR 173.302(a)(1), 173.304, 178.42.	To authorize the manufacture, mark, and sale of non-DOT specification cylinder for use in transporting Division 2.1 and 2.2. (modes 1, 2, 3, 4, 5).
11576–N	Tempo Products Co., Cleveland, OH.	49 CFR 178.509(7)	To authorize the manufacture, mark and sale of non-DOT specification containers of polyethylene resin for use in transporting fuel in amounts that exceed the capacity rate. (mode 1).
11635–N	SAES Pure Gas, Inc., San Luis Obispo, CA.	49 CFR 173.212	To authorize the transportation in commerce of a specially designed argon gas purifier containing a flammable solid, inorganic, n.o.s. Division 4.1. (modes 1, 3, 4).
11648–N	Ill. Dept. of Nuclear Safety, Springfield, IL.	49 CFR 173.421(b)	To authorize the transportation in commerce of emergency response instrument kits that contain radioactive material that exceed the limited quantity radiation level. (mode 1).
11652–P	Best Foods, Inc., Englewood Cliffs, NJ.	49 CFR 173.203(a), 173.150(b), 173.152(b), 173.154(b), 173.155(b), 173.306 (a) & (b) Appendix B to subpart B of Part 107.	To become a party to exemption 11652 (mode 1).
11726–N	American Petroleum Institute, Washington, DC.	49 CFR 173.24b	To authorize the transportation in commerce of tank cars that are exempt from the summer and winter filling densities for liquids and liquefied gases. (mode 2).

DENIALS

8308–P	Request by Senate Transportation Systems, Inc. Franklin Park, NJ to authorize the carriage of radioactive materials aboard highway vehicles when the combined transport index exceeds 50 and or the separation criteria cannot be met denied April 29, 1996.
9164–P	Request by Fabricated Metals, Inc. San Leandro, CA to authorize the manufacture, marking, and sale of a non-DOT specification steel portable tank of 345 gallon capacity, with removable head, for shipment of waste paint and waste paint sludge denied May 29, 1996.
9769–X	Request by Advanced Environmental Technology Corporation Flanders, NJ to authorize the multi-modal transportation of labpacks with partial relief from segregation requirements denied February 5, 1996.
11249–N	Request by UOP Shreveport, LA to authorize rail cars to be connected during unloading of various Class 3, 8 and 9 material without the physical presence of an unloader denied May 29, 1996.
11315–N	Request by Southern Pacific Lines Houston, TX to authorize diesel fuel, Class 3, filled tank cars to remain attached to connectors during unloading without thee physical presence of a unloader denied June 7, 1996.
11413–N	Request by Dow Chemical, NA Midland, MI to authorize the transportation in commerce of methyl chloride, Division 2.1, in DOT 105A500W tank cars built after August 31, 1981 equipped with modified excess flow check valves denied May 29, 1996.
11453–N	Request by Heatec, Inc. Chattanooga, TX to authorize the transportation in commerce of a flammable liquid in non-DOT specification steel portable tanks permanently fitted within an ISO frame denied March 29, 1996.
11501–N	Request by Interstate Battery System of America, Inc. Dallas, TX to authorize the transportation of batteries inside specially designed vehicles denied April 4, 1996.
11529–N	Request by Matheson Gas Products Secaucus, NJ to authorize the transportation of Division 2.3, PIH, Zone A material in DOT-Specification 3AL aluminum cylinders denied April 1, 1996.
11554–N	Reqest by Kosdon Enterprises Ventura, CA to authorize the transportation in commerce of motor fuel modules containing not more than 1500 grams to propellant per module to be shipped in prescribed packaging as flammable solids, Division 4.1 denied June 11, 1996.
11558–N	Request by Service Oil Co. West Fargo, ND to authorize the transportation of DOT 111A200WI tank cars, containing diesel fuel, which exceed the weight limitations denied June 7, 1996.
11564–N	Request by Nippon Sharyo Ltd. Toyokawa, Aichi, JA to authorize the transportation in commerce of a pressure-liquefied non-flammable refrigerant gas in non-DOT specification steel portable tanks permanently fitted with an ISO frame with openings which are located in the shell below liquid levels lines and are not grouped together with the other openings denied April 29,1996.
11566–N	Request by Nippon Sharyo Ltd. Toyokawa, Aichi, JA to authorize the manufacture, mark and sale of non-DOT specification steel portable tanks equipped with openings not grouped together for use in transporting flammable and non-flammable refrigerant gasses denied April 29, 1996.
11567–N	Request by Brownie Tank Mfg. Co. Minneapolis, MN to authorize the emergency transportation of truck tanks equipped with welded joints and heads for use in transporting fuel oil denied February 5, 1996.
11582–N	Request by Mapco Alaska Petroleum, Inc. North Pole, AL to authorize the use of a 29 inch rigid aluminum pipe wrench from end of handle to outer jaw for use in ''securing closures'' on outlet value caps of tank cars denied May 29, 1996.

[FR Doc. 97–7532 Filed 3–25–97; 8:45 am]
BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before April 10, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Application no.	Applicant	Renewal of exemption
10677–M	Primus AB, S–71 26 Solna, SW (See Footnote 1)	10677
11055–M	Environmental Transport Systems, Inc., Fargo, ND (See Footnote 2)	11055
11827–M	Nippon Riku-un Sangyo Co., Ltd., Tokyo, JP (See Footnote 3)	11827
11829–M	TRW Automotive Queen Creek, AZ (See Footnote 4)	11829

(1) To modify the exemption to authorize a larger design container conforming to DOT Specification 2P, except for size, testing requirements and marking, for the transportation of a Division 2.1 material.

(2) To modify the exemption to provide for Class 3, and 8 and Division 4.2 and 5.1 as additional classes of hazardous materials for transportation in combination packaging.

(3) To reissue the exemption originally issued on an emergency basis and modify the exemption to provide for Division 6.1 material as an additional class for transportation in IM portable tanks.

(4) To reissue exemption originally issued on an emergency basis to authorize the manufacture, mark and sale of non-DOT specification collapsible, non-reusable woven polypropylene bulk bags for use in transporting sodium azide, Division 6.1.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 20, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 97–7556 Filed 3–25–97; 8:45 am]

BILLING CODE 4910–60–M

Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 25, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW, Washington, DC 20590.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on March 20, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of Exemption Thereof
11814–N	11814–N	The Columbiana Boiler Co., Columbiana, OH.	49 CFR 178.245	To manufacture, mark and sell non-DOT specification steel portable tanks permanently fitted within an ISO frame similar to DOT–51 portable tanks for use in transporting those hazardous materials as authorized in DOT-Specification 51 portable tanks. (modes 1, 2, 3).
11839–N	RSPA–97–2217	Williams Field Services, Opal, WY.	49 CFR 177.834(i)	To authorize loading of cargo tank containing Class 3 and Division 2.1 material without the physical presence of an unloader. (mode 1).
11840–N	RSPA–97–2218	TRW Vehicle Safety Systems, Inc., Queen Creek, AZ.	49 CFR 172 Subparts D&E, 173.51(a), 173.62(c).	To authorize the transportation in commerce of passenger air bag inflator classed in Division 1.4 and Division 4.1, to be transported without required marking and labeling in reusable plastic trays banded or strapped to pallets. (mode 1).
11841–N	RSPA–97–2224	Stepan Co., Northfield, IL	49 CFR 179.200–16	To authorize the transportation in commerce of tank cars equipped with alternative loading and unloading devices to be transported without required DOT exemption markings for use in the shipment of Class 9 material. (mode 2).
11842–N	RSPA–97–2226	Maine State Ferry Service, Augusta, MA.	49 CFR 176.89(a)(6)	To authorize the transportation in commerce of tank trucks carrying fuel oil, Class 3 to be transported in ferry service without an operator staying with the vehicle. (mode 3).
11843–N	RSPA–97–2227	Shell Chemical Co., Houston, TX.	49 CFR 173.31(f)(1) & (2).	To authorize an exemption from the requirement to modify, reassign, retire, or remove at least 50 percent of in-service tank car fleet used for the transportation of a hazardous substance. (mode 2).
11844–N	RSPA–97–2228	Evergreen International Airlines, Inc., McMinnville, OR.	49 CFR 172.101, Col 9B, 172.204(a) and (c), 173.27, 173.54(j), 175.30(a)(1) App. B to subpart B of part 107.	To authorize the transportation in commerce of explosives, Division 1, that are forbidden or exceed the quantity limitation for transportation by air. (mode 4).
11847–N	RSPA–97–2229	Energy & Environmental Tech. Co., Southfield, MI.	49 CFR 173.188(a)(2)	To authorize the transportation in commerce of Division 4.2 material contained in hermetically sealed warheads overpacked in 55 gallon 1A2 drums instead of 30 gallon steel drums. capacity. (mode 1).

[FR Doc. 97–7557 Filed 3–25–97; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Privacy Act of 1974; System of Records

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of a proposed New Privacy Act system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Financial Crimes Enforcement Network (''FinCEN''), Department of the Treasury (Treasury), gives notice of a proposed new Treasury—wide system of records entitled the ''Suspicious Activity Reporting System (the ''SAR System'')—Treasury/DO.212.''

DATES: Comments must be received no later than April 25, 1997. The proposed system of records will become effective without further notice April 25, 1997, unless comments are received that result in a contrary determination and notice is published to that effect.

ADDRESSES: Written comments should be sent to Office of Legal Counsel, FinCEN, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182–2536, Attention: SAR System of Records. Comments will be made available for inspection and copying by appointment. Persons wishing such an opportunity should call Eileen Dolan, (703) 905–3590.

FOR FURTHER INFORMATION CONTACT: Cynthia A. Langwiser, Attorney-Advisor, Office of Legal Counsel, FinCEN, (703) 905–3582.

SUPPLEMENTARY INFORMATION:

This new Privacy Act system of records is proposed to be established for the retention, retrieval, and dissemination of information, reported by financial institutions or certain of their affiliates to the Federal Government, concerning suspicious transactions and known or suspected criminal violations occurring by, at, or through such institutions. Suspicious transaction reporting is required by rules issued by FinCEN and the five supervisory agencies that examine and regulate the safety and soundness of financial institutions, namely the Board of Governors of the Federal Reserve System (the ''Board''), the Office of the Comptroller of the Currency (''OCC''), the Federal Deposit Insurance Corporation (''FDIC''), the Office of Thrift Supervision (''OTS''), and the National Credit Union Administration (''NCUA'') (collectively, the ''Federal Supervisory Agencies'').[1]

The requirements of FinCEN and the Federal Supervisory Agencies create an integrated system for reporting suspicious activity and known or suspected crimes. Under these requirements, financial institutions file a single uniform Suspicious Activity Report (a ''SAR'') with FinCEN. Previously, a financial institution reporting a known or suspected violation of law was required to file multiple copies of criminal referral forms with its Federal financial regulatory agency and Federal law enforcement agencies. Each Federal financial regulatory agency had promulgated a different form. Under the new system, a financial institution meets its obligation to report a known or suspected violation of law by filing one copy of a SAR with FinCEN.

SAR records are maintained in an automated database that is operated by agreement among FinCEN and the Federal Supervisory Agencies. FinCEN manages the automated SAR System, which is housed at the Internal Revenue Service Computing Center in Detroit, Michigan. The SAR System contains the suspicious activity information filed by financial institutions and related information concerning criminal prosecutions, civil actions, enforcement proceedings and investigations of concern to FinCEN and the Federal Supervisory Agencies. Currently, these categories of records are included in an existing Privacy Act system of records, FinCEN Data Base, Treasury/DO .200.[2] However, in order to provide more current and detailed information about these categories of records, a new and separate Privacy Act system of records is being created.

This single information system for the use of such reports is a key part of the integrated system. The SAR System will permit enhanced analysis and tracking of the information contained in the reports, and rapid dissemination to appropriate Federal and state law enforcement and supervisory agencies. As a central repository for investigatory or enforcement information, the SAR System will permit analysis, retrieval, and dissemination of information by the Federal Supervisory Agencies, by appropriate Federal, state, and local law enforcement agencies, state banking supervisory agencies, and by FinCEN itself (SAR Users).[3] In addition, the SAR System will permit dissemination of information, where appropriate, to non—United States financial regulatory agencies and law enforcement authorities. The SAR System will thereby improve efforts to prevent, identify, and enforce the laws against financial wrongdoing.

Because records in this database are generated under 31 U.S.C. 5318(g)(4), which authorizes the Secretary of the Treasury to designate a single agency to whom suspicious activity reports shall be made, access to and use of these records will be governed by the routine uses set forth in this notice. Accordingly, the routine uses reflect sharing among Federal Supervisory Agencies and law enforcement authorities. Additionally, the safeguards provide that on—line access to the computerized database is limited to authorized individuals who have been issued a password and nontransferable identifier.

Because information in the SAR System may be retrieved by personal identifier, the Privacy Act of 1974 requires the Treasury Department to give general notice and seek public comments about creation of this new separate system of records. A new system of records report, as required by 5 U.S.C. 552a(r), has been submitted to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (''OMB''). See Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' 61 FR 6428, 6435 (February 20, 1996). The proposed system of records, Suspicious Activity Reporting System—Treasury/

[1] FinCEN and the Federal Supervisory Agencies have all published rules requiring such reporting. See the rules publshed by FinCEN, the Board, OCC, FDIC, OTS and NCUA, respectively, at: 61 FR 4326 (February 5, 1996); 61 FR 4338 (February 5, 1996); 61 FR 4332 (February 5, 1996); 61 FR 6095 (February 16, 1996); 61 FR 6100 February 16, 1996); 61 FR 11526 (March 21, 1996).

[2] In addition, the Federal Supervisory Agencies have modified their existing Privacy Act Systems of Records to reflect the new interagency suspicious activity reporting process and the use of the database maintained and managed by FinCEN pursuant to the agreement. See the notices published by the Board, OCC, FDIC, OTS, and NCUA, respectively, at 60 FR 44347 (August 25, 1995); 60 FR 64239 (December 14, 1995); 60 FR 52001 (October 4, 1995); 60 FR 64241 (December 14, 1995) and 61 FR 8689 (March 5, 1996).

[3] In accordance with 31 U.S.C. 5318(g), data from the SAR System is exchanged, retrieved, and disseminated, both manually and electronically among FinCEN, the Federal Supervisory Agencies, appropriate Federal, state, and local law enforcement agencies, and state banking supervisory agencies. Section 5318(g)(4)(B) specifically require that the agency designated as the repository for suspicious transaction reports refer those reports to any appropriate law enforcement or supervisory agency.

DO 212, is published in its entirety below.

Dated: February 3, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

TREASURY/DO .212

SYSTEM NAME:

Suspicious Activity Reporting System (the ''SAR System'').

SYSTEM LOCATION:

The SAR System is housed at the Internal Revenue Service Computing Center (''DCC'') in Detroit, Michigan and is managed by the Financial Crimes Enforcement Network (''FinCEN''), 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182, with the assistance of the staff of DCC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The SAR System contains information about—(1) Individuals or entities that are known perpetrators or suspected perpetrators of a known or suspected Federal criminal violation, or pattern of criminal violations, committed or attempted against a financial institution, or participants in a transaction or transactions conducted through the financial institution, that has been reported by the financial institution, either voluntarily or because such a report is required under the rules of FinCEN, one or more of the Federal Supervisory Agencies (the Board of Governors of the Federal Reserve System (''the Board''), the Office of the Comptroller of the Currency (''OCC''), the Federal Deposit Insurance Corporation (''FDIC''), the Office of Thrift Supervision (''OTS''), and the National Credit Union Administration (''NCUA'') (collectively, the ''Federal Supervisory Agencies'')), or both.

(2) Individuals or entities that are participants in transactions, conducted or attempted by, at or through a financial institution, that have been reported because the institution knows, suspects, or has reason to suspect that: (a) the transaction involves funds derived from illegal activities, the transaction is intended or conducted to hide or disguise funds or assets derived from illegal activities as part of a plan to violate or evade any law or regulation or to avoid any transaction reporting requirement under Federal law;(b) the transaction is designed to evade any regulations promulgated under the Bank Secrecy Act, Pub. L. 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5330; or (c) the transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction;

(3) Individuals who are directors, officers, employees, agents, or otherwise affiliated with a financial institution;

(4) Individuals or entities that are actual or potential victims of a criminal violation or series of violations;

(5) Individuals who are named as possible witnesses in connection with matters arising from any such report;

(6) Individuals or entities named as preparers of any such report;

(7) Individuals or entities named as persons to be contacted for assistance by government agencies in connection with any such report;

(8) Individuals or entities who have or might have information about individuals or criminal violations described above; and

(9) Individuals or entities involved in evaluating or investigating any matters arising from any such report.

CATEGORIES OF RECORDS IN THE SYSTEM:

The SAR System contains information reported to FinCEN by financial institutions on a Suspicious Activity Report (''SAR'') required under the authority of FinCEN or one or more of the Federal Supervisory Agencies, or both. SARs contain information about the categories of persons or entities specified in ''Categories of Individuals Covered by the System.'' The SAR System may also contain records pertaining to criminal prosecutions, civil actions, enforcement proceedings, and investigations resulting from or relating to SARs. Additionally, it will contain records pertaining to criminal prosecutions, civil actions, enforcement proceedings, and investigations relating to institutions required to file reports or under the supervision of one or more of the Federal Supervisory agencies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 31 U.S.C. 5318(g); 31 CFR part 103; 31 U.S.C. 321; and Department of the Treasury Order 105–08.

PURPOSE(S):

The requirements of FinCEN and the Federal Supervisory Agencies create an integrated process for reporting suspicious activity and known or suspected crimes by, at, or through depository institutions and certain of their affiliates. The process is based on a single uniform SAR filed with FinCEN.

The SAR System has been created, as a key part of this integrated reporting process, to permit coordinated and enhanced analysis and tracking of such information, and rapid dissemination of SAR information to appropriate law enforcement and supervisory agencies. The provisions of 31 U.S.C. 5318(g)(4)(B) specifically require that the agency designated as repository for SARs refer those reports to any appropriate law enforcement or supervisory agency.

Data from the SAR System will be exchanged, retrieved, and disseminated, both manually and electronically among FinCEN, the Federal Supervisory Agencies, appropriate Federal, state, and local law enforcement agencies, and state banking supervisory agencies. Agencies to which information will be referred electronically, which in certain cases may involve electronic transfers of batch information, include the Federal Supervisory Agencies, the Federal Bureau of Investigation (FBI), the Criminal Investigation Division of the Internal Revenue Service, the United States Secret Service, the United States Customs Service, the Executive Office of the United States Attorneys and the Offices of the 93 United States Attorneys, and state bank supervisory agencies and certain state law enforcement agencies, which have entered into appropriate agreements with FinCEN. (The FBI and Secret Service may receive electronic transfers of batch information as forms are filed to permit those agencies more efficiently to carry out their investigative responsibilities.) Organizations to which information is regularly disseminated are referred to as SAR System Users. It is anticipated that information from the SAR system will also be disseminated to other appropriate Federal, state, or local law enforcement organizations and regulatory agencies that enter into appropriate agreements with FinCEN. In addition, information may be disseminated to non-United States financial regulatory and law enforcement agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to:

(1) Provide information or records, electronically or manually, to SAR System Users relevant to the enforcement and supervisory programs and operations of those Users;

(2) Provide SAR System Users and their Executive Departments with

reports that indicate the number, amount, individual identity, and other details concerning potential violations of the law that have been the subject of Suspicious Activity Reports;

(3) Provide information or records to any appropriate domestic or non-United States governmental agency or self-regulatory organization charged with the responsibility of administering law or investigating or prosecuting violations of law, or charged with the responsibility of enforcing or implementing a statute, rule, regulation, order, or policy, or charged with the responsibility of issuing a license, security clearance, contract, grant, or benefit, when relevant to the responsibilities of these agencies or organizations.

(4) Provide information or records, when appropriate, to international and foreign governmental authorities in accordance with law and formal or informal international agreement;

(5) Disclose on behalf of a SAR System User, the existence, but not necessarily the content, of information or records to a third party, in cases where a SAR System User is a party or has a direct interest and where the SAR System User has concluded that such disclosure is necessary;

(6) Provide information or records to the Department of Justice, or in a proceeding before a court, adjudicative body, or other administrative body before which the SAR System User is authorized to appear, when (a) the SAR System User, or any component thereof; or (b) any employee of the SAR System User in his or her official capacity; or (c) any employee of the SAR System User, where the Department of Justice or the SAR System User has agreed to represent the employee; or (d) the United States is a party to litigation or has an interest in such litigation, when the SAR System User determines that litigation is likely to affect the SAR System User or any of its components and the use of such records by the Department of Justice or the SAR System User is deemed by the SAR System User to be relevant and necessary to the litigation, provided, however, that in each case it has been determined that the disclosure is compatible with the purpose for which the records were collected;

(7) Disclose information or records to individuals or entities to the extent necessary to elicit information pertinent to the investigation, prosecution, or enforcement of civil or criminal statutes, rules, regulations, or orders;

(8) In accordance with Executive Order 12968 (August 2, 1995), provide information or records to any appropriate government authority in connection with investigations and reinvestigations to determine eligibility for access to classified information to the extent relevant for matters that are by statute permissible subjects of inquiry.

(9) Provide, when appropriate, information or records to a bar association, or other trade or professional organization performing similar functions, for possible disciplinary action;

(10) Provide information or records to the Department of State and to the United States Intelligence Community, within the meaning of Executive Order 12333 (December 4, 1981) to further those agencies' efforts with respect to national security and international narcotics trafficking;

(11) Furnish analytic and statistical reports to government agencies and the public providing information about trends and patterns derived from information contained on Suspicious Activity Reports, in a form in which individual identities are not revealed; and

(12) Disclose information or records to any person with whom FinCEN, the DCC or a SAR System User contracts to provide consulting, data processing, clerical, or secretarial functions relating to the official programs and operations of FinCEN, DCC, or the SAR System User.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in magnetic media and on hard paper copy.

RETRIEVABILITY:

Data in the SAR System may be retrieved by sectionalized data fields (i.e., name of financial institution or holding company, type of suspected violation, individual suspect name, witness name, and name of individual authorized to discuss the referral with government officials) or by the use of search and selection criteria.

SAFEGUARDS:

The system is located in a guarded building that has restricted access. Access to the computer facilities and any paper records is subject to additional physical safeguards that restrict access. Access to any electronic records in the system is restricted by means of passwords and non-transferable identifiers issued to authorized SAR System Users. The system complies with all applicable security requirements of the Department of the Treasury.

RETENTION AND DISPOSAL:

Records in this system will be updated periodically to reflect changes, and will be maintained in electronic form as long as needed for the purpose for which the information was collected. Records will then be disposed of in accordance with applicable law.

SYSTEM MANAGER AND ADDRESS:

Deputy Director, Financial Crimes Enforcement Network, United States Department of the Treasury, 2070 Chain Bridge Road, Suite 200, Vienna, Virginia 22182.

NOTIFICATION PROCEDURE:

This system is exempt from notification requirements, record access requirements, and requirements that an individual be permitted to contest its contents, pursuant to the provisions of 5 U.S.C. § 552a(j)(2) and (k)(2).

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above.

RECORD SOURCE CATEGORIES:

Records in this system may be provided by or obtained from: individuals; financial institutions and certain of their affiliates; Federal Supervisory Agencies; State financial institution supervisory agencies; domestic or foreign governmental agencies; foreign or international organizations; and commercial sources. Pursuant to the provisions of 5 U.S.C. 552a(j)(2) and (k)(2), this system is exempt from the requirement that the record source categories be disclosed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

[FR Doc. 97–7559 Filed 3–25–97; 8:45 am]

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Federal Register

Wednesday
March 26, 1997

Part II

Department of Health and Human Services

Administration for Children and Families

Request for Applications Under the Office of Community Services' Fiscal Year 1997 Discretionary Grants Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–97–01]

Request for Applications Under the Office of Community Services' Fiscal Year 1997 Discretionary Grants Program

AGENCY: Office of Community Services, ACF, DHHS.

ACTION: Request for applications under the Office of Community Services' Discretionary Grants Program.

SUMMARY: The Administration for Children and Families, Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the Secretary's discretionary authority under sections 681(a) and (b) of the Community Services Block Grant Act of 1981, as amended. This Program Announcement consists of nine parts:

Part A covers information on legislative authorities and defines terms used in the Program Announcement;

Part B provides details on application prerequisites, funds available in each priority area, limitations on grant amounts, project periods, who should benefit from the programs, and other application requirements;

Part C lists the two program priority areas under which grants will be made, describes the types of projects that will be considered for funding under each priority area, and defines which organizations are eligible to apply;

Part D provides the criteria for review and evaluation of each application to program elements of the program priority area;

Part E describes the application procedures, including the availability of forms, where and how to submit an application, the criteria used in screening and compliance with Federal requirements regarding the drug-free workplace and debarment requirements in submitting the application;

Part F describes the contents of the application package and receipt process;

Part G provides instructions for completing the SF–424 following standard Federal guidelines as well as OCS specific requirements, and describes how the project narrative should be ordered and presented;

Part H details post-award information and reporting requirements; and

Part I provides for an appendices of additional applicable Federal Regulations in Attachments A–K.

CLOSING DATE: The closing time and date for receipt of applications is 4:30 p.m. (Eastern Standard Time) May 27, 1997. Applications received after 4:30 p.m. on that day will be classified as late. Postmarks and other similar documents do not establish receipt of an application. Detailed application submission instructions including the addresses where applications must be received, are found in Part E of this announcement.

FOR FURTHER INFORMATION CONTACT: Joseph Carroll, Office of Community Services, Division of Community Discretionary Programs, Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, D.C. 20447, telephone (202) 401–9345 and fax (202) 401–4687.

Table of Contents

Part A—Preamble

1. Legislative Authority

Section 681(a) and 681(b)(2) of the Community Services Block Grant Act, as amended, authorizes the Secretary to make funds available to support program activities of national or regional significance to alleviate the causes of poverty in distressed communities with special emphasis on community and economic development activities.

2. Departmental Goals

This announcement is particularly relevant to the Departmental goal of strengthening the American family and promoting self-sufficiency. These programs have objectives of increasing the access of low-income people to employment and business development opportunities, and improving the integration, coordination, and continuity of the various HHS (and other Federal Departments') funded services potentially available to families living in poverty.

3. Definition of Terms

For purposes of this Program Announcement the following definitions apply:

—Budget Period: The interval of time into which a grant period of assistance is divided for budgetary and funding purposes.

—Cash Contributions: The cash outlay which includes the money contributed to the project or program by the recipient and third parties.

—Community Development Corporation: A private, nonprofit entity, governed by a board consisting of residents of the community and business and civic leaders, which has as a principal purpose planning, developing, or managing low-income housing or community development projects.

—Community Economic Development (CED): An economic process by which a community uses its resources to attract capital and increase business development and job opportunities for its residents. CED enhances the quality of the economic and physical environment of the community.

—Construction Projects: For the purpose of this announcement, construction projects involve land improvements and development or major renovation of (new or existing) facilities and

buildings, including their improvements, fixtures and permanent attachments.

—Displaced Worker: An individual who is in the labor market but has been unemployed for six months or longer.

—Distressed Community: A geographic urban neighborhood or rural community of high unemployment and pervasive poverty.

—Eligible Applicant: (See appropriate Priority Area under Part C.)

—Employment Education and Training Program: A program that provides education and/or training to welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals and that has demonstrated organizational experience in education and training for these populations (TANF, JTPA, etc).

—Empowerment Zones and Enterprise Communities: Those communities designated as such by the Secretaries of Agriculture or Housing and Urban Development.

—Equity Investment: The provision of capital to an organization for use as working capital or for some other specified purpose in return for a portion of ownership.

—Indian Tribe: A tribe, band, or other organized group of Indians recognized in the State in which it resides or which is considered by the Secretary of the Interior to be an Indian tribe or an Indian organization for any purpose. For the purpose of Priority Area 1.0 (Urban and Rural Community Economic Development) an Indian tribe or Indian organization is ineligible unless the applicant organization is a private non-profit community economic development corporation.

—Job Creation: New jobs that are realized as a result of the OCS funded project which includes development of either new or expanding business, service, physical and commercial activities. The jobs created must not have been in existence prior to the start of the project. Note: Job creation is to be distinguished from job placement services.

—Job Placement: Placing a person in an existing vacant job of a business, service, or commercial activity not related to new development or expansion activity.

—Job Retention: Jobs that are saved as a result of the OCS grant. (For example, saving a business that may be headed towards bankruptcy or stopping a business that may be relocating which would cause the loss of low-income jobs).

—Letter of Commitment: A signed, written binding pledge from a grantor or lender of funds for a specified purpose which sets forth terms and conditions only subject to receiving an award of OCS Grant Funds.

—Loan: Money lent to a borrower under a binding pledge for a given purpose to be repaid, usually at a stated rate of interest and within a specified period of time.

—Poverty Income Guidelines: The guidelines, published annually by the U.S. Department of Health and Human Services, which establish the level of poverty defined as low-income for individuals and their families.

—Program Income: Gross income earned by the recipient (during the project period) that is directly generated by a supported activity or earned as a result of the award.

—Project Period: The total time for which a project is approved for OCS support, including any approved extensions.

—Revolving Loan Fund: A capital fund established to make loans whereby principal repayments of loans are re-paid into the fund and re-lent to other borrowers.

—Self-employment: The state of an individual or individuals who engage in self-directed economic activities.

—Self-sufficiency: The economic state not requiring public assistance for an individual and his (her) immediate family.

—Technical Assistance: A problem-solving event generally utilizing the services of an expert. Such services may be provided on-site, by telephone, or by other communications. These services address specific problems and are intended to assist with the immediate resolution of a given problem or set of problems.

—Temporary Assistance to Needy Families (TANF): Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104–193) creates the TANF program which transforms welfare into a system that requires work in exchange for time-limited assistance. The law specifically eliminates any individual entitlement to or guarantee of assistance, repeals the Aid to Families with Dependent Children (AFDC) program, Emergency Assistance (EA) and Job Opportunities and Basic Skills Training (JOBS) programs, and replaces them with a Block grant entitlement to States under Title IV of the Social Security Act.

—Third Party In-kind Contributions: The value of non-cash contributions provided by non-federal third parties which may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefitting and specifically identifiable to the project or program.

Part B—Application Prerequisites

1. Eligible Applicants

Priority areas included in this Program Announcement have differing eligibility requirements. Therefore, eligible applicants are identified in the individual priority area descriptions found in Part C.

2. Availability of Funds

a. All grant awards are subject to the availability of appropriated funds. Approximately $25,332,000 is available for FY 1997. The approximate amount of funds anticipated to be available for each Priority Area is summarized below:

Priority area	Fiscal year 1997 funds
Priority Area 1.0 Urban and Rural Community Economic Development:	
1.1 Urban and Rural Community Economic Development (Operational)	$15,772,000
1.2 Urban and Rural Community Economic Development (HBCU Set-Aside)	2,100,000
1.3 Urban and Rural Community Economic Development (Pre-Developmental Set-Aside)	750,000
1.4 Urban and Rural Community Economic Development (Developmental Set-Aside)	2,500,000
1.5 Administrative and Management Expertise (Set Aside)	500,000
1.6 Training & Technical Assistance (Set Aside)	210,000
Priority Area 2.0 Rural Community Development Activities:	
2.1 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)	3,500,000

b. *Grant Amounts.* The approximate amounts to be granted for projects under the Priority Areas are indicated below:

Sub-priority area	Funding limit
1.1	Approximately 10 at $700,000. Approximately 20 at $350,000.
1.2	Approximately 6 at $350,000.
1.3	Approximately 10 at $75,000.
1.4	Approximately 10 at $250,000.
1.5	Approximately 1 at $500,000.
1.6	Approximately 1 at $210,000.
2.1	Approximately 8 from $300,000–$533,000.

3. Project and Budget Periods

For Sub-Priority Areas 1.1, 1.2, and 1.4, applicants with projects involving construction only, may request project and budget periods of up to 36 months. Applicants for non-construction projects under these priority areas may request projects and budget periods of up to 17 months. Sub-Priority Areas 1.5, and 1.6 may request project and budget periods of up to 17 months. For Sub-Priority Area 2.1, grantees will be funded for a 12 month project period. For Sub-Priority Area 1.3, applicants may request project and budget periods of up to 12 months.

4. Mobilization of Resources

OCS encourages and strongly supports leveraging of resources through public/private partnerships which can mobilize cash and/or third-party in-kind contributions.

5. Program Beneficiaries

Projects proposed for funding under this Announcement must result in direct benefits to low-income people as defined in the most recent Annual Revision of Poverty Income Guidelines published by DHHS.

Attachment A of the appendices to this Announcement is an excerpt from the Poverty Income Guidelines currently in effect. Annual revisions of these guidelines are normally published in the **Federal Register** in February or early March of each year. Grantees will be required to apply the most recent guidelines throughout the project period. These revised guidelines may be obtained at public libraries, Congressional offices, or by writing the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, D.C. 20402. Also, see ''For Further Information Contact'' at the beginning of this Announcement.

No other government agency or privately-defined poverty guidelines are applicable for the determination of low-income eligibility for these OCS programs.

Note, however, that low-income individuals granted lawful temporary resident status under Sections 245A or 210A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986 (Public law 99–603) may not be eligible for direct or indirect assistance based on financial need under this program for a period of five years from the date such status was granted.

6. Number of Projects in Application

An application may contain only one project except for Sub-Priority Areas 1.3, 1.5, and 1.6 where applicants are researching various opportunities, are sharing administrative and management expertise with current OCS grantees, or are providing training and/or technical assistance for current OCS grantees, including the organization of seminars and other activities in assisting Community Development Corporations. Applications which are not in compliance with this requirement will be ineligible for funding.

7. Multiple Submittals

There is no limit to the number of applications that can be submitted under a specific program priority area as long as each application contains a proposal for a different project. However, an applicant can receive only one grant in each Priority Area. Also applicants that receive more than one grant for a common budget/project periods must be mindful that salaries and wages claimed for the same persons cannot collectively exceed 100% of total annual salary.

8. Sub-contracting or Delegating Projects

OCS does not fund projects where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which funding is requested.

9. Previous Performance and Current Grants

Previous performance of applicants will be considered an important determining factor in the grant award decisions. Any applicant which has three or more active OCS grants may only be funded under exceptional circumstances.

Part C—Program Priority Areas

The program priority areas of the Office of Community Services' Discretionary Grants Program are as follows:

Priority Area 1.0 Urban and Rural Community Economic Development

Sub-Priority Areas under 1.0

- 1.1 Urban and Rural Community Economic Development (Operational).
- 1.2 Urban and Rural Community Economic Development (HBCU Set-Aside).
- 1.3 Urban and Rural Community Economic Development (Pre-Developmental Set-Aside).
- 1.4 Urban and Rural Community Economic Development (Developmental Set-Aside).
- 1.5 Administrative and Management Expertise (Set-Aside)
- 1.6 Training and Technical Assistance (Set-Aside)

Priority Area 2.0 Rural Community Development Activities

Sub-Priority Area under 2.1

- Rural Community Facilities Development (Water and Waste Water Treatment Systems Development).

Priority Area 1.0 Urban and Rural Community Economic Development

Eligible applicants are private, non-profit community development corporations (CDCs) governed by a board consisting of residents of the community and business and civic leaders which have as a principal purpose planning, developing, or

managing low-income housing or community development projects.

The purpose of this priority area is to encourage the creation of projects intended to provide employment and business development opportunities for low-income people through business, physical or commercial development. Generally the opportunities must aim to improve the quality of the economic and social environment of AFDC/TANF recipients; low-income residents including displaced workers; at-risk teenagers; noncustodial parents, particularly those of children receiving AFDC/TANF assistance; individuals residing in public housing; individuals who are homeless; and those with developmental disabilities. It is intended to provide resources to eligible applicants (CDCs) but also has the broader objectives of arresting tendencies toward dependency, chronic unemployment, and community deterioration in urban and rural areas. Sub-Priority Area 1.5 is intended to provide administrative and management expertise to current Office of Community Services' grantees who are experiencing problems in the implementation of urban and rural community economic development projects. Sub-Priority Area 1.6 is intended to provide training and technical assistance to groups of community development corporations in developing or implementing projects funded under this section and to generally enhance the viability and competence of community development corporations.

This program also seeks to attract additional private capital into distressed communities, including empowerment zones and enterprise communities, and to build and/or expand the ability of local institutions to better serve the economic needs of local residents.

Sub-Priority Area 1.1 Urban and Rural Community Economic Development (Operational)

Funds will be provided to a limited number of private non-profit community development corporations for business development activities at the local level. Funding will be provided for specific projects and will require the submission of work plans and/or business plans that meet the test of economic feasibility.

For Fiscal Year 1997, it is anticipated that approximately twenty (20) grants up to a maximum of $350,000 will be awarded and approximately ten (10) grants over $350,000 but up to $700,000 will be made. Competition for these funds will be restricted to either the $350,000 and under or over $350,000 but up to $700,000 categories. Each category of funds will compete only among themselves.

Projects must further the Departmental goals of strengthening American families and promoting their self-sufficiency. OCS is particularly interested in receiving applications that stress public-private partnerships that are directed toward the development of economic self-sufficiency in distressed communities through projects that focus on providing employment and business development opportunities for low-income people through business, service, physical and commercial development.

Applicants located in empowerment zones and enterprise communities are urged to submit applications. Likewise, applicants are encouraged to foster partnerships with child support enforcement agencies to increase the capability of low-income noncustodial parents, particularly those of children receiving AFDC/TANF assistance, to fulfill their parental responsibilities. Such applicants may request funds for a business development project or a project that demonstrates innovative ways to create jobs for low income persons in the targeted group or community.

Applications must show that the proposed project:

(1) Creates full-time permanent jobs except where an applicant demonstrates that a permanent part-time job produces actual wages that exceed the HHS poverty guidelines. Seventy-five percent (75%) of those jobs created must be filled by low-income residents of the community and must also provide for career development opportunities. Project emphasis should be on employment of individuals who are unemployed or on public assistance, with particular emphasis on those that are at-risk teenagers; AFDC/TANF recipients; low-income noncustodial parents, particularly those of children receiving AFDC/TANF assistance; individuals residing in public housing; and individuals who are homeless. While projected employment in future years may be included in the application, it is essential that the focus of employment projects concentrate on those jobs created during the duration of the OCS project period; and/or

(2) Creates a significant number of business development opportunities for low-income residents of the community or significantly aids such residents in maintaining economically viable businesses; and

(3) Provides for establishing the self-sufficiency of program participants.

In the evaluation process, favorable consideration will be given to applicants under this priority area who show the lowest cost-per-job created. Unless there are extenuating circumstances, OCS will not fund projects where the cost-per-job in OCS funds exceeds $15,000.

In addition, favorable consideration in the evaluation process will be given to applicants who demonstrate their intention to coordinate services with the local AFDC/TANF offices and/or other employment education and training offices and child support enforcement agencies that serve the proposed area. The offices and agencies should serve welfare recipients, at-risk youth, public housing tenants, displaced workers, homeless and low-income individuals (as defined by the Annual Revision to Poverty Income Guidelines published by DHHS) including noncustodial parents. Applicants should submit a written agreement from the applicable office or agency that indicates what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. The agreement should include the goals and objectives (including target groups) that the applicant and the employment education and training office and child support enforcement agency expect to reach through their collaboration. It should describe the cooperative relationship, including specific activities and/or actions each of these entities proposes to carry out in support of the project, and the mechanism(s) to be used in coordinating those activities if the project is funded by OCS. Documentation that illustrates the organizational experience of the employment education and training office should also be included.

Any applicant which proposes to use the requested OCS funds to make an equity investment such as the purchase of stock, or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, in addition to submission of a business plan, must include the terms of the proposed transaction. For example, regarding a stock purchase, the cost per share, number of shares and percentage of ownership is needed. Also the application must include a written agreement with the third party that commits the latter to the following:

1. A minimum of 75% of the jobs to be created under the grant will be for low-income individuals.

2. The grantee will have authority to screen applicants for jobs to be filled by

low-income individuals and to verify their eligibility.

3. The grantee will have a seat on the Board of Directors of the third party's firm if the grantee's investment equals 25% or more of the firm's assets. (Not applicable to loans made to third parties.)

4. Reports will be made on a regular basis to the grantee on the use of grant funds.

5. A procedure will be developed to assure that there are no duplicate counts of jobs created.

6. Detailed information will be provided on how the grant funds will be used by the third party by submitting a Source and Use of Funds Statement. In addition, the agreement will provide details on how the community development corporation will provide support and technical assistance to the third-party in areas of recruitment and retention of low-income individuals.

OCS encourages applications that will develop linkages or agreements with local agencies responsible for administering AFDC/TANF programs and child support enforcement agreements. OCS would expect these programs to create new jobs for AFDC/TANF recipients; and low-income noncustodial parents, particularly those of children receiving AFDC/TANF assistance. These initiatives can be accomplished through a variety of business development projects funded under this priority area, i.e., business expansions, new business development and self-employment activities, etc.

OCS does not fund education and training programs. In projects where participants must be trained, any funds that are proposed to be used for training purposes must be limited to providing specific job-related training to those individuals who have been selected for employment in the grant supported project which includes development of either new or expanding business, service, physical and commercial activities.

Projects involving training and placement for existing vacant positions will be disqualified.

Projects which would result in the relocation of a business from one geographic area to another with the possible displacement of employees are discouraged.

OCS will not consider applications that propose to establish or expand revolving loan funds nor proposals that are geared towards the establishment of Small Business Investment Corporations or Minority Enterprise Small Business Investment Corporations.

OCS does not anticipate approving the funding of applications which propose to sub-grant all or most of the grant activities to an unrelated entity.

Applicants must be aware that projects funded under this priority area must be operational by the end of the project period, i.e., businesses must be in place, and low-income individuals actually employed in those businesses.

See Part G 8 for special instructions on developing a program narrative for this priority area.

Sub-Priority Area 1.2 Urban and Rural Community Economic Development (HBCU Set-Aside)

For Fiscal Year 1997, it is anticipated that a set-aside fund of $2,100,000 will be included under this priority area for eligible applicants that submit projects that will be carried out in conjunction with Historically Black Colleges and Universities (HBCU), as defined in Executive Order Number 12677, dated April 28, 1989, through contract or sub-grant. Such projects must conform to the purposes, requirements and prohibitions applicable to those submitted under Sub-Priority Area 1.1.

These projects should reflect a significant partnership role for the college or university, and the applicant in doing so will be considered to have fulfilled the goals of the evaluation criterion for Public-Private Partnerships and will be granted the maximum number of points in that category. Applications for these set-aside funds which are not funded due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under Sub-Priority Area 1.1.

Any funds that are not used under this sub-priority area due to the limited number of highly scored applications will be rolled over into Sub-Priority Area 1.1.

Any funds that are proposed to be used for training purposes must be limited to providing specific job related training to those individuals who have been selected for employment in the grant supported project which includes development of either new or expanding business, service, physical and commercial activities.

See Part G 8 for special instructions on developing a work program for this priority area.

Sub-Priority Area 1.3 Urban and Rural Community Economic Development (Pre-Developmental Set-Aside)

OCS intends in this Sub-priority area to provide funds to recently-established private, non-profit community development corporations which propose to undertake economic development activities in distressed communities.

OCS recognizes that there are a number of newly-organized non-profit community development corporations which have identified needs in their communities but have not had the staff or other resources to develop projects to address those needs. This lack of resources also might be affecting their ability to compete for funds, such as those provided under Sub-priority area 1.1 (Operational Grants), since their limited resources would preclude them from developing a comprehensive business plan and/or mobilizing resources. OCS has an interest in providing support to these new entities in order to enable them to become more firmly established in their communities, thereby bringing technical expertise and new resources to these previously unserved or underserved communities. Therefore, OCS is setting aside funds in Fiscal Year 1997 for grants to private, non-profit community development corporations that have never received OCS funding; have been in existence for no more than three years or have been in existence longer than three years but have no record of participation in economic development type projects. For the latter, a CDC must state that it has not been active. Also, for this sub-priority area only, the phrase ''no participation in economic development type projects'' means an eligible applicant has not sponsored nor had any significant participation in projects that have provided employment or business development opportunities through business, service, physical and commercial activities. In addition, applicants with housing experience must not have significant participation in planning, developing and managing housing with an aggregate cost or investment value of $1 million or more. We anticipate that grants of up to $75,000 each will be made to eligible applicants. These grants will be made for a period of one year and will not require leveraged or mobilized funds.

These grants will be pre-developmental grants under which CDCs may incur costs to: (1) Evaluate the feasibility of potential projects which address identified needs in the low-income community and which conform to those projects and activities allowable under Sub-Priority Areas 1.1, 1.2, and 1.4; (2) develop a Business Plan related to one of those projects; and (3) mobilize resources to be contributed to one of those projects, including the utilization of HBCUs.

Based on the availability of funds in Fiscal Year 1998, OCS will consider establishing a set-aside to provide

operational funds to those organizations which received pre-developmental grants. Grants might be for a maximum of $250,000 and competition for those funds would be restricted to those organizations receiving Fiscal Years 1996 and 1997 pre-developmental grants. The Business Plan developed as a result of the pre-developmental grant would be submitted as part of the competitive application.

Specifically, each application for Fiscal Year 1997 funded under this Sub-priority Area must include the following as part of the project narrative:

1. Description of the impact area, i.e., a description of the low-income area it proposes to address;

2. Analysis of need in the distressed community;

3. How the potential projects relate to applicant's organizational goals and previous experience (if any);

4. Project design and implementation factors including a discussion of potential projects that might be implemented to address identified needs, a strategy for conduct of feasibility studies on potential projects and quarterly work plans with specific task timelines and a self-evaluation component; and

5. Project objectives and measurable impact, i.e., a discussion of preparing a business plan on only one selected project based on results of the feasibility studies and plan for mobilization of nondiscretionary dollars to implement it.

Applications for these set-aside funds which are not funded due to the limited amount of funds available may also be considered competitively within the larger pool of eligible applicants under Sub-Priority Area 1.1.

Sub-Priority Area 1.4 Urban and Rural Community Economic Development (Developmental Set-Aside)

OCS intends in this Sub-priority area to provide funds to organizations which received grants from OCS in Fiscal Years 1995 and 1996 under the Pre-Developmental grant program. These organizations will compete only among themselves. Such projects must conform to the purposes, requirements and prohibitions applicable to those submitted under Priority Area 1.1. Applications which are not funded within this set-aside due to the limited amount of funds available will also be considered competitively within the larger pool of eligible applicants under Sub-Priority Area 1.1.

Sub-Priority Area 1.5 Administrative and Management Expertise (Set-Aside)

OCS believes that one of the most effective means of assuring the successful operation of a project under the Discretionary Grants Program area is through the sharing amongst CDCs of their experiences in dealing with the day-to-day issues and challenges presented in promoting community economic development. Accordingly, OCS strongly encourages more experienced CDCs to share their administrative and management expertise with less experienced CDCs or with those who have encountered difficulties in operationalizing their work programs. In order to facilitate this, OCS will provide funds to one or more community development corporations to assist with their efforts to enhance the management and operational capacities of the less experienced CDCs or those having difficulties.

We anticipate that the grant(s) would be for a maximum of $500,000 with a project period not to exceed 17 months. OCS will share with the grantee(s) information on other grantees seeking to benefit from such assistance. Such formal requests could also be initiated by a grantee with the concurrence of OCS. These contacts may occur on-site, by telephone, or by other methods of communication. Costs incurred in connection with participating in such activities will be borne by the recipient(s) of the OCS grant under this sub-priority area.

Sub-Priority Area 1.6 Training and Technical Assistance (Set-Aside)

Funds will be awarded to one organization under this priority area for the purpose of providing training and technical assistance to strengthen the network of CDCs.

We anticipate that the grant will be for $210,000 with a grant period not to exceed 17 months. Applicant must have the ability to collect and analyze data nationally that may benefit CDCs and be able to disseminate information to all of OCS funded grantees; publish a national directory of funding sources for CDCs (public, corporate, foundation, religious); publish research papers on specific aspects of job creation by CDCs; design and provide information on successful projects and economic niches that CDCs can target. The applicant will also be responsible for the development of instructional programs, national conferences, seminars, and other activities to assist community development corporations.

Eligible applicants are private non-profit organizations. Applicants must operate on a national basis and have significant and relevant experiences in working with community development corporations.

Priority Area 2.0 Rural Community Development Activities

Sub-Priority Area 2.1 Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

Funds will be provided under this sub-priority area to help low-income rural communities develop the capability and expertise to establish and/or maintain affordable, adequate and safe water and waste water treatment facilities.

Funds provided under this Sub-priority area may not be used for construction of water and waste water treatment systems or for operating subsidies for such systems, but other mobilized funds may be used for these activities. Therefore, it is suggested that applicants coordinate projects with the Farmers Home Administration (FmHA) and other Federal and State agencies to ensure that funds for hardware for local community projects are available.

Eligible applicants are multi-state, regional private non-profit organizations that can provide training and technical assistance to small, rural communities in meeting their community facility needs.

See Part G 8 for special instructions on developing a program narrative for this priority area.

Part D—Criteria for Review and Evaluation of all Applications

1. Criteria for Review and Evaluation of All Applications Submitted Under Sub-Priority Areas 1.1, 1.2, and 1.4

(a) *Criterion I: Analysis of Need (Maximum: 5 points)* The application documents that the project addresses a vital need in a distressed community. (0–3 points)

Most recent available statistics and other information are provided in support of its contention. (0–2 points)

(b) *Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 25 points)*

(i) *Organizational Experience in Program Area (sub-rating: 0–15 points).*

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population. (0–5 points)

The applicant has demonstrated the ability to implement major activities in such areas as business development,

commercial development, physical development, or financial services; the ability to mobilize dollars from sources such as the private sector (corporations, banks, etc.), foundations, the public sector, including State and local governments, or individuals; that it has a sound organizational structure and proven organizational capability; and an ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities, and other benefits to community residents. (0–10 points)

(ii) *Staff Skills, Resources and Responsibilities (sub-rating 0–10 points).*

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. (0–2 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project. (0–3 points)

(c) *Criterion III: Project Implementation (Maximum: 25 points).*

The Work Plan, or Business Plan where appropriate, is both sound and feasible. Briefly the plan should describe the key work tasks and show how the project objectives will be accomplished including the development of business and creation of jobs for low-income persons during the allowable OCS project period. The project is responsive to the needs identified in the Analysis of Need. (0–5 points)

It sets forth realistic quarterly time targets by which the various work tasks will be completed. (0–5 points)

Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems. (0–5 points)

The application contains a full and accurate description of the proposed use of the requested financial assistance. Also, if the project proposes the development of a new or expanding business, service, physical or commercial activity, the application must address applicable elements of a business plan which are included in the section on ''Instructions for Completing Application Package'' of the Program Announcement. Special attention should be given to assure that the financial plan element, which indicates the project's potential and timetable for financial self-sufficiency, is included. It must include the following exhibits for the first three years (on a quarterly basis) of business' operations: Profit and Loss Forecasts, Cash Flow Projections and Proforma Balance Sheets. Also, an initial Source and Use of Funds statement for all project funding must be included. (0–10 points)

(d) *Criterion IV: Significant and Beneficial Impact (Maximum: 20 points).*

(i) *Significant and Beneficial Impact (sub-rating: Maximum: 0–5 points).*

The proposed project will produce permanent and measurable results that will reduce the incidence of poverty and AFDC/TANF assistance in the community. (0–3 points)

The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income communities, distressed communities, and/or designated enterprise zones and enterprise communities. (0–2 points)

(ii) *Community Empowerment Consideration and Partnership with Child Support Enforcement Agency (Maximum: 0–5 points).*

Special consideration will be given to applicants who are located in areas which are characterized by poverty and other indicators of socio-economic distress such as a poverty or AFDC/TANF assistance rate of at least 20%, designation as an Empowerment Zone or Enterprise Community (EZ/EC), high levels of unemployment, high levels of incidences of violence, gang activity, crime, drug use and low-income noncustodial parents of children receiving AFDC/TANF. (0–3 points)

Applicants should document that they were involved in the preparation and implementation of a comprehensive community-based strategic plan to achieve both economic and human development in an integrated manner; and how the proposed project will support the goals of that plan. Also applicants should document that they have entered into partnership agreements with local Child Support Enforcement agencies to increase capability of low-income parents and families to fulfill their parental responsibilities. (0–2 points)

Note: Applicants that have projects located in EZ/EC target areas or those who have included signed current agreements with child support enforcement agencies will automatically receive the maximum 2 points.

(iii) *Cost-per-Job (sub-rating: 0–5 points).*

During the project period, the proposed project will create new, permanent jobs or maintain permanent jobs for low-income residents at a cost-per-job below $15,000 in OCS funds *unless* there are extenuating circumstances, i.e., Alaska where the cost of living is much higher.

(**Note:** The maximum number of points will be given to those applicants proposing estimated cost-per-job for low-income residents of $10,000 or less of OCS requested funds. Higher cost-per-job estimates will receive correspondingly fewer points unless adequately justified by extenuating circumstances.)

(iv) *Career Development Opportunities (sub-rating: 0–5 points).*

The application documents that the jobs to be created for low-income people have career development opportunities which will promote self-sufficiency.

(e) *Criterion V: Public-Private Partnerships (Maximum: 20 points).*

(i) *Mobilization of resources (sub-rating: 15 points).*

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this subcriterion. Lesser contributions will be given consideration based upon the value documented.

Note 1: Cash resources such as cash or loans contributed from all project sources (except for those contributed directly by the applicant) must be documented by letters of commitment from third parties making the contribution. Third party in-kind contributions such as equipment or real property contributed by applicant or third parties must be documented by an inventory for equipment and a copy of deed or other legal document for real property. In addition, future or projected program income such as gross or net profits from the project or business operations will not be recognized as mobilized or contributed resources.

Note 2: Applicants under Sub-Priority Area 1.2 who have a signed, written agreement for a partnership with Historically Black Colleges and Universities are deemed to have fully met this criterion and will receive the maximum number of points if they include the agreement with the HBCU.

(ii) *Integration/coordination of services (sub-rating: 5 points).*

The applicant demonstrates a commitment to or agreements with local agencies responsible for administering, child support enforcement, employment, education and training programs (such as JTPA) to ensure that welfare recipients, at-risk youth, displaced workers, public housing tenants, homeless and low-income individuals and low-income noncustodial parents will be trained and placed in the newly created jobs. The applicant provides written agreements from the local AFDC/TANF or other employment, education and training office, and child support enforcement agency indicating what actions will be taken to integrate/coordinate services that relate directly to the project for which funds are being requested. (0–2 points)

Specifically, the agreements should include: (1) The goals and objectives that the applicant and (a) the AFDC/TANF or other employment, education and training office and/or (b) child support enforcement agency expect to achieve through their collaboration; (2) the specific activities/actions that will be taken to integrate/coordinate services on an on-going basis; (3) the target population that this collaboration will serve; (4) the mechanism(s) to be used in integrating/coordinating activities; (5) how those activities will be significant in relation to the goals and objectives to be achieved through the collaboration; and (6) how those activities will be significant in relation to their impact on the success of the OCS-funded project. (0–2 points)

The applicant should also provide documentation that illustrates the organizational experience related to the employment education and training program (refer to Criterion II for guidelines). (0–1 point)

(f) *Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 points).*

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. (0–2 points)

The application includes a detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. (0–2 points)

The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–1 point)

2. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.3

(a) *Criterion I: Analysis of Need (Maximum: 15 points).*

The application documents that there are clearly identified needs in a low-income community not being effectively addressed. (0–10 points)

Most recent available statistics and other information are provided in support of its contention. (0–5 points)

(b) *Criterion II: Organizational Capability and Capacity (Maximum: 20 Points).*

(i) *Organizational experience in program area (sub-rating: 5 Points).*

Each applicant must briefly show why their organization can successfully implement the project for which they are requesting funds. (0–3 points)

If an applicant has a history of prior achievements in economic development within the past three (3) years, it should address the relevance and effectiveness of those projects undertaken, especially their cost effectiveness and the relevance and effectiveness of any services and the permanent benefits provided to the targeted population. (0–2 points)

(ii) *Management capacity (sub-rating: 5 points).*

Applicants must fully detail their ability to implement sound and effective management practices and if they have been recipients of other Federal or other governmental grants, they must also detail that they have consistently complied with financial and program progress reporting and audit requirements. (0–3 points)

Applicants should submit any available documentation on their management practices and progress reporting procedures along with a statement by a Certified or Licensed Public Accountant as to the sufficiency of the applicant's financial management system to protect adequately any Federal funds awarded under the application submitted. (0–2 points)

Note: The documentation of the applicant's management practices, etc., and statement from the Accountant on the financial management system must address the applicant organization's own internal system rather than an external system of an affiliate, partner or management support organization, etc.

(iii) *Staffing (sub-rating: 5 points).*

The application must fully describe (e.g., resumes) the experience and skills of key staff showing that they are not only well qualified but that their professional capabilities are relevant to the successful implementation of the project.

(iv) *Staffing responsibilities (sub-rating: 5 points).*

The application must describe how the assigned responsibilities of the staff are appropriate to the tasks identified for the project.

(c) *Criterion III: Project Design, Implementation and Evaluation (Maximum: 30 Points).*

(i) *Project implementation component (sub-rating: 25 points).*

The work plan must address a clearly identified need in the low-income community described in Criterion I. The plan must include a methodology to evaluate the feasibility of potential projects that conform to the type projects and activities allowable under Sub-priority areas 1.1, 1.2, and 1.4 (0–10 points)

It must set forth realistic quarterly time schedules of work tasks by which the objectives (including the development of a business plan and mobilization of resources) will be accomplished. Because quarterly time schedules are used by OCS as a key instrument to monitor progress, failure to include these time targets will seriously reduce an applicant's point score in this criterion. (0–10 points)

It must define critical issues or potential problems that might impact negatively on the project and it must indicate how the project objectives will be attained notwithstanding any such potential problems. (0–5 points)

(ii) Evaluation component (sub-rating: 5 points).

All proposals should include a self-evaluation component. The evaluation data collection and analysis procedures should be specifically oriented to assess the degree to which the stated goals and objectives are achieved. (0–3 points)

Qualitative and quantitative measures reflective of the scheduling and task delineation in (1) above should be used to the maximum extent possible. This component should indicate the ways in which the potential grantee would integrate qualitative and quantitative measures of accomplishment and specific data into its program progress reports that are required by OCS from all pre-development grantees. (0–2 points)

(d) Criterion IV: Significant and Beneficial Impact (Maximum: 25 Points).

Funding under this Sub-priority area is targeted to result in a Business Plan for a proposed project. The proposed project around which the Business Plan is developed with the use of OCS grant funds must be targeted into low-income communities, and/or designated empowerment zones or enterprise communities with the goals of

increasing the economic conditions and social self-sufficiency of residents. Also the project proposes to produce permanent and measurable results that will reduce the incidence of poverty and AFDC/TANF recipients in the low-income area targeted. (0–20 points)

Note: This Sub-priority area permits applicants to conduct several feasibility studies related to various potential projects. However on completion of the studies, one proposed project must be selected and a business plan prepared for the selected project.

The activity targets mobilization of non-discretionary program dollars from private sector individuals, public resources, corporations, and foundations including the utilization of Historically Black Colleges and Universities, if the proposed project is implemented. (0–5 points)

(e) *Criterion V: Budget Appropriateness and Reasonableness (Maximum: 10 points).*

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–5 points)

The application includes a narrative detailed budget break-down for each of the budget categories in the SF 424–A. The applicant presents a reasonable administrative cost. (0–5 points)

3. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.5

(a) Criterion I: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 20 points).

(i) *Organizational Experience in Program Area (sub-rating: 0–10 points).*

Applicant has documented the capability to provide leadership in solving long-term and immediate problems locally and/or nationally in such areas as business development, commercial development, organizational and staff development, board training, and micro-entrepreneurship development. (0–2 points)

Applicant must document a capability (including access to a network of skilled individuals and/or organizations) in two or more of the following areas: Business Management, including strategic planning and fiscal management; Finance, including development of financial packages and provision of financial/accounting services; and Regulatory Compliance, including assistance with zoning and permit compliance. (0–2 points)

Further, the applicant has the demonstrated ability to mobilize dollars from sources such as the private sector (corporations, banks, foundations, etc.) and the public sector, including state and local governments. (0–2 points)

Applicant also demonstrates that it has a sound organizational structure and proven organizational capability as well as an ability to develop and maintain a stable program in terms of business, physical or community development activities that have provided permanent jobs, services, business development opportunities, and other benefits to poverty community residents. (0–2 points)

Applicants must indicate why they feel that their successful experiences would be of assistance to existing grantees which are experiencing difficulties in implementing their projects. (0–2 points)

(ii) *Staff Skills, Resources and Responsibilities (sub-rating 0–10 points).*

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but who has professional capabilities relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. (0–5 points)

The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. (0–3 points)

The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project. (0–2 points)

(b) *Criterion II: Work Program (Maximum: 30 points).*

Based upon the applicant's knowledge and experience related to OCS's Discretionary Grants Program (particularly community economic development), the application should demonstrate in some specificity a thorough understanding of the problems a grantee may encounter in implementing a successful project. (0–15 points)

The application should include a strategy for assessing the specific nature of the problems, outlining a course of action and identifying the resources required to resolve the problems. (0–15 points)

(c) *Criterion III: Significant and Beneficial Impact (Maximum: 30 points).*

Project funds under this sub-priority area must be used for the purposes of transferring expertise directly, or by a contract with a third party, to other OCS funded grantees. Applicants must document how the success or failure of collaboration with these grantees will be documented. (0–15 points)

Applicants must demonstrate an ability to disseminate results on the kinds of programmatic and administrative expertise transfer efforts in which they participated and successful strategies that they may have developed to share expertise with grantees during the grant period. (0–10 points)

Applicants must also state whether the results of the project will be included in a handbook, a progress paper, an evaluation report or a general manual and why the particular methodology chosen would be most effective. (0–5 points)

(d) *Criterion IV: Public-Private Partnerships (15 Points).*

The applicant demonstrates that it has worked with local, regional, state or national offices to ensure that AFDC/TANF recipients, at-risk youth, displaced workers, public housing tenants, low-income noncustodial parents, homeless and otherwise low-income individuals have been trained and placed in newly created jobs. (0–10 points)

Applicant should demonstrate how it will design a comprehensive strategy which makes use of other available resources to resolve typical and recurrent grantee problems. (0–5 points)

(e) *Criterion V: Budget Appropriateness and Reasonableness (Maximum: 5 points).*

Applicant documents that the funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a narrative detailed budget break-down for each of the appropriate budget categories in the SF–424A. (0–3 points).

The estimated cost to the government of the project also is reasonable in relation to the anticipated results. (0–2 points)

4. Criteria for Review and Evaluation of Applications Submitted Under Sub-Priority Area 1.6

(a) *Criterion I: Need for Assistance (Maximum: 10 points).*

The application documents that the project addresses a vital nationwide need related to the purposes of Priority

Area 1.0 and provides data and information in support of its contention.

(b) *Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 20 points).*

(i) *Organizational Experience.*

Applicant has documented the capability to provide leadership in solving long-term and immediate problems locally and/or nationally in such areas as business development, commercial development, organizational and staff development, board training, and micro-entrepreneurship development. Applicant must document a capability (including access to a network of skilled individuals and/or organizations) in two or more of the following areas: Business Management, including strategic planning and fiscal management; Finance, including development of financial packages and provision of financial/accounting services; and Regulatory Compliance, including assistance with zoning and permit compliance. (0–10 points)

(ii) *Staff Skills.*

The applicants's proposed project director and primary staff are well qualified and their professional experiences are relevant to the successful implementation of the proposed project. (0–10 points)

(c) *Criterion III: Work Plan (Maximum 35 points).*

Based upon the applicant's knowledge and experience related to OCS's Discretionary Grants Program (particularly community economic development), the applicant must develop and submit a detailed and specific work plan that is both sound and feasible. Specifically, the work plan should include the following elements:

(i) Demonstrate that all activities are comprehensive and nationwide in scope, and adequately described and appropriately related to the goals of the program.(0–10 points)

(ii) Demonstrate in some specificity a thorough understanding of the kinds of training and technical assistance that can be provided to the network of Community Development Corporations. (0–10 points)

(iii) Delineate the tasks and sub-tasks involved in the areas necessary to carry out the responsibilities to include training, technical assistance, research, outreach, seminars, etc. (0–5 points)

(iv) State the intermediate and end products to be developed by task and sub-task.(0–5 points)

(v) Provide realistic time frames and chronology of key activities for the goals and objectives. (0–5 points)

(d) *Criterion IV: Significant and Beneficial Impact (Maximum: 25 points).*

Project funds under this sub-priority area must be used for the purpose of providing training and technical assistance on a national basis to the network of Community Development Corporations.

Applicant must document how the success or failure of the assistance provided will be documented.

(i) Application should adequately describe how the project will assure long-term program and management improvements for Community Development Corporations; (0–10 points)

(ii) The project will impact on a significant number of Community Development Corporations; (0–10 points)

(iii) Applicant should document how the project will leverage or mobilize significant other non-federal resources for the direct benefit of the project; (0–5 points)

(e) *Criteria V: Budget Reasonableness (Maximum 10 points).*

(i) The resources requested are reasonable and adequate to accomplish the project. (0–5 points)

(ii) Total costs are reasonable and consistent with anticipated results. (0–5 points)

5. Criteria for Review and Evaluation of All Applications Under Priority Area 2.1

(a) *Criterion I: Analysis of Need (Maximum: 5 points).*

The application documents that the project addresses a vital need in a distressed community and provides statistics and other data and information in support of its contention.

(b) *Criterion II: Organizational Experience in Program Area and Staff Responsibilities (Maximum: 15 points).*

(i) *Organizational Experience in Program Area (sub-rating: 0–5 points)*

Documentation provided indicates that projects previously undertaken have been relevant and effective and have provided permanent benefits to the low-income population.

Organizations which propose providing training and technical assistance have detailed competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants also addresses related achievements and competence of each cooperating or sponsoring organization.

(ii) *Staff Skills, Resources and Responsibilities (sub-rating 0–10 points).*

The application describes in brief resume form the experience and skills of the project director who is not only well qualified, but his/her professional capabilities are relevant to the successful implementation of the project. If the key staff person has not yet been identified, the application contains a comprehensive position description which indicates that the responsibilities to be assigned to the project director are relevant to the successful implementation of the project. The applicant has adequate facilities and resources (i.e. space and equipment) to successfully carry out the work plan. The assigned responsibilities of the staff are appropriate to the tasks identified for the project and sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

(c) *Criterion III: Project Implementation (Maximum: 25 points).*

The Business Plan is both sound and feasible. The project is responsive to the needs identified in the Analysis of Need. It sets forth realistic quarterly time targets by which the various tasks will be completed. Critical issues or potential problems that might impact negatively on the project are defined and the project objectives can be reasonably attained despite such potential problems.

(d) *Criterion IV: Significant and Beneficial Impact (Maximum: 30 points).*

The application contains a full and accurate description of the proposed use of the requested financial assistance. The proposed project will produce permanent and measurable results that will reduce the incidence of poverty in the areas targeted and significantly enhance the self sufficiency of program participants. Results are quantifiable in terms of program area expectations, e.g., number of units of housing rehabilitated, agricultural and non-agricultural job placements, etc. The OCS grant funds, in combination with private and/or other public resources, are targeted into low-income and/or distressed communities and/or designated empowerment zones and enterprise communities.

(e) *Criterion V: Public-Private Partnerships (Maximum: 20 points).*

The application documents that the applicant will mobilize from public and/or private sources cash and/or in-kind contributions valued at an amount equal to the OCS funds requested. Applicants documenting that the value of such contributions will be at least equal to the OCS funds requested will receive the maximum number of points for this Criterion. Lesser contributions will be given consideration based upon the value documented.

(f) *Criterion VI: Budget Appropriateness and Reasonableness (Maximum: 5 points).*

Funds requested are commensurate with the level of effort necessary to accomplish the goals and objectives of the project. The application includes a narrative detailed budget break-down for each of the budget categories in the SF–424A. The applicant presents a reasonable administrative cost. The estimated cost to the government of the project also is reasonable in relation to the anticipated results.

Part E—Application Procedures

1. Availability of Forms

Attachments B, C, and D contain all of the standard forms necessary for the application for awards under these OCS programs. These forms may be photocopied for the application.

Copies of the **Federal Register** containing this announcement are available at most local libraries and Congressional District Offices for reproduction. If copies are not available at these sources, they may be obtained by telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this announcement. Also, the **Federal Register** can be found on the Internet through GPO access at the following web address: http://www.access.gpo.gov/su__docs/aces/aces140.html For purposes of this announcement, all applicants will use the following forms:

SF 424
SF 424A
SF 424B

Applications proposing construction projects will also present all required financial data using SF–424A. Instructions for completing the SF–424, SF–424A, and SF–424B are found in Attachments B, C, and D.

Part G contains instructions for the project abstract and project narrative. They will be submitted on plain bond paper along with the SF–424 and related forms.

Attachment K provides a checklist to aid applicants in preparing a complete application package for OCS.

The applicant must be aware that in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments E and F.

2. Application Submission

The closing time and date for receipt of applications are 4:30 p.m. (Eastern Standard Time) 60 days after publication in the **Federal Register**. Applications received after 4:30 p.m. will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U. S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S. W., Mail Stop 6C–462, Washington, D. C. 20447, Attention: Application for Discretionary Grants Program. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications handcarried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m., at the U. S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S. W., Washington, D. C. 20024, between Monday and Friday (excluding Federal holidays). (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

One signed original application and four copies are required. The first page of the SF–424 must contain in the lower right-hand corner, a designation indicating under which sub-priority area funds are being requested (for example 1.1, 1.2, 1.3, 1.4, 1.5, 1.6 or 2.1). See Part F, section 1, subsection 11 for details.

3. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, American Samoa, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia and Washington have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-three jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which they intend to trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment G of this announcement.

4. Application Consideration

Applications which meet the screening requirements in sections 5a and b below may be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program priority area guidelines and evaluation criteria published in this announcement.

Applications submitted under all priority areas (with the exception of Sub-Priority Area 1.6) will be reviewed by persons outside of the OCS unit which will be directly responsible for programmatic management of the grant. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since the Director may also consider other factors deemed relevant including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants. Applicants with three or more active OCS grants at the time of review may be denied funding. In addition, for applications received under 1.0, OCS will consider the geographic distribution of funds among States and the relative proportion of funding among rural and urban areas in accordance with Section 681(b)(1)(D) of the Act.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

5. Criteria for Screening Applicants

(a) Initial Screening

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(i) The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF 424B) completed according to instructions published in Parts F and G and Attachments B, C, and D of this Program Announcement.

(ii) A project abstract must also accompany the standard forms.

(iii) The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally.

(iv) The application must be submitted for consideration under one priority area only.

(b) Pre-rating Review

Applications which pass the initial screening will be forwarded to reviewers and/or OCS staff prior to the programmatic review to verify that the applications comply with this Program Announcement in the following areas:

(i) *Eligibility:* Applicant meets the eligibility requirements for the priority area under which funds are being requested. Proof of non-profit status, i.e. the IRS determination letter of tax exemption, must be included in the Appendices of the Project Narrative where applicable. Applicants must also be aware that the applicant's legal name as required in SF–424 (Item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

(ii) *Number of Projects:* An application may contain only one project under Sub-Priority Areas 1.1, 1.2 and 1.4. However, an application may contain more than one project under Sub-Priority Areas 1.3, 1.5, and 1.6 where applicants are researching various opportunities, sharing administrative and management expertise with current OCS grantees, or are providing assistance to current OCS grantees, or providing training and/or technical assistance for current OCS grantees, including the organization of seminars and other activities to assist Community Development Corporations and this project must be identified as responding to one of the program priority areas stated in this Announcement.

Applicants which are not in compliance with this requirement will be ineligible for funding.

(iii) *Grant amount:* The amount of funds requested does not exceed the limits indicated in Part C, 2, b for the appropriate priority area.

(iv) *Written Agreement When Applicant Proposes to Make Equity Investment, Loan, or Sub-Grant:* (Sub-Priority Areas 1.1, 1.2 and 1.4); The application contains a written agreement signed by the applicant and the third party which includes all of the elements required in Part C.

An application may be disqualified from the competition and returned if it does not conform to one or more of the above requirements.

(c) Evaluation Criteria

Applications which pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score for each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in the announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained under each program priority area as described in Part C.

(d) Paperwork Reduction

Under the Paperwork Reduction Act of 1995, Public Law 104–13. 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. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under OMB Control Number 0970–0062.

Part F—Contents of Application and Receipt Process

1. Contents of Application

Each application, whether involving construction or not, should include one original and four additional copies of the following:

I. A signed ''Application for Federal Assistance'' (SF–424);

II. ''Budget Information-Non-Construction Programs'' (SF–424A);

III. A signed ''Assurances-Non-Construction Programs'' (SF–424B);

IV. A Project Abstract (a paragraph which succinctly describes the project (in *500* characters or less));

V. A Project Narrative consisting of the following elements preceded by a consecutively numbered Table of Contents that will describe the project in the following order:

A. Eligibility Confirmation
B. Analysis of Need (except for Sub-Priorities 1.5 and 1.6)
C. Organizational Experience in Program Area and Staff Responsibilities

1. Organizational experience in program area
   a. Grantee
   b. CPA certification of management system (applies to Sub-priority Area 1.3 only)
2. Staff Skills, Resources and Responsibilities

D. Project Implementation
1. Includes work plan or business plan. See instructions in Part G, ''Instructions for Completing Application Package''.
2. Self evaluation component (applies to Sub-priority Area 1.3 only)

E. Significant and Beneficial Impacts
1. Significant and Beneficial Impacts
2. Cost Per Job (except Sub-priority Areas 1.3, 1.5 and 1.6)
3. Career Development Opportunities (except Sub-priority Areas 1.3, 1.5 and 1.6)
4. Strategy for mobilization of resources and development of business plan (applies to Sub-priority Area 1.3 only)

F. Public/Private Partnerships and Agreements

G. Budget Appropriateness and Reasonableness

VI. Appendices including: proof of nonprofit status by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the Articles of Incorporation bearing the seal of the State in which the corporation or association is domiciled; proof of CDC status by providing a copy of the purposes section of its Articles of Incorporation and a listing of the current Board of Directors' names, titles and addresses; resumes of the project director and other key management team members; written agreements i.e., third party participation, coordination with AFDC/TANF, etc.; Single Point of Contact comments, where applicable; certification regarding anti-lobbying activities; smokefree workplace assurance; a disclosure of lobbying activities, etc.

The application package should not exceed 65 pages for applications submitted under sub-priority areas 1.1, 1.2 and 1.4, and 30 pages for all applications submitted under the other sub-priority areas.

Applications should be two holed punched at the top center and fastened with a compressor slide paper fastener or a binder clip. The submission of bound applications, or applications enclosed in binders, is especially discouraged.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8 1/2 × 11 inch paper only. They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded, if included.

2. Acknowledgement of Receipt

All applicants will receive an acknowledgement notice with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their application which can be attached to this acknowledgement notice. The identification number and the program priority area letter code must be referred to in all subsequent communications with OCS concerning the application. If an acknowledgement is not received within three weeks after the deadline date, please notify ACF by telephone (202) 401–9365.

Part G—Instructions for Completing Application Package

It is suggested that the applicant reproduce the SF–424 and SF–424A, and type its organization's legal name on the copies. If an item on the SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested, write ''NA'' for ''Not Applicable.''

Prepare your application in accordance with the standard instructions given in Attachments B and C corresponding to the forms, as well as the OCS specific instructions set forth below:

1. *SF–424 ''Application for Federal Assistance.''*

Item 1. For the purposes of this announcement, all proposals are considered ''Applications''; there are no ''Pre-Applications.'' For the purpose of this announcement, construction projects involve land improvements and development or major renovation of (new or existing) facilities and buildings, including their improvements, fixtures and permanent attachments. All others are considered non-construction. Check the appropriate box under ''Application.'' Whether applications involve construction or non-construction projects, all applicants are required to complete the ''Budget Information—Non-construction Programs'' sections of SF 424A.

Items 2.—4. Self-Explanatory.

Items 5. and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (EIN) and the Payment Identifying Number (PIN), if one has been assigned, in the Block entitled ''Federal Identifier'' located at the top right hand corner of the form.

Item 7. If the applicant is a non-profit corporation, enter ''N'' in the box and specify ''non-profit corporation'' in the space marked ''Other.'' Any non-profit organization submitting an application must submit proof of its non-profit status in its applications at time of submission. The non-profit organization can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled. Notwithstanding the above requirements, each applicant must provide proof of CDC status by providing a copy of the purposes section of its Articles of Incorporation and a listing of its current Board of Directors showing each person's name, title, and local address.

Item 8. For the purposes of this announcement, all applications are ''New''.

Item 9. Enter DHHS–ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.570. The title is ''CSBG Discretionary Awards.''

Item 11. The following designations must be used to identify the program priority area:

UR—Sub-Priority Area 1.1. Urban and Rural Community Economic Development (Operational)

HB—Sub-Priority Area 1.2. Urban and Rural Community Economic Development (HBCU Set-Aside)

PD—Sub-Priority Area 1.3. Urban and Rural Community Economic Development (Pre-Developmental Set-Aside)

DD—Sub-Priority Area 1.4. Urban and Rural Community Economic Development (Developmental Set-Aside)

AM—Sub-Priority Area 1.5. Administrative and Management (Set-Aside)

UT—Sub-Priority Area 1.6. Technical Assistance (Set-Aside)

RF—Sub-Priority Area 2.1. Rural Community Facilities Development (Water and Waste Water Treatment Systems Development)

2. *SF–424A—''Budget Information—Non-Construction Programs.''*

See Instructions accompanying this form as well as the instructions set forth below:

In completing these sections, the ''Federal Funds'' budget entries will relate to the requested OCS discretionary funds only, and ''Non-Federal'' will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS discretionary funding should be included in ''Non-Federal'' entries.

The budget forms in SF–424A are only to be used to present grant administrative costs and major budget categories. Financial data that is generated as part of a project Business Plan or other internal project cost data must be separate and should appear as part of the project Business Plan or other project implementation data.

Sections A and D of SF–424A must contain entries for both Federal (OCS) and non-Federal (mobilized) funds. Section B contains entries for Federal (OCS) funds only. Clearly identified continuation sheets in SF–424A format should be used as necessary.

Section A—Budget Summary

Lines 1–4.

Col. (a):

Line 1 Enter ''CSBG Discretionary'';

Col. (b):

Line 1 Enter ''93.570'';

Col. (c) and (d):

Applicants should leave columns (c) and (d) blank.

Col. (e)-(g):

For line 1, enter in columns (e), (f) and (g) the appropriate amounts needed to support the project for the budget period.

Line 5 Enter the figures from Line 1 for all columns completed as required, (c), (d), (e), (f), and (g).

Section B—Budget Categories

Allowability of costs are governed by applicable cost principles set forth in 45 CFR Parts 74 and 92. A budget narrative must be submitted that includes the appropriate justifications as stated.

Columns (1) and (5):

In OCS applications, it is only necessary to complete Columns (1) and (5).

Column 1: Enter the total requirements for OCS Federal funds by the Object Class Categories of this section:

Personnel-Line 6a: Enter the total costs of salaries and wages of applicant/grantee staff only. A breakdown of amounts and percentage of time that comprises the salary must be noted. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits-Line 6b: Enter the total costs of fringe benefits unless treated as part of an approved indirect cost rate which is entered on line 6j. Provide a breakdown of amounts and percentages that comprise fringe benefit costs.

Travel-Line 6c: Enter total estimated costs of all travel by employees of the project. The purpose, traveler, number of days, airfare and per diem rates must be stated. Travel costs for the Executive Director or Project Director to attend a two day national workshop in Washington, D.C. should be included. Do not enter costs for consultant's travel. Provide justification for requested travel costs.

Equipment-Line 6d: Enter the total estimated costs of all non-expendable personal property to be acquired by the project. ''Non-expendable personal property'' means tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Supplies-Line 6e: Enter the total estimated costs of all tangible personal property (supplies) other than that included on line 6d. Identify the item, unit cost and quantity to be purchased.

Contractual-Line 6f: Enter the total estimated costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant. Identify the purpose and costs associated. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individual service contractors on this line. If available at the time of application, attach a list of contractors indicating the name of the organization, the purpose of the contract and the estimated dollar amount of the award.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must submit Sections A and B of this form (SF–424A), completed for each delegate agency by agency title, along with the required supporting information referenced in the applicable instructions. The total costs of all such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying name of contractor, purpose of contract and major cost elements.

Construction-Line 6g: Enter the estimated costs of renovation, repair, or new construction. Identify the type of construction activity and costs associated, i.e., concrete, HVAC, electrical, etc. Provide narrative justification and breakdown of costs.

Other-Line 6h: Enter the total of all other costs. Such costs, where applicable, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs. Note that costs identified as ''miscellaneous'' and ''honoraria'' are not allowable.

Total Direct Charges-Line 6i: Show the total of Lines 6a through 6h.

Indirect Charges-Line 6j: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another Federal agency or is awaiting such approval. With the exception of local governments and State agencies, applicants should enclose a copy of the current rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately, upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent DHHS Guide for Establishing Indirect Cost Rates, and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be charged as direct costs to the grant.

Totals-Line 6k: Enter the total amounts of Lines 6i and 6j. The total amount shown in Section B, Column (5), Line 6k, should be the same as the amount shown in Section A, Line 5, Column (e).

Program Income-Line 7: Enter the estimated amount of income, if any,

expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Column 5: Carry totals from Column 1 to Column 5 for all line items.

Section C—Non-Federal Resources

This section is to record the amounts of ''non-Federal'' resources that will be used to support the project. ''Non-Federal'' resources mean other than OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program, should be entered on these lines. Provide a brief listing of the non-Federal resources on a separate sheet and describe whether it is a grantee-incurred cost or a third-party in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the Public-Private Partnerships criterion.

Except in unusual situations, this documentation must be in the form of letters of commitment from the organization(s)/individuals from which funds will be received.

Line 8:

Column (a): Enter the project title.

Column (b): Enter the amount of contributions to be made by the applicant to the project.

Column (c): Enter the State contribution. If the applicant is a State agency, enter the non-Federal funds to be contributed by the State other than the applicant.

Column (d): Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e): Enter the total of columns (b), (c), and (d).

Lines 9, 10, and 11 should be left blank.

Line 12: Carry the total of each column of Line 8, (b) through (e). The amount in Column (e) should be equal to the amount on Section A, Line 5, column (f).

Section D—Forecasted Cash Needs

Line 13: Enter the amount of Federal (OCS) cash needed for this grant by quarter. During the budget period for grants which are more than twelve (12) months, submit a separate sheet for each additional twelve (12) months or portion thereof.

Line 14 Enter the amount of cash from all other sources needed by quarter during the budget period.

Line 15: Enter the total of Lines 13 and 14.

Section E—Budget Estimates of Federal Funds Needed for Balance of Project(s)

Completion not required

Section F—Other Budget Information

Line 21—Use this space and continuation sheets as necessary to fully explain and justify the major items included in the budget categories shown in Section B. Include sufficient detail to facilitate determination of allowability, relevance to the project, and cost benefits. Particular attention must be given to the explanation of any requested direct cost budget item which requires explicit approval by the Federal agency. Budget items which require identification and justification shall include, but not be limited to, the following:

A. Salary amounts and percentage of time worked for those key individuals who are identified in the project narrative;

B. Any foreign travel;

C. A list of all equipment and estimated cost of each item to be purchased wholly or in part with grant funds which meet the definition of nonexpendable personal property provided on Line 6d, Section B. Need for equipment must be supported in program narrative.

D. Contractual: Major items or groups of smaller items; and

E. Other: group into major categories all costs for consultants, local transportation, space, rental, training allowances, staff training, computer equipment, etc. Provide a complete breakdown of all costs that make up this category.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services.

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3. *SF–424B ''Assurances-Non-Construction.''*

All applicants, whether or not project involves construction, must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B, found at Attachment D, with their applications.

4. *Restrictions on Lobbying Activities*—Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification, found at Attachment H, with their applications.

5. *Disclosure of Lobbying Activities, SF–LLL*—Fill out, sign and date form found at Attachment H, if applicable.

6. *Certification Regarding Environmental Tobacco Smoke.*

Applicants must make the appropriate certification of their compliance with the Pro-Children Act of 1994. By signing and submitting the applications, applicants are providing the certification regarding environmental tobacco smoke and need not mail back the certification with their applications.

7. *Project Abstract.*

The project abstract is a brief summary of the project to include specific benefits such as number of jobs to be created, especially jobs for low-income individuals. The abstract must not exceed 500 characters (including words, spaces and punctuation) on a separate sheet of plain paper headed by the applicant's name as shown in item 5 of the SF 424 and the priority area number as shown by you at the bottom of the SF 424.

8. *Project Narrative.*

The application package including the narrative should not exceed 65 pages for the applications submitted under sub-priority areas 1.1, 1.2 and 1.4 and 30 pages under the other sub-priority areas.

The project narrative must address the specific concerns mentioned under the relevant priority area description in Part C. The narrative should provide information on how the application meets the evaluation criteria in Part D, of this Program Announcement and should follow the format below:

a. *Eligibility Confirmation.* This section must explain how the applicant has complied with each of the basic requirements listed in Part E, sections 5b(1)-(4), i.e., (1) that the applicant meets the eligibility requirements for the sub-priority area under which funds are being requested; (2) an application submitted under sub-priority areas 1.1, 1.2, 1.4, or 2.1, contains only one project; (3) the amount of funds requested does not exceed the limits indicated in Part B, Section 2b for the appropriate sub-priority area; (4) (Sub-Priority Areas 1.1, 1.2, and 1.4) if an applicant proposes to use OCS funds for an equity investment, a loan, or a sub-grant, the application contains a written

agreement signed by the applicant and the third party which includes all of the elements required in Part C. An application may be disqualified from the competition and returned if it does not conform to one or more of the above requirements.

b. *Analysis of Need.* The application should include a description of the target area and population to be served as well as a discussion of the nature and extent of the problem to be solved. It should also include documentation supportive of its needs assessment such as employment statistics, housing statistics, etc.

c. *Organizational Experience and Staff Responsibilities.* (i) *Organizational Experience.* Each applicant must document competence in the specific program priority area under which an application is submitted. Documentation must be provided which addresses the relevance and effectiveness of projects previously undertaken in the specific priority area for which funds are being requested and especially their cost effectiveness, the relevance and effectiveness of any services provided, and the permanent benefits provided to the low-income population. Organizations which propose providing training and technical assistance must detail their competence in the specific program priority area and as a deliverer with expertise in the fields of training and technical assistance. If applicable, information provided by these applicants must also address related achievements and competence of each cooperating or sponsoring organization.

Applicable to Sub-Priority Areas 1.1, 1.2, 1.4 and 1.5

Applicants in these priority areas must also document a firmly established and quantifiable performance record that shows the following:

—The ability to implement major activities such as business development, commercial development, physical development, or financial services;
—Successful working relationships within the community including public officials, financial institutions, corporations, other community organizations and residents;
—A sound asset base and organizational structure in terms of (a) net worth, (b) management stability, and (c) organizational capability;
—An ability to develop and maintain a stable program in terms of business, physical or community development activities that will provide needed permanent jobs, services, business development opportunities and other benefits to community residents, and impact on community-wide economic problems and needs;
—Sound administrative and fiscal systems and controls, and the ability to establish and maintain partnerships with the private sector in such forms as financial support, volunteerism or executives on loan.

(ii) *Staff Skills, Resources and Responsibilities.* The application must fully describe (e.g. a resume or position description) the experience and skills of the proposed project director showing that the individual is not only well qualified but that his/her professional capabilities are relevant to the successful implementation of the project.

The application must include statements regarding who will have the responsibilities of the chief executive officer, who will be responsible for grant coordination with OCS, and how the assigned responsibilities of the staff are appropriate to the tasks identified for the project. It must show clearly that sufficient time of senior staff will be budgeted to assure timely implementation and cost effective management of the project.

d. *Project Implementation.* The application must contain a detailed and specific workplan or business plan that is both sound and feasible. Generally, a business plan is required for applications submitted under sub-priority areas 1.1, 1.2 and 1.4. For all business ventures (except for business development opportunities for self-employed program participants) a complete business plan will be required using guidelines discussed in the next several paragraphs. For the remaining sub-priority areas, a workplan is acceptable in lieu of a business plan.

Please note that OCS does not require the application to contain business plans for each self-employed program participant. However, a project that proposes to provide self-employed and other business opportunities for program participants must include a development plan that shows how participants will become self-sufficient and how their technical assistance needs will be met.

Guidelines of a Business Plan

The business plan is one of the major components that will be evaluated by the OCS to determine the feasibility of a business venture or an economic development project. It must be well prepared and address all the relevant elements as follows:

(a) Executive Summary (limit summary to 3 pages).

(b) *The business and its industry.* This section should describe the nature and history of the business and provide some background on its industry.

(i) *The Business:* as a legal entity; the general business category;

(ii) *Description and Discussion of Industry:* current status and prospects for the industry;

(c) *Products and Services:* This section deals with the following:

(i) *Description:* Describe in detail the products or services to be sold;

(ii) *Proprietary Position:* Describe proprietary features if any of the product, e.g. patents, trade secrets;

(iii) *Potential:* Features of the product or service that may give it an advantage over the competition;

(d) *Market Research and Evaluation:* This section should present sufficient information to show that the product or service has a substantial market and can achieve sales in the face of competition;

(i) *Customers:* Describe the actual and potential purchasers for the product or service by market segment.

(ii) *Market Size and Trends:* State the size of the current total market for the product or service offered;

(iii) *Competition:* An assessment of the strengths and weaknesses of competitive products and services;

(iv) *Estimated Market Share and Sales:* Describe the characteristics of the product or service that will make it competitive in the current market;

(e) *Marketing Plan:* The marketing plan should detail the product, pricing, distribution, and promotion strategies that will be used to achieve the estimated market share and sales projections. The marketing plan must describe what is to be done, how it will be done and who will do it. The plan should address the following topics—Overall Marketing Strategy, Packaging, Service and Warranty, Pricing, Distribution and Promotion.

(f) *Design and Development Plans:* If the product, process or service of the proposed venture requires any design and development before it is ready to be placed on the market, the nature and extent and cost of this work should be fully discussed. The section should cover items such as Development Status and Tasks, Difficulties and Risks, Product Improvement and New Products, and Costs.

(g) *Manufacturing and Operations Plan:* A manufacturing and operations plan should describe the kind of facilities, plant location, space, capital equipment and labor force (part and/or full time and wage structure) that are required to provide the company's product or service.

(h) *Management Team:* The management team is the key in starting and operating a successful business. The

management team should be committed with a proper balance of technical, managerial and business skills, and experience in doing what is proposed. This section must include a description of: the key management personnel and their primary duties; compensation and/ or ownership; the organizational structure; Board of Directors; management assistance and training needs; and supporting professional services.

(i) *Overall Schedule:* A schedule that shows the timing and interrelationships of the major events necessary to launch the venture and realize its objectives. Prepare, as part of this section, a month-by-month schedule that shows the timing of such activities as product development, market planning, sales programs, and production and operations. Sufficient detail should be included to show the timing of the primary tasks required to accomplish each activity.

(j) *Critical Risks and Assumptions:* The development of a business has risks and problems and the Business Plan should contain some explicit assumptions about them. Accordingly, identify and discuss the critical assumptions in the Business Plan and the major problems that will have to be solved to develop the venture. This should include a description of the risks and critical assumptions relating to the industry, the venture, its personnel, the product's market appeal, and the timing and financing of the venture.

Also, if a ''construction project'' is involved, the Business Plan should identify and address briefly the project's timeframes and critical assumptions for conduct of predevelopmental, architectural/ engineering and environmental studies, etc., and acquisition of permits for building, use and occupancy that are required for the project.

(k) *Community Benefits:* The proposed project must contribute to economic, human and community development within the project's target area. A section that describes and discusses the potential economic and non-economic benefits to low-income members of the community must be included as well as a description of the strategy that will be used to identify and hire individuals being served by public assistance programs and how linkages with community agencies/ organizations administering the AFDC/TANF program will be developed. The following project benefits must be described:

Economic Development and Job Creation

—Number of permanent jobs (with particular emphasis on jobs for low-income people) that will be created during the project period. Also, for low-income people, provide the following information:
—Number of jobs that will have career development opportunities and a description of those jobs;
—Number of jobs that will be filled by individuals lifted from AFDC/TANF assistance;
—Number of Self-employed and other ownership opportunities created for low income residents;
—Annual salary expected for each person employed (net profit after deductions of business expenses for self-employed persons);
—Specific steps to be taken including on-going management support and technical assistance provided by the grantee or a third party to develop and sustain self-employed program participants after their businesses are in place.

Note: OCS will not recognize job equivalents nor job counts based on economic multiplier functions; jobs must be specifically identified.

Other benefits which might be discussed are:

Human Development

—New technical skills development and associated career opportunities for community residents;
—Management development and training;
—Benefits of self-sufficiency for persons lifted from AFDC/TANF assistance.

Community Development

—Development of community's physical assets;
—Provision of needed, but currently unsupplied, services or products to community;
—Improvement in the living environment.

(1) *The Financial Plan:* The Financial Plan is basic to the development of a Business Plan. Its purpose is to indicate the project's potential and the timetable for financial self-sufficiency. In developing the Financial Plan, the following exhibits must be prepared for the first three years of the business' operation:

(i) Profit and Loss Forecasts—quarterly for each year;

(ii) Cash Flow Projections—quarterly for each year

(iii) Pro forma balance sheets—quarterly for each year;

Also, additional financial information for the business operation that must be included are an initial Source and Use of Funds Statement for project funds and a brief summary paragraph discussing any further capital requirements and their sources.

If an applicant is proposing a project which will affect a property listed in, or eligible for inclusion in the National Register of Historic Places, it must identify this property in the narrative and explain how it has complied with the provisions of Section 106 of the National Historic Preservation Act of 1966 as amended. If there is any question as to whether the property is listed in or eligible for inclusion in the National Register of Historic Places, the applicant should consult with the State Historic Preservation Officer. (See Attachment D: SF–424B, Item 13 for additional guidance.) The applicant should contact OCS early in the development of its application for instructions regarding compliance with the Act and data required to be submitted to the Department of Health and Human Services. Failure to comply with the cited Act may result in the application being ineligible for funding consideration.

Applicable to Sub-Priority Areas 1.1, 1.2, and 1.4

Applications submitted under Sub-Priority Areas 1.1, 1.2 and 1.4 which propose to use the requested OCS funds to make an equity investment or a loan to a business concern, including a wholly-owned subsidiary, or to make a sub-grant with a portion of the OCS funds, must include a written agreement between the community development corporation and the recipient of the grant funds which contains all of the elements listed in Part C under the appropriate Priority Area.

Applicable to Sub-Priority Area 1.5 Only

An applicant in this priority area must document its experience and capability in several of the following areas:

Business/Development;
Micro-Entrepreneurship Development;
Commercial Development;
Organizational and Staff Development;
Board Training;
Business Management, including Strategic planning and Fiscal Management;
Finance, including Business Packaging and Financial/Accounting Services, and/or
Regulatory Compliance including Zoning and Permit Compliance
Incubator Development
Tax Credits and Bond Financing
Marketing

The applicant must document staff competence or the accessibility of third party resources with proven competence. If the work program requires the significant use of third party (consultant/contractor) resources, those résourcés should be identified and resumes of the individuals or key organizational staff provided.

Resumes of the applicant's staff, who are to be directly involved in programmatic and administrative expertise sharing, should also be included. The applicant must document successful experience in the mobilization of resources (both cash and in-kind) from private and public sources. The applicant must also clearly state how the information learned from this project may be disseminated to other interested grantees.

Applicable to Sub-Priority Area 1.6 only

An applicant in this priority area must document its experience and capability in implementing projects national in scope and have significant and relative experiences in working with Community Development Corporations.

The applicant must have the ability to collect and analyze data nationally that may benefit CDCs and be able to disseminate information to all of OCS funded grantees; publish a national directory of funding sources for CDCs (public, corporate, foundation, religious); publish research papers on specific aspects of job creation by CDCs; design and provide information on successful projects and economic niches that CDCs can target. The applicant will also be responsible for the development of instructional programs, national conferences, seminars, and other activities to assist community development corporations; and provide peer-to-peer technical assistance to OCS funded CDCs.

Applicable to Sub-Priority Area 2.1

Each applicant must include a full discussion of how the proposed use of funds will enable low-income rural communities to develop the capability and expertise to establish and maintain affordable, adequate and safe water and waste water systems. Applicants must also discuss how they will disseminate information about water and waste water programs serving rural communities, and how they will better coordinate Federal, State, and local water and waste water program financing and development to assure improved service to rural communities.

Among the benefits that merit discussion under this sub-priority area are: The number of rural communities to be provided with technical and advisory services; the number of rural poor individuals who are expected to be directly served by applicant-supported improved water and waste water systems; the decrease in the number of inadequate water systems related to applicant activity; the number of newly-established and applicant-supported treatment systems (all of the above may be expressed in terms of equivalent connection units); the increase in local capacity in engineering and other areas of expertise; and the amount of non-discretionary program dollars expected to be mobilized.

e. *Significant and Beneficial Impact and Other Criteria.*

The project narrative must address the remaining aspects of the project noted in the outline of Part F, ''Contents of Application and Receipt Process'', Items V and VI. These include a discussion of the ''Significant and Beneficial Impact, Public-Private Partnerships and Budget Appropriateness and Reasonableness'' areas as well as information to be included in the Appendices.

Part H—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award which provides the amount of Federal funds approved for use in the project, the budget period for which support is provided, the terms and conditions of the award, the total project period for which support is contemplated, and the total financial participation from the award recipient.

General Conditions and Special Conditions (where the latter are warranted) which will be applicable to grants, are subject to the provisions of 45 CFR Parts 74 and 92.

Grantees will be required to submit semi-annual progress and financial reports (SF–269) as well as a final progress and financial report.

Grantees are subject to the audit requirements in 45 CFR Parts 74 and 92 and OMB Circular A–128 or A–133. If an applicant will not be requesting indirect costs, it should anticipate in its budget request the cost of having an audit performed at the end of the grant period.

Section 319 of Public Law 101–121, signed into law on October 23, 1989, imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and their subtier contractors and/or subgrantees (1) To certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to submit a declaration setting forth whether payments to lobbyists have been or will be made out of nonappropriated funds and, if so, the name, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the nonappropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification. The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or made on or after December 23, 1989. See Attachment H for certification and disclosure forms to be submitted with the applications for this program.

Attachment I indicates the regulations which apply to all applicants/grantees under the Discretionary Grants Program.

Dated: March 18, 1997.

Donald Sykes,

Director, Office of Community Services.

Attachment A

Size of family unit	Poverty guideline
1996 Poverty Guidelines for the 48 Contiguous States and the District of Columbia	
1	$7,740
2	10,360
3	12,980
4	15,600
5	18,220
6	20,840
7	23,460
8	26,080
For family units with more than 8 members, add $2,226 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)	
1996 Poverty Guidelines for Alaska	
1	9,660
2	12,940

Size of family unit	Poverty guideline
3	16,220
4	19,500
5	22,780
6	26,060
7	29,340
8	32,620

For family units with more than 8 members, add $3,280 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1996 Poverty Guidelines for Hawaii

1	8,901
2	11,920
3	14,930
4	17,940
5	20,950
6	23,960
7	26,970
8	29,980

For family units with more than 8 members, add $3,010 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

BILLING CODE 4184–01–P

Attachments B, C, D

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

	2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction *Preapplication* ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

		–						

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		**14. CONGRESSIONAL DISTRICTS OF:**	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

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Instructions for the SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.

2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).

3. State use only (if applicable).

4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.

5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.

Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.

7. Enter the appropriate letter in the space provided.

8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.

—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.

—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.

10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.

11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

12. List only the largest political entities affected (e.g., State, counties, cities).

13. Self-explanatory.

14. List the applicant's Congressional District and any District(s) affected by the program or project.

15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.

16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.

17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.

18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–P

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:
23. Remarks	

SF 424A (4-88) Page 2
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Instructions for the SF–424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section 3 should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a–k of Section B.

Section A. Budget Summary

Lines 1–4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary total by programs.

Lines 1–4, Columns (c) Through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8–11—Enter amount of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

BILLING CODE 4184–01–P

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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BILLING CODE 4184-01-C

Attachment F—Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment G—OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3326, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. and Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid, III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Virginia Bova, State Single Point of Contact, Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Amy Brewer, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grant Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 1900 Edison Plaza, 660 Plaza Drive, Detroit, Michigan 48226, Telephone: (313) 961–4266, FAX: (313) 961–4869

Mississippi

Cathy Malette, Clearinghouse Officer, Department of Finance and Administration, 455 North Lamar Street, Jackson, Mississippi 39202–3087, Telephone: (601) 359–6762, FAX: (601) 359–6764

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Robert Peters, State Budget Division, Room 190 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

Please direct correspondence and questions about intergovernmental review to:

Linda Wise, Telephone: (614) 466–0698, FAX (614) 466–5400

Rhode island

Daniel W. Varin, Associate Director, Department of Administration/Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to:

Review Coordinator, Office of Strategic Planning

South Carolina

Omeagia Burgess, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street—Room 477, Columbia, South Carolina 29201, Telephone: (803) 734–0494, FAX: (803) 734–0385

Texas

Tom Adams, Governors Office, Director, Intergovernmental Coordination, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 463–1771, FAX: (512) 463–1888

Utah

Carolyn Wright, Utah State Clearinghouse, Office of Planning and Budget, Room 116, State Capitol, Salt Lake City, Utah 84114, Telephone: (801) 538–1535, FAX: (801) 538–1547

West Virginia

Fred Cutlip, Director, Community Development Division, W. Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone: (304) 558–4010, FAX: (304) 558–3248

Wisconsin

Martha Kerner, Section Chief, State/Federal Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–2125, FAX: (608) 267–6931

Wyoming

Sheryl Jeffries, State Single Point of Contact, Office of the Governor, State Capital, Room 124, Cheyenne, Wyoming 82002, Telephone: (307) 777–5930, FAX: (307) 632–3909

Territories

Guam

Mr. Giovanni T. Sgambelluri, Director, Bureau of Budget and management Research, Office of the Governor, P.O. Box 2950, Aganna, Guam 96910, Telephone: 011–671–472–2285, FAX: 011–671–472–2825

Puerto Rico

Norma Burgos/Jose E. Caro, Chairwoman/Director, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (809) 727–4444 or (809) 723–6190, FAX: (809) 724–3270 or (809) 724–3103

North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, State Single Point of Contact, Office of Management and Budget, Office of the Governor, Saipan, MP, Telephone: (670) 664–2256, FAX: (670) 664–2272

Contact Person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 644–2289, FAX: (670) 664–2272

Virgin Islands

Jose George, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to:

Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069

Attachment H—Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress; or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction impose by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

State for Loan Guarantee and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–P

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For Material Change Only:** year _____ quarter _____ date of last report _____

4. Name and Address of Reporting Entity:	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **Congressional District**, *if known*:
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*: _____
8. Federal Action Number, *if known*:	9. Award Amount, *if known*: $
10. a. Name and Address of Lobbying Entity (*if individual, last name, first name, MI*):	b. Individuals Performing Services (*including address if different from No. 10a*) (*last name, first name, MI*):

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

11. Amount of Payment (*check all that apply*):	13. Type of Payment (*check all that apply*):
$ _____ ☐ actual ☐ planned	☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other; specify: _____
12. Form of Payment (*check all that apply*): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____	

14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:

(attach Continuation Sheet(s) SF-LLL-A, if necessary)

15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No

16.	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	**Signature:** _____ **Print Name:** _____ **Title:** _____ **Telephone No.:** _____ **Date:** _____

Federal Use Only: **Authorized for Local Reproduction**
Standard Form - LLL

BILLING CODE 4184–01–C

Attachment I—Department of Health and Human Services (DHHS) Regulations Applying to All Applicants/Grantees

Title 45 of the Code of Federal Regulations

Part 16—Administration of Grants (non-governmental)
Part 74—Administration of Grants (state and local governments and Indian Tribal affiliates):

Sections
74.26—Non-Federal Audits
74.27—Allowable cost for hospitals and non-profit organizations among other things
74.32—Real Property
74.34—Equipment
74.35—Supplies
74.24—Program Income

Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance

Subpart F—Drug Free Workplace Requirements

Part 80—Non-discrimination Under Programs Receiving Federal Assistance through DHHS Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
Part 85—Enforcement of Non-discrimination on the Basis of Handicap in Programs or Activities Conducted by DHHS
Part 86—Non-discrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefitting from Federal Financial Assistance
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (**Federal Register**, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of DHHS Programs and Activities

Attachment J—Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provision for the children's services and that all subgrantees shall certify accordingly.

Attachment K—Checklist for Use in Submitting OCS Grant Applications (Optional)

The application should contain:

1. A completed, signed SF–424, ''Application for Federal assistance''. The letter code for the priority area e.g., UR) should be in the lower right hand corner
2. A completed ''Budget Information—Non-Construction'' (SF–424A)
3. A signed ''Assurances: Non-Construction'' (SF–424A)
4. A Project Abstract
5. A Project Narrative beginning with a Table of contents that describes the project in the following order:
   (a) Eligibility Confirmation
   (b) Analysis of Need (except for Sub-Priority 1.5 and 1.6)
   (c) Organizational Experience in Program Area and Staff Responsibilities
   (1) Organizational experience in program area
   (2) Staff Skills, Resources and Responsibilities
   (3) CPA certification of management system (applies to Subpriority Area 1.3 only)
   (d) Project Implementation (Business Plan)
   (1) Includes work plan or business plan. See instructions in Part G, ''Instructions for Completing Application Package''
   (2) Self-evaluation component (applies to Subpriority Area 1.3 only)
   (e) Significant and Beneficial Impacts
   (1) Significant and Beneficial Impacts
   (2) Cost Per Job (except Subpriority Areas 1.3, 1.5 and 1.6)
   (3) Career Development Opportunities (except Subpriority Areas 1.3, 1.5 and 1.6)
   (4) Strategy for mobilization of resources and development of business plan (applies to Subpriority Area 1.3 only)
   (f) Public/Private Partnerships and Agreements
   (g) Budget Appropriateness and Reasonableness
   (h) Appendices including: copy of applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax-exemption certificate, *or* by providing a copy of the Articles of incorporation bearing the seal of the State in which the corporation or association is domiciled; proof of CDC status by providing the purposes section of the Articles of Incorporation and a list of the current Board of Directors' names, titles and addresses; copies of resumes of the project director and other key management team members; written agreements i.e., third party agreements, coordination with AFDC/TANF, etc.; Single Point of Contact comments (where applicable); etc.
6. A signed copy of ''Certification Regarding Lobbying Activities''
7. A completed ''Disclosure of Lobbying Activities'', if appropriate; and
8. A self-addressed mailing label which can be affixed to a notice to acknowledge receipt of application.

The application should not exceed a total of 65 pages for applications submitted under sub-priority areas 1.1, 1.2, and 1.4 and 30 pages for all applications submitted under the other sub-priority areas. It should include one original and four identical copies, printed on white 8½ by 11 inch paper only. Applications should be two holed punched at the top center and fastened with a compressor slide paper fastener or a binder clip. All pages should be numbered.

[FR Doc. 97–7520 Filed 3–25–97; 8:45 am]
BILLING CODE 4184–01–P

Federal Register

Wednesday
March 26, 1997

Part III

Department of Education

Educational Research and Development Centers Program; Notice of Final Priority for FY 1997; Office of Educational Research and Improvement (OERI); Notice Inviting Applications for a New Award for FY 1997

DEPARTMENT OF EDUCATION

Educational Research and Development Centers Program

AGENCY: Department of Education.

AGENCY: Department of Education.

ACTION: Notice of final priority for FY 1997.

SUMMARY: The Secretary announces a final priority under the Educational Research and Development Centers Program. The Secretary takes this action to support research on early reading. The priority is intended to produce research findings that will effect changes in early reading instruction and related practices.

EFFECTIVE DATE: This priority takes effect on April 25, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Anne P. Sweet, U.S. Department of Education, 555 New Jersey Avenue, NW., Washington, DC 20208–5573. Telephone: (202) 219–2043. Internet: (anne—sweet@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Office of Educational Research and Improvement, authorized under Title IX of Public Law 103–227 (20 U.S.C. 6001, *et seq.*), supports educational research and development activities. The National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on Early Childhood Development and Education are two of five research institutes that carry out coordinated and comprehensive programs of research, development, evaluation, and dissemination designed to provide research-based leadership for the improvement of education.

As National Institutes, the National Institute on Student Achievement, Curriculum, and Assessment and the National Institute on Early Childhood Development and Education support a range of research, development, and dissemination activities. They support long-term activities focused on core issues in education carried out by national research and development centers, as well as field-initiated studies carried out by individual investigators. The final priority for research on improving children's early reading is for a research and development center to be supported jointly by the Student Achievement and the Early Childhood Institutes.

The Secretary believes that improving reading achievement in this country and increasing the capacity of the nation's education system to provide all members of society with equal opportunities to attain a high level of literacy depend on knowledge generated by an enduring program of education research and development. Knowledge gained from education research and development can help guide the national investment in education and support local and State reform efforts. Because they carry out sustained, long-term research and development, centers are a primary mechanism for pursuing new knowledge about education. Center awards are made to institutions of higher education, institutions of higher education in consort with public agencies or non-profit organizations, and interstate agencies established by compact that operate subsidiary bodies to conduct postsecondary education research and development.

Prior to this announcement and in conjunction with planning for Educational Research and Development Center competitions in fiscal year 1996, OERI engaged in a series of meetings, regional hearings, and **Federal Register** notices that solicited advice from parents, teachers, administrators, policy-makers, business people, researchers, and others to identify the most needed research and development activities. Following these activities and subsequent research priorities planning meetings in which OERI engaged, the Secretary published a notice of proposed priority in the **Federal Register** on December 13, 1996 (61 FR 65932) for a national educational research and development center that would carry out sustained research and development to address problems and issues related to early reading instruction and related practices. Written public comments were to be submitted to the Secretary by January 27, 1997.

The Secretary has reviewed the written public comments and has modified the proposed priority to include research on: teacher professional development in early reading instruction; the use of technology to make reading instruction more effective; and the development of strategies that foster early reading acquisition. The reasoning for this modification is explained in the Appendix to this notice.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, nine parties submitted written comments. An analysis of the comments and changes in the priority since publication of the notice of proposed priority is published as an appendix to this notice of final priority. Major issues are grouped according to subject. Technical and other minor changes and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority are not addressed.

Absolute Priority: Research to Improve Children's Early Reading

Under 34 CFR 75.105(c)(3) the Secretary will give an absolute preference to applications that meet the following priority. The Secretary intends to fund only one application that meets the priority listed below. Funding this priority will depend on the availability of funds and the quality of applications received. The Secretary intends to support a national research and development center on improving children's early reading. As the topic of study, ''early reading'' refers not only to those reading and related skills learned in kindergarten and the primary grades, but also to children's earliest experiences, including preschool, that affect their language and vocabulary acquisition. This center must:

(a) Conduct a coherent, sustained program of research and development in early reading, using a well-conceptualized and theoretically sound framework;

(b) Contribute to the development and advancement of theory and practice in early reading;

(c) Conduct scientifically rigorous studies capable of generating findings that contribute substantially to understanding in the field;

(d) Conduct work of sufficient size, scope, and duration to produce definitive guidance for instructional improvement;

(e) Address issues of both equity and excellence in early reading education for all children;

(f) Conduct the following research and development activities—

(1) Research on early reading acquisition and strategies that foster this learning, including strategies to be used by families, child care and preschool personnel, and kindergarten and elementary school teachers;

(2) Multidisciplinary research including, as appropriate, neuroscience, cognitive and developmental psychology, and the relevant social sciences, on the relationships among the development of oral language, reading, and writing fluency for all children, including those who are from linguistically and culturally diverse populations;

(3) Research that applies a variety of theoretical perspectives and methodologies to describe and to assess the efficacy of current practices in early reading instruction and to provide a knowledge base to make early reading instruction more effective, including instruction that involves the use of technology;

(4) Research on theory-based diagnostic and assessment tools for early reading;

(5) Research on social, motivational, and affective factors that play a part in early reading acquisition;

(6) Research on the relationships among early reading, writing, and content knowledge acquisition; and

(7) Research on teacher knowledge and professional development in reading to make teachers and teacher education in reading and literacy more effective; and

(g) Document, report, and disseminate information about its research findings and other accomplishments in ways that will facilitate effective use of that information for teachers and other early childhood professionals, families, and community members, as appropriate.

Post-Award Requirements

The Secretary established the following post-award requirements consistent with the Educational Research, Development, Dissemination and Improvement Act of 1994. A grantee receiving a center award must:

(a) Provide OERI with information about center projects and products and other appropriate research information so that OERI can monitor center progress and maintain its inventory of funded research projects. This information must be provided through media that include an electronic network;

(b) Conduct and evaluate research projects in conformity with the highest professional standards of research practice;

(c) Reserve five percent of each budget period's funds to support activities that fall within the center's priority area, are designed and mutually agreed to by the center and OERI, and enhance OERI's ability to carry out its mission. Those activities may include developing research agendas, conducting research projects collaborating with other federally-supported entities, and engaging in research agenda setting and dissemination activities; and

(d) At the end of the award period, synthesize the findings and advances in knowledge that resulted from the Center's program of work and describe the potential impact on the improvement of American education, including any observable impact to date.

Note: This notice of final priority does not solicit applications. A notice inviting applications under this competition is published elsewhere in this issue of the **Federal Register**.

(Catalog of Federal Domestic Assistance Number (84.305R) Educational Research and Development Centers Program)

Program Authority: P.L. 103–227, Title IX (20 U.S.C. 6031).

Dated: March 20, 1997.

Marshall Smith,

Acting Assistant Secretary for Educational Research and Improvement.

Appendix: Analysis of Comments and Changes

Absolute Priority

Summarized below are comments that referred specifically to the Absolute Priority.

Comments Related to Teacher Professional Development

Comments: Six commenters advocated that knowledge about the learning and development of teachers be integrated into the designated scope of this center. One commenter noted that we possess little information on what knowledge teachers need to teach reading effectively. A different commenter took the position that efforts to improve student learning without corresponding efforts to improve teacher education are handicapped from the start. The same commenter urged OERI to move forward with the plans for an early reading center and observed that such a center has a valuable role to play in our nation's future, given President Clinton's initiatives in programs like ''America Reads.''

Discussion: The Secretary agrees that teacher professional development in reading is a critical issue. The Secretary also agrees that the work of an early reading center will be important to the President's ''America Reads Challenge,'' and expects that an early reading center will produce results that will be useful to those engaged in this initiative.

Changes: The Secretary has revised the priority and has added paragraph (f)(7) to the early reading priority. The priority now includes a focus on teachers' knowledge and professional development in reading to make teachers and teacher education in reading and literacy more effective.

Comments Related to Technology

Comments: Four commenters argued for the inclusion of technology into the scope of this center. One commenter noted that technology that can support literacy development and instruction and technology that can be used as a dissemination tool should be studied. A second commenter stated that we need to study not only principles that underlie learning in interaction with computer programs, but also how computers change the fabric of the classroom.

Discussion: The Secretary agrees that the study of technology in literacy development and its use as a dissemination tool are important. Technology as a dissemination tool is already included under paragraph (g) of the priority.

Changes: The Secretary has revised the priority, under paragraph (f)(3), to include research on the use of technology to make early reading instruction more effective.

Comments Related to Classroom Practices and Instructional Strategies

Comments: Two commenters asserted that research on classroom practices and instructional strategies should be included in the scope of work of this center. One commenter observed that classroom practices and instructional strategies are the most critical aspect of school literacy.

Discussion: The Secretary agrees that classroom practices and instructional strategies are crucial aspects of early reading acquisition and believes that classroom practices are already included under paragraphs (f)(2) through (6) in the priority.

Changes: The Secretary has modified the priority under paragraph (f)(1) to include research on strategies that foster early reading acquisition, which would include research on instructional strategies.

Comments Related to Connection of School, Family, and Community to Support Reading Acquisition

Comments: Two commenters recommended that the connection of school, family, and community to support reading acquisition be included. One commenter noted that a convergence of research suggests that our future success in teaching young children lies in developing strong continuous connections between schools, families, and communities and that these partnerships are crucial to what children learn and how they come to see the eventual place of reading in their lives.

Discussion: The Secretary agrees that home-school-community connections are pivotal ones in children's education and believes that they are included for study under paragraphs (f)(2), (5), and (6) of the priority.

Changes: None.

Comments Related to the Role of Word Recognition Instruction in Early Reading Programs

Comments: One commenter argued that the role of word recognition instruction in early reading programs should be included. This commenter felt that this issue is schools'' largest area of concern, noting that there is very little solid research documenting how to structure a quality school reading program that contains quality literature and instruction in word recognition, including phonics.

Discussion: The Secretary agrees that the role of word recognition instruction in early reading programs is important and believes that it is included under paragraphs (f)(2) and (3) of the priority.

Changes: None.

Comments Related to Programs for Struggling Readers

Comments: One commenter advocated the inclusion of programs for struggling readers. This commenter argued that most pull-out programs have not been effective in bridging the gap in achievement, hence programs that might work better need to be studied, along with methods of organizing classrooms to accommodate diversity.

Discussion: The Secretary agrees that programs for struggling readers (e.g., Reading Recovery, among others) require study and believes that they are included under multiple paragraphs in the priority '' most specifically (f)(2), where the social sciences will bear on organizing for instruction, and (f)(3).

Changes: None.

Comments Related to Challenges Facing High-Poverty, Low-Achieving Schools

Comments: One commenter, citing preliminary evidence, which suggests that reading instruction has a larger effect on low-achieving populations in high poverty schools than it does on other students, recommends that research on low-achieving, high-poverty students be included in addition to research on bilingualism and multiculturalism.

Discussion: The Secretary agrees that the challenges facing high-poverty, low-achieving schools are important and believes that they are included under multiple paragraphs in the priority'' most particularly (f)(2–3) and (5–6).

Changes: None.

Comments Related to Second Language Learners

Comments: One commenter recommended that the topic of second language learners be included. This commenter pointed out that improving early reading in California necessitates the inclusion of the Second Language Learner's primary language, given the state's demographic landscape.

Discussion: The Secretary agrees that the topic of second language learners is important and believes that it is included under paragraph (f)(2) in the priority.

Changes: None.

Comments Related to Enhanced Learning in Different Subjects/Skills

Comments: One commenter asserted that early math, for example, is much more wanting than early reading and recommended that enhanced learning in many different subjects/skills be included.

Discussion: The Secretary agrees that enhanced learning in different subjects/skills is important and believes that it is appropriately included in this center under paragraph (f)(6) in the priority.

Changes: None.

Comments Related to Brain Development

Comments: One commenter asserted that the central study area for early learning should be brain development. This commenter stated that reading is but one function of brain development and should be studied accordingly.

Discussion: The Secretary agrees that brain development is important and believes that it is included under paragraph (f)(2) in the priority. The Secretary has also added language to clarify that, as the topic of study, ''early reading'' may include this work.

Changes: None.

Comments Related to Motivational and Affective Factors

Comments: One commenter observed that (f)(5) (to conduct research in the areas of motivation and affective factors) seemed more narrow and limiting when compared to the other items under (f). This commenter argued that the relative importance of this factor is diminished next to issues that address knowledge about the reading process, about how reading instruction might best occur, about reading teachers' knowledge, practice, and change, and about the global nature and influences (classroom and community) on reading.

Discussion: The Secretary agrees that the topics subsumed under (f)(1–3) may appear to be quite comprehensive and that (f)(4–6) may be viewed as less so. The Secretary has not assigned weights to the elements under (f)(1–7), and thus expects that applicants will submit applications that reflect their own views on the relative importance of these elements.

Changes: None.

[FR Doc. 97–7677 Filed 3–21–97; 3:28 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Number: 84.305R]

Office of Educational Research and Improvement (OERI)—Education Research and Development Centers Program; Notice Inviting Applications for a New Award for Fiscal Year (FY) 1997

Purpose of Program: To support a national research and development center to carry out sustained research that will lead to improvements in early reading instruction and related practices.

Eligible Applicants: Institutions of higher education, institutions of higher education in consort with public agencies or private nonprofit organizations, and interstate agencies established by compact that operate subsidiary bodies established to conduct postsecondary educational research and development.

Deadline for Transmittal of Applications: May 28, 1997.

Applications Available: March 28, 1997.

Estimated Available Funds: The estimated funding level over the five-year project period for the national research center on early reading is $2,500,000 each year. Actual funding will depend upon the availability of funds and needs as reflected in the approved application.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations in 34 CFR Part 700.

Priority: The absolute priority in the notice of final priority and post-award requirements for this program, as published elsewhere in this issue of the **Federal Register** apply to this competition.

Selection Criteria

(a)(1)(A) The Secretary uses the selection criteria in 20 U.S.C. 6031(c)(3)(E)(i)-(vi) and 34 CFR 700.30(e) to evaluate applications for new grants under this program.

(b) The Secretary has incorporated the statutory selection criteria into the criteria established under 34 CFR 700.30. The statutory criteria are: (3)(ii)(C); (4)(ii)(D); (4)(ii)(E); (5)(ii)(C); (5)(ii)(D); and, (5)(ii)(H).

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses (34 CFR 700.30(c)).

(c) *The criteria.*

(1) *National Significance.* (30 points)

(i) The Secretary considers the national significance of the proposed project.

(ii) In determining the national significance of the proposed project, the Secretary considers the following factors:

(A) The importance of the problem or issue to be addressed.

(B) The potential contribution of the project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(C) The potential contribution of the project to the development and advancement of theory and knowledge in the field of study.

(D) The nature of the products (such as information, materials, processes, or techniques) likely to result from the project and the potential for their effective use in a variety of other settings.

(2) *Quality of the Project Design.* (30 points)

(i) The Secretary considers the quality of the design of the proposed project.

(ii) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(A) Whether there is a conceptual framework underlying the proposed activities and the quality of that framework.

(B) Whether the proposed activities constitute a coherent, sustained program of research and development in the field, including a substantial addition to an ongoing line of inquiry.

(C) The extent to which the research design includes a thorough, high-quality review of the relevant literature, a high-quality plan for research activities, and use of appropriate theoretical and methodological tools, including those of a variety of disciplines, where appropriate.

(D) The quality of the plan for evaluating the functioning and impact of the project, including the objectivity of the evaluation and the extent to which the methods of evaluation are appropriate to the goals, objectives, and outcomes of the project.

(3) *Quality and Potential Contributions of Personnel.* (20 points)

(i) The Secretary considers the quality and potential contributions of personnel for the proposed project.

(ii) In determining the quality and potential contributions of personnel for the proposed project, the Secretary considers the following factors:

(A) The qualifications, including training and experience, of the project director or principal investigator.

(B) The qualifications, including training and experience, of key project personnel.

(C) Whether the applicant has assembled a group of high quality researchers sufficient to achieve the mission of the center.

(4) *Adequacy of Resources.* (10 points)

(i) The Secretary considers the adequacy of resources for the proposed project.

(ii) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(A) The adequacy of support from the lead applicant organization.

(B) The relevance and commitment of each partner in the project to the implementation and success of the project.

(C) Whether the costs are reasonable in relation to the objectives, design, and potential significance of the project.

(D) Whether the proposed organizational structure and arrangements will facilitate achievement of the mission of the center.

(E) Whether the directors and support staff will devote a majority of their time to the activities of the center.

(5) *Quality of the Management Plan.* (10 points)

(i) The Secretary considers the quality of the management plan of the proposed project.

(ii) In determining the quality of the management plan of a proposed project, the Secretary considers the following factors:

(A) The adequacy of the management plan to achieve the objectives of the project, including the specification of staff responsibility, timelines, and benchmarks for accomplishing project tasks.

(B) The adequacy of plans for ensuring high-quality products and services.

(C) The contributions of primary researchers (other than researchers at the proposed center) and the appropriateness of such researchers' experiences and expertise in the context of the proposed center activities, and the adequacy of such primary researchers' time and commitment to achievement of the mission of the center.

(D) Whether there is a substantial staff commitment to the work of the center.

(E) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the project, including those of parents and teachers, where appropriate.

(F) The manner in which the results of education research will be disseminated for further use, including how the center will work with the Office of Reform Assistance and Dissemination (an organizational unit within the Office of Educational Research and Improvement).

For Applications or Information Contact: Dr. Anne P. Sweet, U.S. Department of Education, 555 New Jersey Avenue, NW., Washington, DC 20208–5521. Telephone: (202) 219–2079. Internet address: (anne—sweet@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 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 or 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: 20 U.S.C. 6031(c)(1)(B)(i).

Dated: March 20, 1997.

Marshall Smith,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 97–7678 Filed 3–21–97; 3:28 pm]

BILLING CODE 4000–01–P

Federal Register

Wednesday
March 26, 1997

Part IV

Department of Agriculture

Cooperative State Research, Education, and Extension Service

Request for Proposals (RFP): Community Food Projects Competitive Grants Program; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

Request for Proposals (RFP): Community Food Projects Competitive Grants Program

ACTION: Announcement of availability of grant funds and request for proposals for the Community Food Projects Competitive Grants Program.

SUMMARY: The Federal Agriculture Improvement and Reform Act of 1996 established new authority for a program of Federal grants to support the development of community food projects designed to meet the food needs of low-income people; increase the self-reliance of communities in providing for their own food needs; and promote comprehensive responses to local food, farm, and nutrition issues.

This notice sets out the objectives for these projects, the eligibility criteria for projects and applicants, and the application procedures. Proposals are requested for (1) projects designed to increase food security in a community (termed Community Food Projects) and, (2) projects designed to provide training and technical assistance (T&TA) to entities that are, or might be interested in, developing community food security projects for funding (termed T&TA Projects). Applicants may request expert consultation as a part of their proposal request in order to subcontract to consultants or other groups to provide assistance for technical voids of the applicant organization.

This notice contains the entire set of instructions needed to apply for a Community Food Projects Competitive Grants Program (CFPCGP) grant.

DATES: Applications must be received on or before June 6, 1997. Proposals received after June 6, 1997 will not be considered for funding.

FOR FURTHER INFORMATION CONTACT: Dr. Elizabeth Tuckermanty, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2225, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2225; telephone (202) 720–5997; Internet: etuckermanty@reeusda.gov; or Dr. Mark Bailey, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2241, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2241; telephone: (202) 401–1898; Internet: mbailey@reeusda.gov.

Table of Contents

Part I—General Information

A. Legislative Authority

Section 25 of the Food Stamp Act of 1977, as amended by Section 401(h) of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) (7 U.S.C. 2034), authorized a new program of Federal grants to support the development of community food projects; $16 million is authorized over seven years (1996–2002). For fiscal year 1997, approximately $2.5 million is available ($2.5 million has been authorized in each subsequent year through fiscal year 2002). These grants are intended to assist eligible private nonprofit entities that need a one-time infusion of Federal dollars to establish and sustain multi-purpose community food projects.

B. Definitions

For the purpose of awarding grants under this program, the following definitions are applicable:

(1) *Administrator* means the Administrator of the Cooperative State Research, Education, and Extension Service (CSREES) and any other officer or employee of the Department to whom the authority involved may be delegated.

(2) *Authorized departmental officer* means the Secretary or any employee of the Department who has the authority to issue or modify grant instruments on behalf of the Secretary.

(3) *Authorized organizational representative* means the president, director, or chief executive officer of the applicant organization or the official, designated by the president or chief executive officer of the applicant organization, who has the authority to commit the resources of the organization.

(4) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(5) *Cash contributions* means the applicant's cash outlay, including the outlay of money contributed to the applicant by non-Federal third parties.

(6) *Community Food Project* is a project that requires a one-time infusion of Federal assistance to become self-sustaining and is designed to: (i) meet the food needs of low-income people; (ii) increase the self-reliance of communities in providing for their own food needs; and (iii) promote comprehensive responses to local food, farm, and nutrition issues. These activities help to increase food security in a community.

(7) *Department* or *USDA* means the United States Department of Agriculture.

(8) *Grant* means the award by the Secretary of funds to a private, non-profit entity to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to accomplish the purpose of the CFPCGP as identified in these guidelines.

(9) *Grantee* means the organization designated in the grant award document as the responsible legal entity to which a grant is awarded.

(10) *Matching* means that portion of project costs not borne by the Federal Government, including the value of in-kind contributions.

(11) *Peer review experts* means a group of experts qualified by training and experience in particular fields to give expert advice on the merit of grant applications in such fields, who evaluate eligible proposals submitted to this program in their personal area(s) of expertise.

(12) *Private non-profit entity* means any corporation, trust, association, cooperative or other organization which (i) is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (ii) is not organized primarily for profit; and (iii) uses its net proceeds to maintain, improve, and/or expand its operations. For this purpose, the term nonprofit organization excludes (i) colleges or universities or their research foundations or other nonprofit elements;

(ii) hospitals; (iii) State, local, and Federally recognized Indian tribal governments; and (iv) those corporations, because of their size and nature of operations, which can be considered to be similar to commercial concerns.

(13) *Prior approval* means written approval evidencing prior consent by an authorized departmental officer as defined in (2) above.

(14) *Project* means the particular activity within the scope of the program supported by a grant award.

(15) *Project director* means the single individual designated by the grantee in the grant application and approved by the Secretary who is responsible for the direction and management of the project.

(16) *Project period* means the period, as stated in the award document and modifications thereto, if any, during which Federal sponsorship begins and ends.

(17) *Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved may be delegated.

(18) *Third party in-kind contributions* means non-cash contributions of property or services provided by non-Federal third parties, including real property, equipment, supplies and other expendable property, directly benefiting and specifically identifiable to a funded project or program.

(19) *Training and Technical Assistance (T&TA) Project* is a project that requests a one-time infusion of Federal assistance (i) to help one or more community-based entities develop high-quality proposals for funding under the CFPCGP and/or (ii) to provide information, education, and skills training to applicants, potential applicants, and/or past and current grantees to meet the goals of a Community Food Project (as described in Item 6 above).

C. Eligibility

Proposals may be submitted by private, nonprofit entities. Because proposals for Community Food Projects must promote comprehensive responses to local food, farm, and nutrition issues, applicants are encouraged to seek and create partnerships among public, private nonprofit, and private for-profit entities. However, no more than one-third of an award for Community Food Projects or T&TA Projects may be subawarded to a for-profit organization or firm.

To be eligible for a grant for a Community Food Project, a private nonprofit applicant must meet four requirements:

(1) have experience in the area of:

(a) community food work, particularly concerning small and medium-sized farms, including the provision of food to people in low-income communities and the development of new markets in low-income communities for agricultural producers; or

(b) job training and business development activities for food-related activities in low-income communities;

(2) demonstrate competency to implement a project, provide fiscal accountability and oversight, collect data, and prepare reports and other appropriate documentation;

(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties; and

(4) directly carry out the proposed activities in the community. Entities that supply expertise and/or materials to communities or projects in which they are not an integral part are not eligible for awards.

To be eligible for a grant for a T&TA Project, a private nonprofit applicant must meet three requirements:

(1) have experience and skills in providing education and training in community food security, assessing community food needs, coalition building, project development and evaluation, grant preparation and fund raising, and any other relevant component of training and technical assistance to be provided;

(2) demonstrate competency to implement a project, provide fiscal accountability and oversight, collect data, and prepare reports and other appropriate documentation; and

(3) demonstrate a willingness to share information with researchers, practitioners, and other interested parties.

The intent of the CFPCGP is to encourage and support community-based, grass-roots efforts that enhance food security. Applicants are strongly encouraged to link with academic experts and Cooperative Extension personnel in the planning, implementation, and evaluation of their projects. In addition, academic experts and Cooperative Extension personnel may wish to involve relevant community-based nonprofit organizations in developing proposals of mutual interest and serve as technical advisors to the applying entity.

Successful applicants must provide matching funds, either in cash or in-kind, amounting to at least 50 percent of the total cost of the project during the term of the grant award as provided by section 25(e) of the Food Stamp Act of 1977.

Part II—Program Description

A. Purpose and Scope of the Program

Proposals are invited for competitive grant awards under the CFPCGP for fiscal year 1997. This program is administered by the Cooperative State Research, Education, and Extension Service (CSREES) of the U.S. Department of Agriculture (USDA). The purpose of this program is to support the development of community food projects with a one-time infusion of Federal dollars to make such projects self-sustaining. Community Food Projects should be designed to: (i) Meet the food needs of low-income people; (ii) increase the self-reliance of communities in providing for their own food needs; and (iii) promote comprehensive responses to local food, farm, and nutrition issues. T&TA Projects, under this program, should be designed to assist nonprofit community entities to develop programs that meet these goals.

Community food projects are intended to take a comprehensive approach to developing long-term solutions that help to ensure food security in communities by linking the food production and processing sectors to community development, economic opportunity, and environmental enhancement. Comprehensive solutions may include elements such as: (i) Improved access to high quality, affordable food among low-income households; (ii) expanded economic opportunities for community residents through local businesses or other economic development, improved employment opportunities, job training, youth apprenticeship, school-to-work transition, and the like, and (iii) support for local food systems, from urban gardening to local farms that provide high quality fresh foods, ideally with minimal adverse environmental impact. Any solution proposed must tie into community food needs.

Project goals should integrate multiple objectives into their design. Proposed projects should seek to address impacts beyond a specific goal such as increasing food produced or available for a specific group. Goals and objectives should integrate economic, social, and environmental impacts such as job training, employment opportunities, small business expansion, neighborhood revitalization, open space development, transportation assistance or other community enhancements.

Proposed projects should seek solutions rather than focusing on short-term food relief. They should seek comprehensive solutions to problems across all levels of the food system from producer to consumer. This point is emphasized because many proposals submitted in fiscal year 1996 were primarily for expanding applicant efforts in food relief and assistance or for connecting established or partially established programs (such as community gardens and farmers markets) with little evidence of strategic planning and participation by stakeholders in the proposed project design. Successful proposals must emphasize a food system and/or food security approach (i.e., an applicant must describe the large food-related picture in the community and the place of the proposed project within it). They must also show evidence of coalition building and substantial community linkages.

Applicants should be aware of several USDA policy themes and initiatives that have the potential to strengthen the impact and success of some community food projects. These include food recovery and gleaning excess food; connecting the urban consumer with the rural producer; aiding citizens in leaving public assistance and achieving self-sufficiency; and utilizing micro enterprise and/or development projects related to community food needs. Relevant ongoing initiatives include farmers markets; U.S. Department of Housing and Urban Development designated Empowerment Zones, Enterprise Communities, and Champion Communities; and the AmeriCorps national service program (a potential source of contributors for community food projects).

The community, not the individual per se, is the unit of analysis and medium for action. Many solutions to food access problems may come from beyond a community's own boundaries, since most food also comes from outside. In that context, wherever possible community food projects should support food systems based on strategies that improve the availability of high-quality locally-or regionally-produced foods to low-income people.

Community food projects are intended to bring together stakeholders from the distinct parts of the food system. Solutions to hunger and access to food should reflect a process that involves partnership building among the public, private nonprofit, and private for-profit sectors. Together, these parties can address issues such as the capacity of the community to produce food and support local growers; the need for, and location of, grocery stores that market affordable, high quality food; transportation constraints; economic opportunities for residents to increase income, thereby increasing access to high quality nutritious food; community development issues; the environment; and so on.

Community food projects should not be designed to merely support individual food pantries, farmers markets, community gardens or other established projects. Rather, proposed community food projects should build on these experiences and encourage innovative long-term efforts. A successful project should be able to endure and outlive the one-time infusion of government and other matching funds. Community food projects should be designed to become self-supporting (or have a sustainable funding source) and expand or prove to be a replicable model.

The primary objectives of the CFPCGP are to increase the food self-reliance of communities; promote comprehensive responses to local food, farm and nutrition issues; develop innovative linkages between the for-profit and nonprofit food sectors; and encourage long-term planning activities and multi-system inter-agency approaches. The following are some examples of these objectives in practice:

- Developing a working link between a food bank and area farmers to market fresh produce to a community through community-supported agriculture. Community members provide the financial support while the project develops links to institutions such as restaurants, food pantries, schools, and other institutions. The process increases community awareness and commitment to local agriculture, while providing farmers a local market for consumers, and expands the supply of and access to high-quality food.
- Implementing a comprehensive strategic plan for a lower-income neighborhood to increase residents' access to high-quality, affordable food through farmers' markets, community gardens, supermarkets, and other food programs. Such a plan should include transportation assistance, business development, and/or neighborhood improvement. As with other sector planning, the community participates in identifying its food-related priorities and works with institutions through a collaborative interagency process to meet its objectives.
- Developing a system of community farm stands sponsored by neighborhood organizations and managed by youth that sell locally-grown produce in low-income communities. The project provides skills training and/or jobs and aims to become self-supporting within a reasonable time. It increases participants' understanding of the food system, including food production and distribution, expands interest in good nutrition, and provides entrepreneurial training opportunities for young people.
- A local food policy council may develop and implement a plan that creates several new food ventures, including a new supermarket in a low-income neighborhood. The council serves as the planning and coordinating entity that brings together local farmers, for-profit food operators such as restaurants, processors, and retailers with low-income neighborhood development organizations and job training groups, emergency food providers, city hall, and other community service entities.
- Developing a comprehensive community response to job and food needs by creating job opportunities that respond to the needs of local businesses, building technical expertise that leads to well-paid jobs. It will be necessary to bring together resources that facilitate the development of work skills, work ethics, education completion and that respond to community food and nutrition needs.

B. Available Funds and Award Limitations

The total amount of funds available in fiscal year 1997 for support of this program is approximately $2,500,000. Up to 10% of available funds (approximately $250,000) will be available for T&TA Projects, and the remainder for Community Food Projects. Applicants should request a budget commensurate with the project proposed. However, due to the effort required to properly evaluate proposals, USDA strongly urges that requests for support do not fall below $10,000.

The intent of the authorizing legislation is that no one grant should command a significant portion of the total funds available and that many grants be awarded each year. Therefore, USDA has concluded that no single grant shall exceed $100,000 in any single year or more than $250,000 over the life of the project.

Applicants may request one, two, or three years of funding, but in all cases, USDA funding may not exceed three years for any one project. A Community Food Project or a T&TA Project may be supported by only a single grant under this program.

Awards will be made based on the merit of the proposed project with budgets considered only after the merits of the project have been determined.

USDA reserves the right to negotiate final budgets with successful applicants. It is intended that the grantee will perform the substantive effort on the project. No more than one-third of the award, as determined by budget expenditures, may be subawarded to for-profit organizations. For purposes of obtaining additional knowledge or expertise that is not currently within the applicant organization, funds for expert consultation may be included in the All Other Direct Costs section of the proposed budget.

C. Matching Funds Requirement

The Federal share of the cost of establishing or carrying out a community food project that receives assistance under this program may not exceed 50 percent of the cost of the project during the term of the grant. Grantees may provide for the non-Federal share through cash and/or in kind contributions, fairly evaluated, including facilities, equipment, and services. A grantee may provide for the non-Federal share of the funding through State government, local government, or private sources.

Part III—Preparation of a Proposal

A. Program Application Materials

Program application materials will be made available to eligible entities upon request. These materials include information about the purpose of the program, how the program will be conducted, and the required contents of a proposal, as well as the forms needed to prepare and submit grant applications under the program.

B. Content of a Proposal

(1) General

The proposal should follow these guidelines, enabling reviewers to more easily evaluate the merits of each proposal in a systematic, consistent fashion:

(a) The proposal should be prepared on only one side of the page using standard size (8½″ × 11″) white paper, one inch margins, typed or word processed using no type smaller than 12 point font, and single spaced. Use an easily readable font face (e.g., Geneva, Helvetica, CG Times).

(b) Each page of the proposal, beginning with the Project Summary and including any appendices, should be numbered sequentially in the top right corner.

(c) The proposal should be stapled in the upper left-hand corner. Do not bind. An original and 9 copies (10 total) must be submitted as one package, along with 20 copies of the ''Project Summary'' as a separate attachment.

(2) Cover Page

Complete Form CSREES–661, Application for Funding, in its entirety. This form is to be utilized as the Cover Page. In Block 14., note the total amount of Federal dollars being requested.

(a) Blocks 7., 13., 18., 19., 20., and 21. have been completed for you.

(b) In Block 8. enter *Community Food Project* or *T&TAP* if the proposal is a Training & Technical Assistance Project. Ignore all references to a program number.

(c) Note that providing a Social Security Number is voluntary, but is an integral part of the CSREES information system and will assist in the processing of the proposal.

(d) The original copy of the Application for Funding form must contain the pen-and-ink signatures of the project director(s) and authorized organizational representative for the applicant organization.

(e) Note that by signing the Application for Funding form, the applicant is providing the required certifications set forth in 7 CFR Part 3017, as amended, regarding Debarment and Suspension and Drug-Free Workplace, and 7 CFR Part 3018, regarding Lobbying. The three certification forms are included in this application package for informational purposes only. It is not necessary to sign and submit the forms to USDA as part of the proposal.

(3) Compliance With the National Environmental Policy Act (NEPA)

As outlined in 7 CFR Part 3407 (the Cooperative State Research, Education, and Extension Service regulations implementing NEPA), the environmental data for any proposed project is to be provided to CSREES so that CSREES may determine whether any further action is needed. In some cases, however, the preparation of environmental data may not be required. Certain categories of actions are excluded from the requirements of NEPA.

In order for CSREES to determine whether any further action is needed with respect to NEPA, pertinent information regarding the possible environmental impacts of a particular project is necessary; therefore, Form CSREES–1234, NEPA Exclusions Form, must be included in the proposal indicating whether the applicant is of the opinion that the project falls within a categorical exclusion and the reasons therefor. If it is the applicant's opinion that the proposed project falls within the categorical exclusions, the specific exclusion must be identified. Form CSREES–1234 and supporting documentation should be placed after Form CSREES–661, Application for Funding, in the proposal.

Even though a project may fall within the categorical exclusions, CSREES may determine that an Environmental Assessment or an Environmental Impact Statement is necessary for an activity. This will be the case if substantial controversy on environmental grounds exists or if other extraordinary conditions or circumstances are present which may cause such activity to have a significant environmental effect.

(4) Table of Contents

For ease in locating information, each proposal must contain a detailed table of contents just after the NEPA Exclusions Form. The Table of Contents should include page numbers for each component of the proposal. Page numbers, shown in the top right corner, should begin immediately following the Table of Contents.

(5) Project Summary

The proposal must contain a project summary of 250 words or less on a separate page. The summary must be self-contained and describe the overall goals and relevance of the project. The summary should also contain a listing of the major organizations participating in the project. The Project Summary should immediately follow the Table of Contents. In addition to the summary, this page must include the title of the project, the name of the applicant organization, the authorized organizational representative, and the project director(s) followed by the summary.

(6) Project Narrative

The Project Narrative shall not exceed 10 pages. It must repeat and answer each of the following 9 questions:

(a) FOR COMMUNITY FOOD PROJECTS: What is the community to be served by the proposed project?

Describe the local food economy or food system, demographics, income, and geographic characteristics of the area to be served and any other pertinent information, such as the community's assets and needs.

FOR T&TA PROJECTS: What types of communities are being targeted by the proposed project?

Provide a general description of the local food economies or food systems, demographics, incomes, and geographic characteristics of the areas to be served and any other pertinent information,

such as the assets and needs of the targeted communities.

(b) What organizations will be involved in carrying out the proposed project and which segments of the local food economy or system do they link?

Include a description of the relevant experience of the organizations, including the applicant organization, that will be involved and any project history. Letters acknowledging the support of these organizations are strongly encouraged and should be provided in the appendix to the proposal. Proposals should demonstrate extensive community linkages and coalitions.

(c) What are the goals or purposes to be achieved by the proposed project?

List these goals and/or purposes.

(d) How will the goals be achieved?

Provide a systematic description of the approach by which the goals will be accomplished.

(e) What are the major milestones that will indicate progress toward achieving the project goals?

Provide a time line or description for accomplishing major project objectives.

(f) The legislation outlines three major outcomes of the CFPCGP: (i) Meet the food needs of low-income people; (ii) increase the self-reliance of communities in providing for their own food needs; and (iii) promote comprehensive responses to local food, farm and nutrition issues. What measures will be used to assess project progress on each of these three outcomes? How will you assess performance on the outcomes?

For example, an applicant may propose to develop a farmers market in a low-income urban area, selling produce grown by farmers in the surrounding area, and employing staff from both the urban and rural communities. The goals may be to increase access to fresh produce by community residents (addresses outcome i) increase employment and the income of farmers (addresses outcome ii) and reduce the extent of poor nutrition among low-income residents (addresses outcome iii). Possible outcome measures are the change in the consumption of produce by customers, the number of jobs created by the market, and the change in income experienced by the farmers supplying the market.

Proposals should contain a strong evaluation component. Those with innovative evaluation strategies are especially encouraged. One desirable outcome of the CFPCGP is to learn more about what happens to make such projects succeed, only partially succeed, or fail. Therefore, proposals are encouraged that include both process evaluations (developing and monitoring indicators of progress towards the objectives) and outcome evaluations (to determine whether the objectives were met). Applicants should seek the help of experts in evaluation design and implementation as appropriate.

(g) How does the proposed project address each of the following issues: (i) Develop innovative linkages and coalitions between two or more sectors of the food system; (ii) support entrepreneurial and job-training projects; and (iii) encourage long-term planning activities and multi-system, interagency approaches?

Provide a description of how each of these issues, as appropriate, will be addressed. Entrepreneurial projects should provide evidence (e.g., in the form of a market analysis or business plan) to demonstrate that it is likely to become self-sustaining and provide employees with important job skills.

(h) What are the plans for achieving self-sustainability?

Describe why a one-time infusion of Federal funds will be sufficient for the proposed project.

(i) Additional information

Provide any additional information which supports the need for and usefulness of the project.

(7) Key Personnel

Identify the primary project director and the co-project director(s) and other key personnel required for this project. An organizational chart should be provided if available. What is their relevant experience? Include resumes or vitae that provide adequate information so that proposal reviewers can make an informed judgment as to their capabilities and experience.

(8) Budget

(a) Budget Form: Prepare the budget form in accordance with instructions provided with the form. A budget form is required for each year of requested support. In addition, a cumulative budget is required detailing the requested total support for the overall project period. (For example, for a 3-year project, the proposal would include 4 budget forms; one for each of the three years of the project and one cumulative budget for the full 3 years.) The budget form may be reproduced as needed by applicants. Funds may be requested under any of the categories listed on the form, provided that the item or service for which support is requested is allowable under the authorizing legislation, the applicable Federal cost principles, and these program guidelines, and can be justified as necessary for the successful conduct of the proposed project.

In addition to the budget form, applicants should include remarks and budget item justifications on a separate page.

(b) Matching Funds

(1) Proposals must include written verification of commitments of matching support (including both cash and in-kind contributions) from third parties. Written verification means:

(i) For any third party cash contributions, a separate pledge agreement for each donation, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (a) The name, address, and telephone number of the donor; (b) the name of the applicant organization; (c) the title of the project for which the donation is made; (d) the dollar amount of the cash donation; and (e) a statement that the donor will pay the cash contribution during the grant period; and

(ii) For any third party in-kind contributions, a separate pledge agreement for each contribution, signed by the authorized organizational representatives of the donor organization and the applicant organization, which must include: (a) The name, address, and telephone number of the donor; (b) the name of the applicant organization; (c) the title of the project for which the donation is made; (d) a good faith estimate of the current fair market value of the in-kind contribution; and (e) a statement that the donor will make the contribution during the grant period.

(2) The sources and amount of all matching support from outside the applicant institution should be summarized on a separate page and placed in the proposal immediately following the budget form. All pledge agreements must be placed in the proposal immediately following the summary of matching support.

(3) Applicants should refer to OMB Circulars A–110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-profit Organizations, and A–122, Cost Principles for Non-Profit Organizations, for further guidance and other requirements relating to matching and allowable costs.

(9) Current and Pending Support

All proposals must list any other current public or private support (including in-house support) to which key personnel identified in the proposal have committed portions of their time,

whether or not salary support for person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to the possible sponsors will not prejudice proposal review or evaluation by the Administrator for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program. The application material includes Form CSREES–663, Current and Pending Support, which is suitable for listing current and pending support. Note that the project being proposed should be included in the proposed section of the form.

Part IV—Submission of a Proposal

A. What To Submit

An original and 9 copies of the complete proposal must be submitted. Each copy of each proposal must be stapled in the upper left-hand corner. DO NOT BIND. In addition, submit 20 copies of the proposal's Project Summary. All copies of the proposal and Project Summary must be submitted in one package.

B. Where and When To Submit

Proposals must be received by June 6, 1997. Proposals sent by First Class mail must be sent to the following address: Proposal Services Unit, Grants Management Branch, Office of Extramural Programs, USDA/CSREES, STOP 2245, 1400 Independence Avenue, S.W., Washington, DC 20250–2245, Telephone: (202) 401–5048.

Note: Hand-delivered proposals or those delivered by an overnight express service such as Federal Express should be brought to the following address: Proposal Services Unit, Grants Management Branch, Office of Extramural Programs, USDA/CSREES, Room 303, Aerospace Center, 901 D Street, S.W., Washington, DC 20024, Telephone: (202) 401–5048.

C. Acknowledgment of Proposals

The receipt of all proposals will be acknowledged in writing and this acknowledgment will contain an identifying proposal number. Once your proposal has been assigned an identification number, please cite that number in future correspondence.

Part V—Selection Process and Evaluation Criteria

A. Selection Process

Proposals must be received on or before June 6, 1997. Applicants are highly encouraged to convey their completed proposals via over-night mail or delivery services to ensure timely receipt by the USDA. Proposals will be ranked relative to all those received, and ranking will be based primarily on technical merit and potential for sustainment. Those proposals recommended for an award will be conveyed to the Administrator (or designee) for final approval.

Since the award process must be completed by September 30, 1997, applicants should submit fully developed proposals that meet all the requirements set forth in this RFP and have fully developed budgets as well. However, USDA does retain the right to conduct discussions with applicants to resolve technical and/or budget issues as it deems necessary.

Each proposal will be evaluated in a two-part process. First, each proposal will be screened to ensure it meets the requirements as set forth in this RFP. Proposals that meet these requirements will be technically evaluated by expert reviewers. Second, each proposal will be judged on its own merits. Proposals not meeting the requirements as set forth in this RFP will be returned without review.

A panel of individuals will evaluate the proposed projects. The individual panel members will be selected from among those recognized as specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of proposals being reviewed. These panel members will be drawn from a number of areas, among them government, universities, and entities involved in community food organizations or institutions, and rural development. The individual views of reviewers will be used to determine which proposals will be recommended for funding.

There is no commitment by USDA to fund any particular proposal or to make a specific number of awards. USDA also may elect to fund several or none of the proposed approaches to the same topic area. Care will be taken to avoid actual and potential conflicts of interest among reviewers. Evaluations will be confidential to USDA staff members, peer reviewers, and the project director(s), to the extent permitted by law.

The members of the review panel will take into consideration evaluation criteria that includes, but is not limited to, the following: The amount of available funding; geographic distribution of applications; balance and diversity among different approaches to community food needs; the quality of proposed internal project evaluations; and quantitative outcome measures and other considerations pertinent to ensuring that the total mix of funded projects best serves the public interest.

B. Technical Evaluation Criteria

(1) Applicability and Merit

The primary evaluation criteria will be based upon the merit of the proposed project in regard to its ability to meet the food needs of low-income people in the proposed community; increase the self-reliance of the proposed community for providing for its own food needs; and promote comprehensive responses to local food, farm, and nutrition issues. (Refer to Questions a. through e. in Part III, item B.(6))

(2) Capacity To Become Self-Sustaining

Applications will be evaluated based on an assessment of the project's ability for continuing to term and becoming self-sufficient once Federal funding ends. (Refer to Questions f. and h. in Part III, item B.(6)).

(3) Organizational and Staff Qualifications and Experience

Awards are provided to the non-profit organization. However, the working history of the organization and the experience of the authorized organizational representative and/or project director will be key evaluation criteria. Experience in the area of community food work, particularly if that work also involved small or medium-size farms; provision of food to people in low-income communities; the development of new markets for agricultural goods in low-income communities, particularly as a means to enhance income for agricultural producers; job training or business development for food-related activities in low-income communities; competency to implement the proposed project; ability to provide the appropriate financial/fiscal oversight; and the ability to collect data, prepare reports, and perform other necessary administrative functions.

(4) Additional Evaluation Criteria

These criteria will be considered relative to the extent the proposed project contributes to:

(a) developing linkages between two or more sectors of the food system;

(b) supporting the development of entrepreneurial projects;

(c) developing innovative linkages between the for-profit and nonprofit food sectors;

(d) encouraging long-term planning activities and multi-system, interagency approaches; and

(e) Incorporating linkages to one or more ongoing USDA themes or initiatives (such as, but not limited to, those described in the background section). (Refer to Question g. in Part III, item B.(6))

Part VI—Supplementary Information

A. Access to Peer Review Information

After final decisions have been announced, CSREES will, upon request, inform the project director of the reasons for its decision on a proposal. To the extent possible, verbatim copies of summary reviews, not including the identity of the reviewers, will be made available to project directors after the review process has been completed.

B. Grant Awards

(1) General

Within the limit of funds available for such purpose, the awarding official of CSREES shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this request for proposals. The date specified by the Administrator as the effective date of the grant shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. It should be noted that the project need not be initiated on the grant effective date, but as soon thereafter as practical so that project goals may be attained within the funded project period. All funds granted by CSREES under this request for proposals shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations, the terms and conditions of the award, the applicable Federal cost principles, and the Department's assistance regulations (part 3015, part 3016, and part 3019 of 7 CFR).

(2) Organizational Management Information

Specific management information relating to an applicant shall be submitted on a one-time basis as part of the responsibility determination prior to the award of a grant identified under this part if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by the sponsoring agency as part of the preaward process.

(3) Grant Award Document and Notice of Grant Award

The grant award document shall include at a minimum the following:

(a) Legal name and address of performing organization or institution to whom the Administrator has awarded a grant under the terms of this request for proposals;

(b) Title of project;

(c) Name(s) and address(es) of project director(s) chosen to direct and control approved activities;

(d) Identifying grant number assigned by the Department;

(e) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(f) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(g) Legal authority(ies) under which the grant is awarded;

(h) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(i) Other information or provisions deemed necessary by CSREES to carry out its respective granting activities or to accomplish the purpose of a particular grant.

The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

CSREES will award standard grants to carry out this program. A standard grant is a funding mechanism whereby CSREES agrees to support a specified level of effort for a predetermined time period without additional support at a future date.

C. Use of Funds; Changes

(1) Delegation of Fiscal Responsibility

The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(2) Reporting Requirements

The grantee will be expected to prepare an annual report that details all significant activities towards achieving the goals and objectives of the project. The narrative should be succinct and be no longer than five pages, using 12-point, single-spaced type. A budget summary should be attached to this report, which will provide an overview of all monies spent during the reporting period.

(3) Changes in Project Plans

(a) The permissible changes by the grantee, project director(s), or other key project personnel in the approved project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the project director(s) are uncertain as to whether a change complies with this provision, the question must be referred to the CSREES Authorized Departmental Officer (ADO) for a final determination.

(b) Changes in approved goals or objectives shall be requested by the grantee and approved in writing by the CSREES ADO prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(c) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the awarding official of CSREES prior to effecting such changes.

(d) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the ADO prior to effecting such transfers.

(e) Changes in Project Period: The project period may be extended by CSREES without additional financial support, for such additional period(s) as the ADO determines may be necessary to complete or fulfill the purposes of an approved project. Any extension of time shall be conditioned upon prior request by the grantee and approval in writing by the ADO, unless prescribed otherwise in the terms and conditions of a grant.

(f) Changes in Approved Budget: Changes in an approved budget must be requested by the grantee and approved in writing by the ADO prior to instituting such changes if the revision will:

(i) Involve transfers of amounts budgeted for indirect costs to absorb an increase in direct costs;

(ii) Involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period

and not approved when a grant was awarded; or

(iii) Involve transfers or expenditures of amounts requiring prior approval as set forth in the applicable Federal cost principles, Departmental regulations, or in the grant award.

D. Other Federal Statutes and Regulations that Apply

Several other Federal statutes and regulations apply to grant proposals considered for review and to project grants awarded under this program. These include but are not limited to:

7 CFR Part 1.1—USDA implementation of the Freedom of Information Act.

7 CFR Part 3—USDA implementation of OMB Circular No. A–129 regarding debt collection.

7 CFR Part 15, subpart A—USDA implementation of Title VI of the Civil Rights Act of 1964, as amended.

7 CFR Part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–21 and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR Part 3016—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

7 CFR Part 3017, as amended by 61 **Federal Register** 250, January 4, 1996—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants).

7 CFR Part 3018—USDA implementation of New Restrictions on Lobbying. Imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

7 CFR Part 3019—USDA implementation of OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations.

7 CFR Part 3051—USDA implementation of OMB Circular No. A–133 regarding audits of institutions of higher education and other nonprofit institutions.

7 CFR Part 3407—CSREES procedures to implement the National Environmental Policy Act of 1969, as amended.

29 U.S.C. 794 (section 504, Rehabilitation Act of 1973) and 7 CFR Part 15B (USDA implementation of statute)—prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR Part 401).

E. Confidential Aspects of Proposals and Awards

When a proposal results in a grant, it becomes a part of the record of the Agency's transactions, available to the public upon specific request. Information that the Secretary determines to be of a privileged nature will be held in confidence to the extent permitted by law. Therefore, any information that the applicant wishes to have considered as privileged should be clearly marked as such and sent in a separate statement, two copies of which should accompany the proposal. The original copy of a proposal that does not result in a grant will be retained by the Agency for a period of one year. Other copies will be destroyed. Such a proposal will be released only with the consent of the applicant or to the extent required by law. A proposal may be withdrawn at any time prior to the final action thereon.

F. Evaluation of Program

Section 25(h) of the Food Stamp Act of 1997, as amended, requires USDA to provide for an evaluation of the success of community food projects supported under this authority. All grantees shall be expected to assist the USDA by providing relevant information on their respective projects. Applicants are also encouraged to plan for their own internal self-assessments and evaluations to measure the effectiveness of each project.

Done at Washington, D.C., this 21st day of March 1997.

B.H. Robinson,

Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 97–7656 Filed 3–25–97; 8:45 am]

BILLING CODE 3410–22–P

Federal Register

Wednesday
March 26, 1997

Part V

Federal Emergency Management Agency

Changes to Hotel and Motel Fire Safety Act National Master List; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Changes to the Hotel and Motel Fire Safety Act National Master List

AGENCY: United States Fire Administration, FEMA.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA or Agency) gives notice of additions and corrections/changes to, and deletions from, the national master list of places of public accommodations which meet the fire prevention and control guidelines under the Hotel and Motel Fire Safety Act.

EFFECTIVE DATE: April 25, 1997.

ADDRESSES: Comments on the master list are invited and may be addressed to the Rules Docket Clerk, Federal Emergency Management Agency, 500 C Street SW., Room 840, Washington, D.C. 20472, (fax) (202) 646–4536. To be added to the National Master List, or to make any other change to the list, please see Supplementary Information below.

FOR FURTHER INFORMATION CONTACT: John Ottoson, Fire Management Programs Branch, United States Fire Administration, Federal Emergency Management Agency, National Emergency Training Center, 16825 South Seton Avenue, Emmitsburg, MD 21727, (301) 447–1272.

SUPPLEMENTARY INFORMATION: Acting under the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. 2201 note, the United States Fire Administration has worked with each State to compile a national master list of all of the places of public accommodation affecting commerce located in each State that meet the requirements of the guidelines under the Act. FEMA published the national master list in the **Federal Register** on Friday, June 21, 1996, 61 FR 32036–322560.

Parties wishing to be added to the National Master List, or to make any other change, should contact the State office or official responsible for compiling listings of properties which comply with the Hotel and Motel Fire Safety Act. A list of State contacts was published in 61 FR 32032, also on June 21, 1996. If the published list is unavailable to you, the State Fire Marshal's office can direct you to the appropriate office. The Hotel and Motel Fire Safety Act of 1990 National Master List is now accessible electronically. The National Master List Web Site is located at: http://www.usfa/fema.gov/hotel/index.htm

Visitors to this web site will be able to search, view, download and print all or part of the National Master List by State, city, or hotel chain. The site also provides visitors with other information related to the Hotel and Motel Fire Safety Act. Instructions on gaining access to this information are available as the visitor enters the site.

Periodically FEMA will update and redistribute the national master list to incorporate additions and corrections/changes to the list, and deletions from the list, that are received from the State offices. Each update contains or may contain three categories: ''Additions;'' ''Corrections/changes;'' and ''Deletions.'' For the purposes of the updates, the three categories mean and include the following:

''Additions'' are either names of properties submitted by a State but inadvertently omitted from the initial master list or names of properties submitted by a State after publication of the initial master list;

''Corrections/changes'' are corrections to property names, addresses or telephone numbers previously published or changes to previously published information directed by the State, such as changes of address or telephone numbers, or spelling corrections; and

''Deletions'' are entries previously submitted by a State and published in the national master list or an update to the national master list, but subsequently removed from the list at the direction of the State.

Copies of the national master list and its updates may be obtained by writing to the Government Printing Office, Superintendent of Documents, Washington, DC 20402–9325. When requesting copies please refer to stock number 069–001–00049–1.

Dated: March 20, 1997.

David L. de Courcy,

Acting General Counsel.

The update to the national master list for the month of March 1997 follows:

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 3/17/97 UPDATE

Index and property name	PO Box/Rt No. and street address	City, state/ZIP	Phone
Additions			
AZ:			
AZ0269 BEST WESTERN KINGS INN	2930 E. ANDY DEVINE	KINGM, AZ 86401	(800) 750–6101
CA:			
CA1491 BEST WESTERN DUBLIN PARK HOTEL.	6680 REGIONAL ST	DUBLIN, CA 94568	(510) 828–7750
CA1490 DAYS INN DISCOVERY PARK	350 BERCUT DR	SACRAMENTO, CA 95814	(916) 442–6971
CA1493 BEST WESTERN GARDEN INN	1500 SANTA ROSA AVE	SANTA ROSA, CA 95404	(800) 929–2771
CA1489 STOCKTON HILTON	2323 GRAND CANAL BLVD	STOCKTON, CA 95207	(209) 957–9090
CA1492 BEST WESTERN OAKS LODGE	12 CONEJO BLVD	THOUSAND OAKS, CA 91360	(805) 495–7011
DC:			
DC0064 ST. JAMES SUITES	950 24TH ST., N.W.	WASHINGTON, DC 20037	(202) 457–0500
IA:			
IA0170 BEST WESTERN WESTFIELD INN	1895 27TH AVENUE	CORALVILLE, IA 52241	(319) 354–7770
IL:			
IL0554 SUPER 8 MOTEL GREENVILLE	ROUTE 127 AND I–70	GREENVILLE, IL 62246	(618) 664–0800
IN:			
IN0437 COUNTRY HEARTH INN	1115 WEST SEVENTH ST	AUBURN, IN 46706	(800) 348–5767
IN0434 STONEHENGE LODGE	911 CONSTITUTION AVE	BEDFORD, IN 47421	(812) 279–8111
IN0431 INDIANA MEMORIAL UNION HOTEL.	900 E 7TH ST	BLOOMINGTON, IN 47405	(812) 856–6381
IN0430 INDIANA MOTOR LODGE	PO BOX 2475, 200 MATLOCK RD	BLOOMINGTON, IN 47402	(812) 336–0905
IN0436 RAMADA LIMITED	2601 N WALNUT ST	BLOOMINGTON, IN 47402	(812) 332–9453
IN0426 HOLIDAY INN EXPRESS	31 MAPLEHURST DRIVE	BROWNSBURG, IN 46112	(317) 852–5353
IN0423 BUDGETEL INN	PO BOX 370, 2495 LANDMARK AVE.	CORYDON, IN 47112	(812) 738–1500

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 3/17/97 UPDATE—Continued

Index and property name	PO Box/Rt No. and street address	City, state/ZIP	Phone
IN0429 STUDIO PLUS AT EVANSVILLE ...	301 EAGLE CREST DRIVE	EVANSVILLE, IN 47715	(812) 479–0103
IN0428 STUDIO PLUS AT FORT WAYNE	5810 CHALLENGER PARKWAY ..	FORT WAYNE, IN 46818	(219) 490–0911
IN0424 COMMONWEALTH MOTELS OF MISSISSIPPI INC.	2141 POST ROAD	INDIANAPOLIS, IN 46219	(317) 897–2000
IN0427 QUALITY INN & SUITES	5151 ELMWOOD	INDIANAPOLIS, IN 46203	(317) 783–5555
IN0435 RAMADA INN	1709 E. LINCOLN RD	KOKOMO, IN 46902	(317) 459–8001
IN0439 FAIRFIELD INN SOUTH BEND MISHAWAKA.	425 UNIVERSITY DR	MISHAWAKA, IN 46545	(219) 273–2202
IN0433 HICKORY SHADES MOTEL	RR 1 BOX 250	NASHVILLE, IN 47448	(812) 988–4694
IN0425 HOLIDAY EXPRESS	320 CONRAD HARCOURT WAY	RUSHVILLE, IN 46173	(317) 932–2999
IN0438 BUDGETEL INN	7 CUMBERLAND DR	WASHINGTON, IN 47501	(812) 254–7000
IN0432 HOLIDAY INN EXPRESS	1808 HWY 50 EAST	WASHINGTON, IN 47501	(812) 254–6666
MS:			
MS0117 BROADWATER BEACH RESORT EAST.	2060 BEACH BOULEVARD	BILOXI, MS 39531	(601) 388–2211
TX:			
TX0715 DAYS INN AUSTIN NORTH	820 E. ANDERSON LANE	AUSTIN, TX 78752	(512) 835–4311
TX0716 HOLIDAY INN SOUTH	3401 S. IH–35	AUSTIN, TX 78741	(512) 448–2444
TX0714 BEST WESTERN EAGLE PASS ..	1923 LOOP 431	EAGLE PASS, TX 78852	(800) 992–3245
TX0713 SUPER 8 MOTEL—EAGLE PASS	2150 DEL RIO BLVD	EAGLE PASS, TX 78852	(800) 272–9786
TX0717 BEST WESTERN MARBLE FALL INN.	1403 HWY 281 N	MARBLE FALLS, TX 78654	(210) 693–5122
UT:			
UT0092 LA QUINTA INN & SUITES	521 W. 1300 S	OREM, UT 84058	(800) 531–5900
UT0091 CRYSTAL INN	230 W. 500 S	SALT LAKE CITY, UT 84101	(800) 366–4466
UT0093 LA QUINTA INN & SUITES	4905 W. WILEY POST RD	SALT LAKE CITY, UT 84116	(800) 531–5900
UT0095 SALT LAKE CITY AIRPORT HILTON.	5151 WILEY POST WAY	SALT LAKE CITY, UT 84116	(801) 539–1515
UT0094 SALT LAKE HILTON HOTEL	150 W. 500 S	SALT LAKE CITY, UT 84101	(801) 532–3344
UT0090 BEST WESTERN COTTONTREE INN.	10695 S. AUTO MALL DR	SANDY, UT 84070	(800) 662–6886
VA:			
VA0661 TRAVELODGE CONFERENCE CENTER.	380 EAST WASHINGTON ST	PETERSBURG, VA 23803	(804) 733–0000
WV:			
WV0248 LOWERY'S MOTEL	RT. 20	CRAIGSVILLE, WV 26205	(304) 742–5390
CORRECTIONS/CHANGES			
AZ:			
AZ0178 DAYS INN	724 N. BISBEE AVE	WILLCOX, AZ 85643	(520) 384–4222
IL:			
IL0448 SUPER 8 MOTEL KANKAKEE	1390 LOCK DR	BOURBONNAIS, IL 60914	(815) 939–7888
IL0367 SUPER 8 MOTEL DANVILLE	377 LYNCH	DANVILLE, IL 61832	(217) 443–4499
IL0061 TRAVELODGE CHICAGO O'HARE	3003 MANNHEIM RD	DES PLAINES, IL 60018–3605	(708) 296–5541
IL0085 SUPER 8 MOTEL ELGIN	425 AIRPORT RD	ELGIN, IL 60123	(708) 697–8828
IL0241 SUPER 8 MOTEL PONTIAC	601 S. DEERFIELD RD	PONTIAC, IL 61764	(815) 844–6888
IL0398 SUPER 8 MOTEL RANTOUL	207 S. MURRAY	RANTOUL, IL 61866	(217) 893–8888
IL0169 SUPER 8 MOTEL ROCKFORD	7646 COLOSSEUM DR	ROCKFORD, IL 61107	(815) 229–5522
IL0441 SUPER 8 MOTEL WASHINGTON	1884 WASHINGTON RD	WASHINGTON, IL 61571	(309) 444–8881
IN:			
IN0383 COMFORT INN ANDERSON	2205 E. 59TH ST	ANDERSON, IN 46013	(317) 644–4422
IN0019 BOSWELL MOTEL	307 S. OLD US HWY 41	BOSWELL, IN 47921	(317) 869–5060
IN0400 KNIGHTS INN FT WAYNE NORTH	2901 GOSHEN ROAD	FT. WAYNE, IN 46808–1321	(219) 484–2669
IN0276 OLYMPIA PLAZA MOTEL	4141 CALUMET AVE	HAMMOND, IN 46327	(219) 933–0500
IN0343 TOWER INN	1633 N. CAPITOL	INDIANAPOLIS, IN 46202	(317) 925–9831
IN0418 DAYS INN AND SUITES—CASTLETON.	8275 CRAIG ST	INDIANPOLIS, IN 46250	(317) 841–9700
IN0420 HAMPTON INN MISHAWAKA	445 UNIVERSITY DRIVE	MISHAWAKA, IN 46545	(317) 232–0146
IN0381 COMFORT INN MUNCIE	4011 W. BETHEL	MUNCIE, IN 47305	(317) 282–6666
IN0084 ECONO LODGE OF SOUTHBEND	3233 LINCOLNWAY W	SOUTH BEND, IN 46601	(219) 232–9019
IN0111 HOLIDAY INN/UNIVERSITY AREA	515 N. DIXIEWAY	SOUTH BEND, IN 46637	(219) 272–6600
IN0277 WORKS MOTEL	475 N. NILE AVE	SOUTH BEND, IN 46601	(219) 234–1954
IN0357 MARRIOTT SOUTH BEND	123 N. ST. JOSEPH	SOUTHBEND, IN 46601	(219) 234–2000
IN0410 COMFORT SUITES TERRE HAUTE.	501 EAST MARGARET DRIVE	TERRE HAUTE, IN 47802	(812) 235–1770
IN0409 FAIRFIELD INN TERRE HAUTE ...	475 EAST MARGARET DRIVE	TERRE HAUTE, IN 47802	(812) 235–2444
NY:			
NY0424 FOUR POINT HOTEL—SYRACUSE.	ELECTRONICS PKWY	LIVERPOOL, NY 13088	(315) 457–1122
TX:			
TX0387 RAMADA LIMITED	5526 N. IH–35	AUSTIN, TX 78751	(512) 451–7001
TX0119 LE MERIDIEN	650 N. PEARL	DALLAS, TX 75201	(214) 979–9000
VA:			

THE HOTEL AND MOTEL FIRE SAFETY ACT OF 1990 NATIONAL MASTER LIST 3/17/97 UPDATE—Continued

Index and property name	PO Box/Rt No. and street address	City, state/ZIP	Phone
VA0328 QUALITY INN SUITES CONFERENCE CENTER.	1809 WEST MERCURY BLVD	HAMPTON, VA 23666–0000	(804) 838–5011
VA0423 BEST WESTERN BATTLEFIELD INN.	10820 BALLS FORD ROAD	MANASSAS, VA 20109–2401	(703) 361–8000
DELETIONS			
IA:			
IA0169 HOLIDAY INN	1050 6TH AVENUE	DES MOINES, IA 50314	(515) 283–0151

[FR Doc. 97–7624 Filed 3–25–97; 8:45 am]
BILLING CODE 6718–08–U

Federal Register

Wednesday
March 26, 1997

Part VI

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51851; FRL–5579–8]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from May 1, to May 31, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51851]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppts.ncic@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 [OPPTS–51851]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under ''SUPPLEMENTARY INFORMATION'' of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA Sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51851]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 165 Premanufacture Notices Received From: 05/01/96 to 05/31/96

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1021	05/01/96	07/30/96	Shell Chemical Company	(S) Water based epoxy curing agent	(G) Amine terminated polyamide oligomer
P–96–1022	05/01/96	07/30/96	Shell Chemical Company	(S) Water based epoxy curing agent	(G) Amine terminated polyamide oligomer
P–96–1023	05/01/96	07/30/96	3M Company	(S) Intermediate	(G) Fluorochemical acrylate copolymer
P–96–1024	05/01/96	07/30/96	3M Company	(G) Coating additive	(G) Fluorochemical acrylate copolymer derivative
P–96–1027	05/01/96	07/30/96	Spies Hecker, Inc.	(S) Binder for paints	(S) 1,4-cyclohexandicarboxylic acid, polymer with ethyl-2-(hydroxymethyl)-1,3-propanediol, hexahydro-1, 3-isobenzofurandione and 2-oxepanone
P–96–1028	05/01/96	07/30/96	Spies Hecker, Inc.	(S) Binder	(S) 1,3-isobenzofurandione, hexahydro-, polymer with 2,2-bis(hydroxymethyl)- 1,3-propanediol, 3, 3, 5-trimethyl hexanoate
P–96–1029	05/01/96	07/30/96	Spies Hecker, Inc.	(S) Binder for impregnating varnish	(S) Polymer of: 1,3,5-triazine-2,4,4(1*H*,3*H*,5*h*)-trione,1,3,5-tris(2-hydroxyethyl)-, polymer with 2-aminoethanol, 2,2-dimethyl-1,3-propanediol, 2,5-furandione and 3*A*,4,7,7*A*-tetrahydro-1,3-isobenzofurandione (9cl)
P–96–1030	05/01/96	07/30/96	Spies Hecker, Inc.	(S) Binder for paints	(S) Polymer of: 1,3 lsobenzofurandione, hexahydro-, polymer with 2- oxepanone and 2,2¼ - (οχυβισ (μετηυλενε)) βισ (2 - ετηυλ - 1,3 - προπανεδιολ)
P–96–1031	05/02/96	07/31/96	Hoechst Celanese	(G) Soil repellent	(G) Substituted methacrylate; polymer with substituted methacrylamide; substituted methacrylamide; propenoic acid, perfluoroalkyl esters; alkyl acrylate
P–96–1032	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate (salt)
P–96–1033	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate (salt)
P–96–1034	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate (salt)
P–96–1035	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate (salt)
P–96–1036	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate (salt)
P–96–1037	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1038	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate (salt)

I. 165 Premanufacture Notices Received From: 05/01/96 to 05/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1039	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]- quaternized, lactate (salt)
P–96–1040	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1041	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1042	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1043	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1044	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1045	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-Propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1046	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-Propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1047	05/01/96	07/30/96	CBI	(G) Component of coating with dispersive use	(G) 2-Propenoic acid, 2-methyl, oxiranylmethyl, polymer with ethenylbenzene, alkyl methacrylates, 2,2′-thiobis [ethanol]-quaternized, lactate salt
P–96–1048	05/01/96	07/30/96	CBI	(G) Oil additive	(G) Hydrocarbyl amines
P–96–1052	05/02/96	07/31/96	CBI	(S) Hot melt ashesive for bonding industrial parts	(G) Aliphatic polyamide
P–96–1053	05/03/96	08/01/96	AKZO Nobel Resins	(S) Resin used to manufacture industrial coatings	(G) Acrylic resin solution
P–96–1054	05/03/96	08/01/96	CBI	(G) Raw material for UV industrial wood coatings	(G) Maleic anhydrede, polymer with diethylene glycol, butanol and epoxy ester
P–96–1055	05/03/96	08/01/96	Lonza Inc	(G) Organic intermediate-destructive use	(G) Isonoyldimethylamine
P–96–1056	05/03/96	08/01/96	CBI	(G) Processing aid	(G) Alkoxylated polyols
P–96–1057	05/03/96	08/01/96	Orient Chemical Corporation	(G) Coloring material for printing ink	(G) Mixture of acid-sustituted aromatic azo compounds
P–96–1058	05/03/96	08/01/96	CBI	(G) Processing aid	(G) Halogenated-substituted-cycloalkane
P–96–1059	05/03/96	08/01/96	CBI	(G) Processing aid	(G) Halogenated-substituted-cycloalkane
P–96–1060	05/03/96	08/01/96	CBI	(G) Processing aid	(G) Halogenated-substituted-cycloalkane
P–96–1061	05/03/96	08/01/96	CBI	(G) Processing aid	(G) Halogenated-substituted-cycloalkane
P–96–1062	05/06/96	08/04/96	Essex Specialty Products, Inc.	(S) Polymer used in sealant manufacture	(G) Isocyanate functional poly carbomoyl (polyalkylene oxide)

I. 165 Premanufacture Notices Received From: 05/01/96 to 05/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1063	05/06/96	08/04/96	Dexter Corporation Electronic Materials Division	(S) A filler for epoxy based molding compounds	(S) Silane, trimethoxy[3-(oxiranylmethoxy)propyl]-, hydrolyzed, reaction products with vitreous silica.
P–96–1064	05/06/96	08/04/96	CBI	(G) Process anti-foulant	(G) Substituted alkyl *N*-heterocycle
P–96–1065	05/08/96	08/06/96	Ube Industries (America), Inc	(G) Solvent for disviscosity	(G) Aliphatic carbonate
P–96–1066	05/06/96	08/04/96	CBI	(G) Processing additive	(G) Alkane polycarboxylic acid alkanolamine salt
P–96–1067	05/07/96	08/05/96	CBI	(G) Reactive diluent= ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-Alanine, *N*-ethenyl-*N*-formyl-, methyl ester
P–96–1068	05/07/96	08/05/96	CBI	(G) Reactive diluent = ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-Alanine, *N*-ethenyl-*N*-formyl-, methyl ester
P–96–1069	05/07/96	08/05/96	CBI	(G) Reactive diluent = ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-Alanine, *N*-ethenyl-*N*-formyl-, methyl ester
P–96–1070	05/07/96	08/05/96	CBI	(G) Reactive diluent = ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-Alanine, *N*-ethenyl-*N*-formyl-, methyl ester methylpropyl ester
P–96–1071	05/07/96	08/05/96	CBI	(G) Reactive diluent = ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-alanine, *N*-ethenyl-*N*-formyl-, 2-ethylhexyl ester
P–96–1072	05/07/96	08/05/96	CBI	(G) Reactive diluent = ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-alanine, *N*-ethenyl-*N*-formyl-, isooctyl ester
P–96–1073	05/07/96	08/05/96	CBI	(G) Reactive diluent= ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-Alanine, *N*-ethenyl-*N*-formyl-, methyl ester trimethylbicyclo[2.2.1] hept-2-yl ester, exo
P–96–1074	05/07/96	08/05/96	CBI	(G) Reactive diluent= ''coating additive, open non-dispersive use''; functional monomer and comonomer = ''reactive monomer, contained use''	(S) Beta-Alanine, *N*-ethenyl-*N*-formyl-, methyl ester
P–96–1075	05/09/96	08/07/96	H.B. Fuller Company	(S) Moisture-cure adhesive for a variety of substances; note: production volume estimates are a total for all the pmn substances combined.	(G) Isocyanate-terminated polyester polyurethane polymer
P–96–1076	05/09/96	08/07/96	H.B. Fuller Company	(S) Moisture-cure adhesive for a variety of substances; note: production volume estimates are a total for all the pmn substances combined.	(G) Isocyanate-terminated polyester polyurethane polymer
P–96–1077	05/09/96	08/07/96	H.B. Fuller Company	(S) Moisture-cure adhesive for a variety of substances; note: production volume estimates are a total for all the pmn substances combined.	(G) Isocyanate-terminated polyester polyurethane
P–96–1078	05/09/96	08/07/96	H.B. Fuller Company	(S) Moisture-cure adhesive for a variety of substances; note: production volume estimates are a total for all the pmn substances combined	(G) Isocyanate-terminated polyester polyurethane polymer
P–96–1079	05/10/96	08/08/96	BASF Corporation	(S) Fuel (gasoline) additive	(G) Organic alcohol, alkoxylated
P–96–1080	05/09/96	08/07/96	LG Chemical America,Inc	(S) Black ink for ink jek	(G) Disazo dye
P–96–1081	05/09/96	08/07/96	The Dow Chemical Company	(S) Metal working lubricant	(G) Fatty alcohol alkoxylate

I. 165 Premanufacture Notices Received From: 05/01/96 to 05/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1082	05/10/96	08/08/96	BASF Wyandotte Corporation	(S) Polyol for polyurethane product	(G) Glycolysis product of polyurethane foam
P–96–1083	05/10/96	08/08/96	BASF Wyandotte Corporation	(S) Polyol for polyurethane product	(G) Glycolysis product of polyurethane foam
P–96–1084	05/10/96	08/08/96	The Polyset Company, Inc	(S) Photoinitiator- adhesives coatings, inks; thermal intiator- electronic encapsulants; themal initiator- composites	(S) Iodonium, [4-[(2-hydroxytetradecyl)oxy]phenyl]phenyl-, (oc-6-11)-hexanfluoroantimonate (1-)
P–96–1085	05/13/96	08/11/96	Monsanto Company	(S) Stain inhibitor for nylon fibers; blending agents for nylon polymer	(G) Sulfonated nylon copolymer
P–96–1086	05/13/96	08/11/96	CBI	(G) Coatings additive	(G) Organo silane ester
P–96–1087	05/13/96	08/11/96	CBI	(G) Organosilane ester intermediate	(G) Organo silane ester
P–96–1088	05/14/96	08/12/96	Gelest, Inc.	(G) Coating additive	(G) Alkyl modified polydimethyl siloxane
P–96–1089	05/14/96	08/12/96	CBI	(G) Adhesive coatings	(G) Solane-terminated polyester polymer
P–96–1090	05/14/96	08/12/96	CBI	(G) UV light stabilizer for plastics	(G) Polymethylmethacrylate with a hydroxy benzophenone structure
P–96–1091	05/07/96	08/05/96	CBI	(G) Components of coatings, inks, adhesives etc	(G) Unsaturated epoxy ester
P–96–1092	05/14/96	08/12/96	CBI	(G) Open non-dispersive use	(G) Acid ester
P–96–1093	05/14/96	08/12/96	Essex Specialty Products, Inc	(S) Polymer used in sealant coatings manufacture	(G) Polyetherisocyanate silane adduct
P–96–1094	05/14/96	08/12/96	Essex Specialty Products, Inc	(S) Polymer used in sealant coatings manufacture	(G) Polyether polyol isocyanate adduct
P–96–1095	05/15/96	08/13/96	Gem Urethane Corporation	(S) Finishing of leather textile treatments	(S) Aqueous polyurethane dispersion
P–96–1096	05/15/96	08/13/96	Cytec Industries	(G) UV light stabilizer in plastics	(G) Hindered amine light stabilizer
P–96–1097	05/15/96	08/13/96	CBI	(G) Laundry additive	(G) Modified polycarboxylate
P–96–1098	05/15/96	08/13/96	CBI	(G) Laundry additive	(G) Modified polycarboxylate
P–96–1099	05/15/96	08/13/96	CBI	(G) Polyester resin for use in industrial coatings	(S) Fatty acids, hack-C_{16}–C_{18}, polymers with glycerol, glycidyl neodecanoate, maleic anhydride, phthalic anhydride, 3,5,5-trimethylhexanoic acid, and trimethylolpropane
P–96–1100	05/15/96	08/13/96	CBI	(G) Open non-dispersive use	(G) Acid ester
P–96–1101	05/15/96	08/13/96	CBI	(G) Open, non-dispersive use	(G) Styrene-acrylic copolymer
P–96–1102	05/15/96	08/13/96	Adhesives Research, Inc.	(S) Pressure sensitive adhesive for tape products	(G) Acrylic polymer
P–96–1103	05/15/96	08/13/96	CBI	(G) Modifier for polymer resins(to improve paintability	(G) Unknown
P–96–1104	05/16/96	08/14/96	CBI	(G) Open, non-dispersive	(G) Polyester polyol resin
P–96–1105	05/16/96	08/14/96	Reichhold Chemicals Inc	(S) Corrosion resistant pipe and duct manufacture; laminated panels; chemical porcess equipment (tanks, stacks, etc.); boat manufacture (marine) gerneral laminating	(G) Brominated vinyl ester
P–96–1106	05/17/96	08/15/96	Synthetic Solutions, Inc	(S) Solvent in cleaning compounds; general purpose solvent	(G) Synthetic hydrocarbon solvent
P–96–1107	05/20/96	08/15/96	CBI	(S) Catalyst in carbonylation and hydroformylation	(S) Acetic acid, rhodium (3+) salt (8ci, 9ci)
P–96–1108	05/17/96	08/15/96	CBI	(G) Intermediate for dye manufacture	(S) Phenol, 3-(dibutylamino)-
P–96–1109	05/13/96	08/11/96	CBI	(G) Solder mask coating	(G) Phenol, polymer with formaldehyde, glycidyl ether acrylate hydrogen alkane carboxylate
P–96–1110	05/21/96	08/19/96	Ciba-Geigy Corporation, Textile Products Division	(G) Textile dye	(G) Benzenesulfonic acid amino triazinyl amino alkyl substituted dioxazine compound
P–96–1111	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1112	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1113	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1114	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1115	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate

I. 165 Premanufacture Notices Received From: 05/01/96 to 05/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1116	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1117	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1118	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1119	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1120	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1121	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1122	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1123	05/20/96	08/15/96	CBI	(G) Component of coating with open use	(G) Polyurethane acrylate
P–96–1124	05/21/96	08/19/96	CBI	(G) Coating additive	(G) Fluorochemical acrylate copolymer derivative
P–96–1125	05/21/96	08/19/96	3M Company	(S) Intermediate	(G) Fluorochemical acrylate copolymer
P–96–1126	05/20/96	08/18/96	Kanematsu USA Inc	(S) Adhesive for daiper, ceiling, plastic	(S) Benzen, ethenyl-, polymer with 1-methyl-4-(1-methylethenyl) cyclohexene, hydrogenated
P–96–1127	05/22/96	08/20/96	CBI	(S) Additive for consumer products, dispersive use	(S) 2-hepten-4-one, 5-methyl-,
P–96–1128	05/23/96	08/21/96	CBI	(G) Colorant for inks	(G) Substituted pyridine substituted phenyl azo
P–96–1129	05/21/96	08/19/96	Dennis Chemical Company	(S) Sealant for loop detectors installed into concrete or asphalt	(S) Oxirane, methyl-, polymer with oxirane, ether with 1,2,3-propanetriol (3:1), polymer with alpha-hydro-omega-hydroxypoly [oxy(methyl-,2-ethaediyl)]and 1,1′-methylenebis [isocyanatobenzene]
P–96–1130	05/24/96	08/22/96	CBI	(S) Leather dyeing	(G) Polysubstituted bis phenylazonapthalene disulfonic acid
P–96–1131	05/28/96	08/26/96	Pilot	(S) Lubricant/ corrosion inhibitor; viscosity modifier and foam booster in shampoos and liquid detergents	(S) 9,12-Octadecadien amide,*N*-(2-hydroxypropyl)-*z,z*)-
P–96–1132	05/23/96	08/21/96	CBI	(G) Surfactant monomer for polymeric thickers	(G) Vinyl modified nonionic surfactant
P–96–1133	05/23/96	08/21/96	CBI	(G) Thickening compound for aqueous system	(G) Acrylate copolymer salt
P–96–1134	05/23/96	08/21/96	CBI	(G) Thickening compound for aqueous system	(G) Acrylate copolymer salt
P–96–1135	05/23/96	08/21/96	CBI	(G) Thickening compound for aqueous system	(G) Acrylate copolymer salt
P–96–1136	05/24/96	08/22/96	CBI	(G) Coating component	(G) Urethane acrylate prepolymer
P–96–1137	05/23/96	08/21/96	CBI	(S) Catalyst for polyurethane foam manufacture	(G) Mono-amine salt carboxylate
P–96–1138	05/22/96	08/20/96	CBI	(G) Open, non dispersive use	(G) Styrenated acrylic copolymer
P–96–1139	05/23/96	08/21/96	CBI	(G) Component in uvcure release coatings (for adhesive tape backing)	(G) Vinyl functional silicone fluid
P–96–1140	05/23/96	08/21/96	Reichhold Chemicals Inc	(S) Component for adhesive	(G) Polyester polyurethane
P–96–1141	05/23/96	08/21/96	CBI	(G) Thickening compound for aqueous systems	(G) Modified acrylic terpolymer
P–96–1142	05/24/96	08/22/96	Champion Technologies	(S) Corrosion inhibitor for oil production and pipeline	(S) Fatty acids, tall-oil, polumer with tetraethylenepentamine acetates, mercaptoacetates; fatty acids, tall-oil, polymer with tetraethylenepentamine, acetates; fatty acids, tall-oil, polymer with tetraethylene pentamine, mercaptoacetates
P–96–1143	05/24/96	08/22/96	CBI	(S) Sample extraction and preparation	(G) Bonded phase silica gel
P–96–1144	05/24/96	08/22/96	CBI	(G) To color leather	(G) Black azo dye
P–96–1145	05/24/96	08/22/96	CBI	(G) Waterproofing additive	(G) Modified polymethyl siloxane

I. 165 Premanufacture Notices Received From: 05/01/96 to 05/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1146	05/28/96	08/26/96	CBI	(G) Surfactant monomer for polymeric thickeners	(G) Vinyl modified nonionic surfactant
P–96–1147	05/29/96	08/27/96	Hercules Incorporated	(G) Papermaking chemical	(G) Oligomeric alkenyl ester
P–96–1148	05/23/96	08/21/96	Condea Vista Company	(G) Base oil for lubricating oil	(S) Lubrication oil (petroleum), hydrocracked nonarom. solvent-deparaffined
P–96–1149	05/29/96	08/27/96	Thiokol Corporation	(G) Destructive use as a pyrotedhnic oxidizer	(S) Copper hydroxide nitrate
P–96–1150	05/28/96	08/26/96	GE Silicones	(G) Uv stabilizer used in protective coatings	(G) Reaction product of a silsesquioxane-silicic acid resin with a silylated aromatic compound
P–96–1151	05/29/96	08/27/96	CBI	(G) Binder/ crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–1152	05/29/96	08/27/96	CBI	(G) Binder/ crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–1153	05/29/96	08/27/96	CBI	(G) Binder/crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–1154	05/29/96	08/27/96	CBI	(G) Binder/crosslinker	(G) Alcohol, aldehyde, amide, melamine reaction products
P–96–1155	05/29/96	08/27/96	CBI	(G) Binder/crosslinker	(G) Alcohol, aldehyde, glyceride, melamine reaction products
P–96–1156	05/29/96	08/27/96	CBI	(G) Binder/crosslinker	(G) Alcohol, aldehyde, glyceride, melamine reaction products
P–96–1157	05/29/96	08/27/96	CBI	(G) Binder/crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–1158	05/29/96	08/27/96	CBI	(G) Binder/crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–1159	05/29/96	08/27/96	CBI	(G) Binder/crosslinker	(G) Alcohol, aldehyde, melamine reaction products
P–96–1160	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with ethylenediamine, tall-oil fatty acids, a dibasic acid and diamines.
P–96–1161	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with ethylenediamine, a dibasic acid, diamines and a mono-basic acid.
P–96–1162	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with ethylenediamine, a dibasic acid, diamines and a mono-basic acid.
P–96–1163	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with ethylenediamine, tall-oil fatty acids, a dibasic acid, and diamines and a mono-basic acid.
P–96–1164	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with , ethylenediamine, tall-oil fatty acids, a dibasic acid, diamines and a mono-basic acid.
P–96–1165	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with dibasic acid, a dibasic acid, diamines and a mono-basic acid.
P–96–1166	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with ethylenediamines, a dibasic acid, diamines and a mono-basic acid.
P–96–1167	05/28/96	08/26/96	CBI	(S) As a hot melt adhesive to bond copper ire coils to noryl pladtic television deflection yoke housings	(G) Fatty acids, C_{18}-unsaturated dimers, polymers with ethylenediamine, a dibasic acid, diamines and a mono-basic acid
P–96–1168	05/28/96	08/26/96	CBI	(G) Thickening compound for aqueous system	(G) Hydrophobically modified polyacrylate
P–96–1169	05/28/96	08/26/96	CBI	(G) Thickening compound for aqueous system	(G) Hydrophobically modified polyacrylate
P–96–1170	05/28/96	08/26/96	CBI	(G) Thickening compound for aqueous system	(G) Hydrophobically modified polyacrylate
P–96–1171	05/28/96	08/26/96	CBI	(G) Laundry additive	(G) Modified polycarboxylate

I. 165 Premanufacture Notices Received From: 05/01/96 to 05/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1172	05/28/96	08/26/96	CBI	(G) Laundry additive	(G) Modified polycarboxylate
P–96–1173	05/29/96	08/27/96	Westvaco Corporation	(G) Petrochemical corrosion inhibitor for destruction and contained uses.	(S) Tall oil, maleated, reaction products with 4,5-dihydro-2-nortall-oil active-1*H*-imidazole-1-ethanamine
P–96–1174	05/29/96	08/27/96	Westvaco Corporation	(G) Petrochemical corrosion inhibitor for destruction and contained uses.	(S) Fatty acids, tall-oil, reaction products with diethylenetriamine and maleated tall oil.
P–96–1175	05/29/96	08/27/96	CBI	(G) Coating curative	(G) Polyamide
P–96–1176	05/30/96	08/28/96	Huls America Inc	(S) Pigment dispersant for color dispersion	(S) Polymer of: ethylene oxide; isotridocyl alcohol; phosphorous pentoxide; dimethylcyclohexylamine
P–96–1177	05/31/96	08/29/96	CBI	(G) Open, non-dispersive	(G) Metal salt
P–96–1178	05/31/96	08/29/96	Ciba-Geigy Corporation	(G) Paper dye	(G) Pyridinium derivative dichloride salt
P–96–1179	05/30/96	08/28/96	CBI	(S) Adhesive for molded parts providing air tightness	(G) Epoxidized copolymer of phenol and substituted phenol
P–96–1180	05/29/96	08/27/96	CBI	(G) Component of coating with open use	(G) Amine functional polyester polyol
P–96–1181	05/29/96	08/27/96	CBI	(G) Component of coating with open use	(G) Amine functional polyester polyol
P–96–1182	05/29/96	08/27/96	CBI	(G) Component of coating with open use	(G) Amine functional polyester polyol
P–96–1183	05/29/96	08/27/96	CBI	(G) Component of coating with use	(G) Amine functional polyester polyol
P–96–1184	05/29/96	08/27/96	CBI	(G) Component of coating with use	(G) Amine functional polyester polyol
P–96–1185	05/29/96	08/27/96	CBI	(G) Component of coating with use	(G) Amine functional polyester polyol
P–96–1186	05/29/96	08/27/96	CBI	(G) Component of coating with use	(G) Amine functional polyester polyol
P–96–1187	05/29/96	08/27/96	CBI	(G) Component of coating with use	(G) Amine functional polyester polyol
P–96–1190	05/31/96	08/29/96	NOF America Corporation	(S) Impact modifier of engineering plastics	(G) Acrylate polymer
P–96–1191	05/30/96	08/28/96	CBI	(G) Additive, open, non-dispersive use	(G) Alcohals, ethoxylated reaction products with maleic anhydride

II. 55 Notices of Commencement Received From: 05/01/96 to 05/31/96

Case No.	Received Date	Commencement/Import Date	Chemical
P–83–0997	05/21/96	05/13/96	(S)6-Dialkylamino-2-(substituted) spiro(xanthene-,9,3-phthalide
P–87–0565	03/18/88	05/02/96	(S)Copper (II) hydroxide phosphate
P–90–0065	10/26/89	05/29/96	(G)Polyester siloxane
P–90–0066	0/26/96	05/29/96	(G) Titaning containing phosphate and pyrophosphate
P–91–0796	05/15/96	05/01/96	(G) Polyurethane
P–93–0480	05/29/96	05/24/96	(S) Polyloxy-1,2-ethanediyl) .alpha- (carboxymethyl)-, omega,- (9-octadecenyloxy)-
P–93–1214	05/01/96	03/29/96	(G) Amide, alkali salt
P–93–1215	05/29/96	03/29/96	(G)Alkoxylated amide
P–94–0089	05/01/96	04/22/96	(G) Mixture of reaction products of aliphatic isocyanate, oxirane,methyl-,polymer with oxirane; poly(oxy-1,4-butanediyl 2-hydro-*W*-hydroxy; capped with hydroxyethyl acrylate and hydroxy ethyl methacrylate
P–94–0355	05/14/96	05/06/96	(G) Branched alkyl chlorides
P–94–0357	05/14/96	05/11/96	(G) Branched alkyldimethylamine oxides
P–94–0650	05/28/96	05/14/96	(G) Polyester isocyanate prepolymer
P–94–1534	05/16/96	04/24/96	(G) Fatty polyamine compounds with organic acids
P–94–2082	05/21/96	11/29/95	(G) Organo modified polysiloxane
P–95–0237	05/08/96	05/02/96	(G) Carboxylic acid derivative
P–95–0249	05/10/96	01/04/96	(G) Amino functional polydimethylsiloxane
P–95–0592	05/15/96	04/17/96	(G) Blocked polyisocyanate
P–95–0665	05/14/96	02/22/96	(G) Copolymer with 2-propenoic acid, butyl ester
P–95–0674	05/14/96	04/09/96	(G) Polyether polyester polyurethane
P–95–0752	05/29/96	05/19/96	(G) Substituted phenyl azo substituted naphthalenesulfonic acid azo substituted amino triazine
P–95–0940	05/02/96	04/11/96	(G) Amidine
P–95–1287	05/20/96	05/01/96	(G) Phenol, 4,4′-(1-methylethylidene)bis[2,6-dibromo-, polymer with (chloromethyl)oxirane, an isocyanate and 4,4′-(1-methylethylidene)bis[phenol]
P–95–1360	05/31/96	05/08/96	(G) 21873–52–9
P–95–1405	05/10/96	05/01/96	(G) Co polycarbonate
P–95–1811	05/08/96	04/21/96	(G) Fatty acids, esters with trimethylolpropane, reaction products with *TDI*
P–95–1825	05/24/96	05/12/96	(G) Thiophene
P–95–1469	05/25/96	05/16/96	(G)Polyurethane polyarcylic resin

II. 55 Notices of Commencement Received From: 05/01/96 to 05/31/96—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–95–1941	05/30/96	09/22/95	(G) Siloxanes and silicones, di-me polyether modified
P–95–1961	05/13/96	04/12/96	(G) Phoxphoric acid, mixed polyoxyalkylene aryl and alkyl esters
P–95–1967	05/10/96	04/30/96	(G) Inorganic wax
P–95–2083	05/29/96	05/23/96	(S) Benzenemethanol, 4-hydroxy-.alpha.-methyl
P–95–2085	05/08/96	04/24/96	(S) 1,3-benzenedicarboxylic acid, 5-sulfo-, monosodium salt, polymer with 1,3-benezenedicarboxylic acid, 1,3-dihydro-1,3-dioxo-5-isobenzofurancarboxylic acid and 2,2′-oxbis[ethanol], com- with 2,2′ lotris[ethanol]
P–96–0048	05/07/96	04/18/96	(G) Acrylate polymer, ammonium salt
P–96–0095	05/14/96	04/26/96	(G) Di-urea compounds
P–96–0097	05/14/96	04/26/96	(G) Di-urea compounds
P–96–0098	05/14/96	04/26/96	(G) Di-urea compounds
P–96–0099	05/14/96	04/26/96	(G) Di-urea compounds
P–96–0183	05/28/96	04/30/96	(G) Substituted europium acetonate
P–96–0193	05/14/96	04/08/96	(G) Polyester polyurethane
P–96–0198	05/02/96	04/22/96	(G) 1,1′-[alkanebic [(hexahydro-2,4,6-substituted-pyrimidinediyl)azo-phenylene]]bis[alkyl substituted hetrocyclic sulfonic acid, alkanealkanolamine salt
P–96–0200	05/20/96	05/08/96	(G) Polyurethane-urea
P–96–0236	11/22/95	05/06/96	(S)1-Tridecyn-3-ol 3-menthol
P–96–0237	11/22/95	05/06/96	(S)3,5-Tetrasiloxanediol, 1,1,5.7.7.7-(octamethyl)
P–96–0247	05/20/96	05/05/96	(G) Ammonium-functional siloxane
P–96–0276	05/16/96	05/06/96	(G) Aluminum organo metallic compound
P–96–0299	12/14/95	05/06/96	()
P–96–0301	05/07/96	04/27/96	(G) Bis azo pigment
P–96–0311	05/14/96	04/17/96	(G) Dimer acid based polyester
P–96–0321	05/09/96	04/10/96	(G) Polyisocyanate polyol prepolymer; polyurethane adhesive
P–96–0341	05/22/96	04/24/96	(G) Condensation product of formaldehyde, urea substituted phenolsulfonic acid
P–96–0342	05/22/96	04/24/96	(G) Condensation product of formaldehyde, urea substituted phenolsulfonic acid, sodium salt
P–96–0343	05/22/96	04/24/96	(G) Condensation product of formaldehyde, urea substituted phenolsulfonic acid, ammonium acid
P–96–0344	05/06/96	04/29/96	(G) Epichlorohydrin, polymer with alkenylamines and alkylamine, acid salts
P–96–0363	05/10/96	05/01/96	(G) Organo modified heptamethyltrisiloxane
P–96–0409	05/20/96	04/23/96	(G) *A*-cyano-*N*-heptyltoluene derivative
P–96–0424	05/20/96	05/16/96	(G) Epoxy resin-fatty acids copolymer
P–96–0425	05/20/96	05/16/96	(G) Epoxy resin-fatty acids copolymer
P–96–0588	05/07/96	04/30/96	(G) Substituted naphthalenesulfonic acid azo naphthalenyly amino triazinyl substituted alkane
P–96–0605	05/23/96	05/06/96	(G) Ethanolamine acetate ethyleneamine acetate solution
P–96–0656	05/20/96	05/07/96	(G) Amino-functional polydimethylsiloxane
P–96–0666	05/07/96	05/02/96	(S) Bismuth oxide silicate (bi 2 o(sio4))
P–96–0667	05/31/96	05/02/96	(S) Silicate acid (h4sioa), bismuth (3+) salt (3:4)
P–96–0668	05/31/96	05/02/96	(S) Bismuth oxid silicate (bi 12 o 16(sio4))

List of Subjects

Environmental protection, Premanufacture notices.

Dated: March 12, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–7632 Filed 3–25–97; 8:45 am]

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Federal Register

Wednesday
March 26, 1997

Part VII

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51855; FRL–5585–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from September 1, 1996 to September 30, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51855]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@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 [OPPTS–51855]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under **''SUPPLEMENTARY INFORMATION''** of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51855]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 100 Premanufacture Notices Received From: 09/01/96 to 09/30/96

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1621	09/03/96	12/02/96	Dow Corning	(S) Silicone adhesion promotor	(G) Aminoalkoxy-functional siloxane
P–96–1622	09/03/96	12/02/96	CBI	(S) Agricultural chemical intermediate	(G) Substituted pyridinedicarboxylic ester
P–96–1623	09/05/96	12/04/96	CBI	(G) Chemical intermediate	(G) Quaternary ammonium chloride
P–96–1624	09/05/96	12/04/96	CBI	(G) Chemical intermediate	(G) Quaternary ammonium salt
P–96–1625	09/04/96	12/03/96	Ciba-Geigy Corporation	(S) Friction modifier and antioxidant for engine oils and industrial lubricants	(G) Aromatic glyceride derivative
P–96–1626	09/06/96	12/05/96	CBI	(G) Additive for consumer products dispersive use	(S) Mix of: 3-hexene, 1-(1-methoxypropoxy)-(e), 3-hexene, 1-(1-methoxypropoxy)-,(*z*)
P–96–1627	09/03/96	12/02/96	I C & S Distributing Company	(S) An ingredient of a wood coating	(S) Polymer of: 1,2-ethanediol; ethanol, 2,2′-oxybis; 2-butenedioic acid; 1-butanol,2,-bis[(2-propenyoloxy) methyl]-
P–96–1628	09/04/96	12/03/96	NOF America Corporation	(G) Modifier	(G) Methacrylate copolymer
P–96–1629	09/03/96	12/02/96	CBI	(G)Intermediate; non-dispersive use.	(G) Substituted aminophenol
P–96–1630	09/04/96	12/03/96	W.R. Grace & Company-Conn	(G) Mineral processing additive	(G) Grace mixed isopropanolamine salt solution
P–96–1631	09/04/96	12/03/96	W.R. Grace & Company-Conn.	(G) Mineral processing additive	(G) Grace mixed isopropanolamine salt solution
P–96–1632	09/04/96	12/03/96	W.R. Grace & Company-Conn.	(G) Mineral processing additive	(G) Grace mixed isopropanolamine salt solution
P–96–1633	09/04/96	12/03/96	W.R. Grace & Company-Conn.	(G) Mineral processing additive	(G) Grace mixed isopropanolamine salt solution
P–96–1634	09/04/96	12/03/96	W.R. Grace & Company-Conn.	(G) Mineral processing additive	(G) Grace mixed isopropanolamine salt solution
P–96–1635	09/04/96	12/03/96	W.R. Grace & Company-Conn.	(G) Mineral processing additive	(G) Grace mixed isopropanolamine salt solution
P–96–1636	09/05/96	12/04/96	Gateway Additive Company	(S) Metalworking fluid additives	(G) Alkenyl succinate
P–96–1637	09/05/96	12/04/96	Gateway Additive Company	(S) Metalworking fluid additives	(G) Amine salt of an alkenyl succinate
P–96–1638	09/05/96	12/04/96	Gateway Additive Company	(S) Metalworking fluid additives	(G) Amine salt of an alkenyl succinate
P–96–1639	09/05/96	12/04/96	Hoechst Celanese Corporation	(G) Polymer used in coatings and adhesives	(G) Polyhydroxyrene
P–96–1640	09/05/96	12/04/96	Dystar L.P.	(S) Reactive dye for cellulose powder formulation; reactive dye for cellulose liquid formulation	(G) Trisubstituted naphthylene sulfonic acid salt
P–96–1641	09/05/96	12/04/96	Dystar L.P.	(S) Reactive dye for cellulose powder formulation; reactive dye for cellulose liquid formulation	(G) Trisubstituted naphthylene sulfonic acid salt
P–96–1642	09/05/96	12/04/96	CBI	(G) Component of a structural material	(G) Epoxy resin
P–96–1643	09/05/96	12/04/96	H.B. Fuller Company	(S) Adhesive for variety of substrates used inmfg of articles	(G) Amine-functioinalized polyether polyester polyurethane polymer
P–96–1644	09/05/96	12/04/96	CBI	(S) Raw material of use in fragrances for soaps and detergents; raw material for use in fine fragrances (perfumes & colognes); sales as aroma chemical	(G) Phenylalkanenitrile
P–96–1645	09/06/96	12/05/96	3M Company	(G) Coating	(G) Fluorochemical esters
P–96–1646	09/09/96	12/08/96	CBI	(G) Polymer additives and coatings	(G) Aromatic acrylic urethane oligomer
P–96–1647	09/09/96	12/08/96	CBI	(G) Polymer additives and coatings	(G) Aromatic acrylic urethane oligomer
P–96–1648	09/06/96	12/05/96	CBI	(G) Coating component	(G) Modified polyamide resin
P–96–1649	09/06/96	12/05/96	Chemdesign Corporation	(S) Polymerization initiator	(G) Modified silicone resin
P–96–1650	09/06/96	12/05/96	Toray Industries (America) Inc	(G) Surface treatment agent for metal plate	(G) Water soluble nylon
P–96–1651	09/10/96	12/09/96	NA Industries, Inc	(S) Curing agent for waterborne coatings	(G) Water soluble polymer containing oxazoline group

I. 100 Premanufacture Notices Received From: 09/01/96 to 09/30/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1652	09/10/96	12/09/96	Cytec Industries	(S) Solvent extraction reagent for the recovery of metals from aqueous solution	(S) Phosphinothioic acid, bis(2,4,4-trimethylpentyl)-(9ci)
P–96–1653	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modified rosin ester
P–96–1654	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modified rosin ester
P–96–1655	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modified rosin ester
P–96–1656	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modified rosin ester
P–96–1657	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modified rosin ester
P–96–1658	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modified rosin ester
P–96–1659	09/11/96	12/10/96	Octel America, Inc.	(S) Gasoline/diesel/fuel additive	(G) Polyolefin esters
P–96–1660	09/12/96	12/11/96	CBI	(G) Release-coating polymer	(G) Silicone acrylate polymer
P–96–1661	09/11/96	12/10/96	PCR Incorporated, a Division of Harris Specialty Chemicals, Inc.	(S) Treatment for various inorganic fillers for use in thermoplastic, sealant, rubber and glass fiber applications	(G) Methacryl-alkoxysilane
P–96–1662	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modifier rosin ester
P–96–1663	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modifier rosin ester
P–96–1664	09/11/96	12/10/96	Arizona Chemical	(S) Binder resin for lithographic inks	(G) Phenolic modifier rosin ester
P–96–1665	09/11/96	12/10/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors.	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1666	09/11/96	12/10/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors.	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1667	09/11/96	12/10/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors.	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1668	09/11/96	12/10/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors.	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1669	09/11/96	12/10/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors.	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1670	09/11/96	12/10/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors.	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1671	09/11/96	12/10/96	CBI	(G) Floation additive for mineral processing	(G) Alkenoic acid, alkyl ester
P–96–1672	09/16/96	12/15/96	CBI	(G) Synthetic lubricant base stock	(G) Branched alkanes
P–96–1673	09/16/96	12/15/96	CBI	(G) Synthetic lubricant base stock	(G) Branched alkanes
P–96–1674	09/16/96	12/15/96	Dupont Chambers Works—E.I. Du Pont De Nemours Du Pont chemicals chambers works facility	(S) Isolated intermediate in the manufacture of azo compounds	(G) Alkyl amino nitrile
P–96–1675	09/16/96	12/15/96	Dupont Chambers works—E.I. Du Pont De Nemours Du Pont chemicals chambers works facility	(S) Isolated intermediate in the manufacture of azo compounds	(G) Alkyl amino nitrile
P–96–1676	09/16/96	12/15/96	CBI	(G) Synthetic lubricant base stock	(G) Branch alkanes
P–96–1677	09/16/96	12/15/96	CBI	(G) Component of inks, adhesives and plastics, an open dispersive use	(G) Modified rosin
P–96–1678	09/16/96	12/10/96	CBI	(G) Resin for coating	(G) Chlorinated polypropylene grafted on an acrylic polymer
P–96–1679	09/16/96	12/15/96	CBI	(G) Additive for consumer products dispersive use	(S) Benzoic acid, 2-hydroxy-4-methyl-, methyl ester
P–96–1680	09/16/96	12/15/96	Dupont Chambers Works—E.I. Du Pont De Nemours Du Pont Chemicals	(S) Free radical polymerization initiator; halogenation initiator	(G) Mixed alkly nitrile compounds
P–96–1681	09/16/96	12/15/96	Dupont Chambers works—E.I. Du Pont De Nemours Du Pont Chemicals	(S) Free radical polymerization initiator; halogenation initiator	(G) Mixed alkly nitrile compounds

I. 100 Premanufacture Notices Received From: 09/01/96 to 09/30/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1682	09/16/96	12/15/96	Dupont Chambers works—E.I. Du Pont De Nemours Du Pont Chemicals	(S) Free radical polymerization initiator; halogenation initiator	(G) Mixed alkly nitrile compounds
P–96–1683	09/16/96	12/15/96	Dupont Chambers works—E.I. Du Pont De Nemours Du Pont Chemicals	(S) Free radical polymerization initiator; halogenation initiator	(G) Mixed alkly nitrile compounds
P–96–1684	09/16/96	12/15/96	Dupont Chambers works—E.I. Du Pont De Nemours Du Pont Chemicals	(S) Free radical polymerization initiator; halogenation initiator	(G) Mixed alkly nitrile compounds
P–96–1685	09/18/96	12/17/96	CBI	(G) Binder component	(G) Epoxidized copolymer of phenol and substituted phenol
P–96–1686	09/17/96	12/16/96	CBI	(G) Component of dispersively applied coating	(G) Organic bentonite
P–96–1687	09/13/96	12/12/96	Ciba-Geigy Corporation, Textile Products Division	(G) Textile finishing chemical	(G) Epoxyfunctional alkylsiloxane
P–96–1688	09/17/96	12/16/96	CBI	(G) Crosslinking agent of binder for magnetic recording tape	(G) Polyisocyanae aduct based on toluenediisocyanate
P–96–1689	09/17/96	12/16/96	Nippon Paint (America) Corporation	(G) Additives for paints	(G) Acryl styrene random copolymer
P–96–1690	09/18/96	12/17/96	CBI	(S) Intermediate for polymeric colorant	(G) Alkoxylated substituted aromatic aldehyde
P–96–1691	09/18/96	12/17/96	CBI	(G) Polymeric colorant	(G) Chromophore substituted polyoxyalkylene
P–96–1692	09/19/96	12/18/96	Ciba-Geigy Corporation, Textile Products Division	(G) Textile dye	(G) Phenylene imino 1,3,5-triazine substituted naphthalenedisulfonic azo compound
P–96–1693	09/20/96	12/19/96	CBI	(G) Ingredient for use in consumer products: highly dispersive use	(G) Saturated alicyclic alcohol
P–96–1694	09/24/96	12/23/96	CBI	(S) Basic dye for paper	(G) Cationic methine dye
P–96–1695	09/24/96	12/23/96	CBI	(S) Basic dye for paper	(G) Cationic methine dye
P–96–1696	09/23/96	12/22/96	Ciba-Geigy Corporation, Textile Products Division	(G) Textile dye	(G) Substituted phenyl amino trizinyl substituted phenyl azsubstituted pyrdine compound
P–96–1697	09/24/96	12/23/96	CBI	(G) Destructive	(G) Alkyl alkylamide
P–96–1698	09/24/96	12/23/96	CBI	(G) Destructive	(G) Substituted alkenyl alkylidiamide
P–96–1699	09/26/96	12/25/96	CBI	(S) Curing agent for epoxy resins in adhesives and coating applications	(G) Epoxy polyamine adduct
P–96–1700	09/24/96	12/23/96	Dic Trading (USA) Inc.	(G) Open, non-dispersive use (uv curable coatings)	(S) 2-propenoic acid [octahydro-4, 7-methamo-1*h*-indene-1, 5(1,6 or 2,5)-diyl]bis(methylene) ester
P–96–1701	09/25/96	12/24/96	Henkel Corporation	(S) Melt adhesive	(S) Polymer of: fatty acids, C_{18}-unsaturated dimers; poly(tetrahydrofuran) bis(3-aminoporopyl)ether; amines, C_{36}-alkylenedi-
P–96–1702	09/24/96	12/23/96	Akzo Nobel Resins	(S) Resin used to manufacture industrial coatings	(S) Polymer of: methyl methacrylate; styrene; methacrylic acid; butyl acrylate; dimethylaminoethyl methacrylate; 2,2-azobis[2-methylbutyronitrile]
P–96–1703	09/24/96	12/17/96	The Dow Chemical Company	(S) Latex glossing agent for paper coatings	(G) Modified styrene-acrylate polymer
P–96–1704	09/24/96	12/23/96	CBI	(G) Additive for consumer products dispersive use	(S) 8-decene-3, 5-dione,4,6,9-trimethyl-
P–96–1705	09/24/96	12/23/96	Amoco Corporation	(S) Intermediate in manufacture of polymers used in electronics used in electronic material coating.	(G) Imide oligomer
P–96–1706	09/24/96	12/23/96	Amoco Corporation	(S) Polymer used in electronic material coating.	(G) Aromatic/aliphatic copolymide
P–96–1707	09/27/96	12/26/96	Ciba-Geigy Corporation, polymers division	(S) Molding compound for semiconductor device packaging	(G) Substituted phenol, polymer with (chloromethyl) oxirane and phenol
P–96–1708	09/29/96	12/28/96	DSM Fine Chemicals, Inc.	(S) Agrochemical intermediate; pharmaceutical intermediate; specialty chemical intermediate	(S) Acetic acid, hydroxymethoxy-, methyl ester pmn

I. 100 Premanufacture Notices Received From: 09/01/96 to 09/30/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1709	09/26/96	12/25/96	Ici Americas Inc.	(G) Product dispersion, emulsification	(G) Alkylsuccinic anhydride ester derivative
P–96–1710	09/26/96	12/25/96	Ici Americas Inc.	(G) Product dispersion, emulsification	(G) Alkylsuccinic anhydride ester derivative
P–96–1711	09/26/96	12/25/96	Ici Americas Inc.	(G) Product dispersion, emulsification	(G) Alkylsuccinic anhydride ester derivative
P–96–1712	09/26/96	12/25/96	Ici Americas Inc.	(G) Product dispersion, emulsification	(G) Alkylsuccinic anhydride ester derivative
P–96–1713	09/26/96	12/25/96	Ici Americas Inc.	(G) Product dispersion, emulsification	(G) Alkylsuccinic anhydride ester derivative
P–96–1714	09/26/96	12/25/96	Ici Americas Inc.	(G) Product dispersion, emulsification	(G) Alkylsuccinic anhydride ester derivative
P–96–1715	09/26/96	12/25/96	BASF Wyandotte Corporation	(S) Polyol for polyurethane product	(G) Glycolysis product of polyurethane foam
P–96–1716	09/26/96	12/25/96	BASF Wyandotte Corporation	(S) Polyol for polyurethane product	(G) Glycolysis produc of polyurethane foam
P–96–1717	09/26/96	12/25/96	BASF Wyandotte Corporation	(S) Polyol for polyurethane product	(G) Glycolysis produc of polyurethane foam
P–96–1718	09/26/96	12/25/96	BASF Wyandotte Corporation	(S) Polyol for polyurethane product	(G) Glycolysis produc of polyurethane foam
P–96–1719	09/27/96	12/26/96	GE Silicones	(G) Photocurable coating additive	(G) Organofunctional silicone polymer
P–96–1720	09/27/96	12/26/96	CBI	(G) Catalyst	(G) Silica-supported transition metal complex

II. 58 Notices of Commencement Received From: 09/01/96 to 09/30/96

Case No.	Received Date	Commencement/Import Date	Chemical
P–86–1618	09/03/86	09/03/96	(G)Phenolic resin esters
P–88–0227	11/02/87	09/08/96	(G)Polyester carbonate
P–93–1654	09/02/93	09/20/96	(G)Substituted polyoxyethylene
P–94–1870	09/24/96	09/13/96	(G) Aminophenyl substituted triazolinone
P–94–1871	09/11/96	08/09/96	(G) Phenyl substituted triazolinone (benztriazole)
P–94–1872	09/24/96	08/30/96	(G) Halophenyl substituted triazolinone (halobenztriazole)
P–94–1873	09/16/96	08/25/96	(G) Halophenyl substituted triazolinone (halobenztriazole)
P–94–1874	09/16/96	08/21/96	(G) Phenyl substituted triazolinone (benztriazole)
P–94–2231	09/12/96	08/27/96	(G) Heteroalkylsubstituted benzothiazolium salt
P–95–0099	09/17/96	08/21/96	(S) Lithium manganese oxide, spinel
P–95–0602	09/30/96	09/14/96	(S) Triphenylsulfonium trifluoromethansulfonate
P–95–0903	09/04/96	08/20/96	(G) Fatty acids, C_{18}-unsatd., dimers, hydrogenated, polymers with ethylenediamine, a dibasic acid and a diamine
P–95–1248	09/10/96	08/07/96	(G) Waterborne alkyd resin
P–95–1891	09/27/96	09/13/96	(G) Substituted piperidine reaction product with siloxanes and silicones
P–96–0018	09/24/96	09/07/96	(G) Adipic acid salt
P–96–0044	09/03/96	08/21/96	(G) Stabilized melamine formaldehyde polymer
P–96–0278	09/23/96	09/16/96	(S) Hexanoic acid, 2-ethyl-, 1,2,3-propanetriyl ester
P–96–0282	09/12/96	09/05/96	(S) Fatty acids, c18-unsatd., dimers, hydrogenated, diisopropyl esters
P–96–0414	09/24/96	09/16/96	(G) Pollyether polyol, salt of
P–96–0415	09/24/96	09/18/96	(G) Polyether polyol, salt of
P–96–0567	09/10/96	08/30/96	(G) Polyester resin
P–96–0638	09/03/96	07/27/96	(G) Amine functional polyoxypropylene polyurethane
P–96–0692	09/09/96	08/19/96	(G) 1,3,4-thiadiazole derivative
P–96–0760	09/10/96	08/26/96	(G) Acrylate functionalized polyester
P–96–0762	09/10/96	08/29/96	(G) Acrylate functionalized polyester
P–96–0785	09/05/96	08/07/96	(G) Tetraalkoxytitanate
P–96–0812	09/27/96	09/12/96	(G) Substituted benzene propanoic acid, alkyl ester
P–96–0823	09/23/96	09/14/96	(S) Pyridinuim, alkyl 1-[2-[2-($C_{12–16}$-alkyldimethylammonio)ethoxy]ethyl]derivs., dichlorides
P–96–0824	09/10/96	08/26/96	(G) Acrylate ester
P–96–0826	09/23/96	09/17/96	(S) Methanone, [4,6-dihydroxy-1–3-phenylene]bis[phenyl
P–96–0834	09/10/96	08/05/96	(G) Acrylic polymer
P–96–0836	09/10/96	08/07/96	(G) Vegetable fatty acids, pentaerythritol ester graft copolymer, ammonium salt
P–96–0869	09/18/96	08/20/96	(G) Modified polyester diol
P–96–0872	09/19/96	09/06/96	(G) Substituted imidazole
P–96–0873	09/19/96	08/26/96	(G) Substituted imidazole
P–96–0874	09/10/96	08/06/96	(G) Napthalene sulfonic acid derivative
P–96–0892	09/12/96	09/06/96	(G) Ammonium salt of acrylic/aromatic copolymer
P–96–0918	09/04/96	08/12/96	(G) Polycarbonate based polyurethaneurea

II. 58 Notices of Commencement Received From: 09/01/96 to 09/30/96—Continued

Case No.	Received Date	Commence-ment/Import Date	Chemical
P–96–0935	09/11/96	08/21/96	(S) Cobalt(3+), hexaamine-, (oc-6–11)-, trinitrate
P–96–0951	09/19/96	08/21/96	(G) Polymer of $C_{13\ C15}$ oxoalcohol ethorolate amine and maleic anhydride
P–96–1001	09/12/96	08/13/96	(G) Aromatic modified hydrocarbon resin
P–96–1003	09/20/96	08/28/96	(G) Hydrogenated hydrocarbon resin
P–96–1031	09/10/96	08/15/96	(G) Substituted methacrylate; polymer with substituted methacrylamide; substituted methacrylamide; propenoic acid, perfluoroalkyl esters; alkyl acrylate
P–96–1048	09/20/96	08/26/96	(G) Hydrocarbyl amines
P–96–1053	09/26/96	09/24/96	(G) Acrylic resin solution
P–96–1056	09/04/96	08/27/96	(G) Alkoxylated polyols
P–96–1066	09/16/96	08/21/96	(G) Alkanepolycarboxylic acid alkanolamine salt
P–96–1079	09/11/96	09/05/96	(G) Organic alcohol, alkoxylated
P–96–1090	09/16/96	08/29/96	(G) Polymethylmethacrylate with a hydroxybenzophenone structure
P–96–1098	09/03/96	08/19/96	(G) Modified polycarboxylate
P–96–1116	09/18/96	08/22/96	(G) Polyurethane acrylate
P–96–1120	09/24/96	09/04/96	(G) Polyurethane acrylate
P–96–1168	09/24/96	09/09/96	(G) Hydrophobically modified polyacrylate
P–96–1171	09/18/96	09/03/96	(G) Modified polycarboxylate
P–96–1172	09/18/96	09/03/96	(G) Modified polycarboxylate
P–96–1201	09/26/96	09/04/96	(G) Alkyl methacryalate copolymer
P–96–1216	09/23/96	09/16/96	(G) Mixture of acid-substituted aromatic azo compounds
P–96–1227	09/20/96	09/25/96	(G) Substituted styrene/ acrylic polymer
P–96–1228	09/20/96	09/25/96	(G) Substituted styrene/ acrylic polymer
P–96–1237	09/26/96	09/16/96	(G) Polyurethane dispersion
Y–93–0034	09/10/96	09/05/96	(G) Modified polybutadiene

List of Subjects

Environmental protection, Premanufacture notices.

Dated: March 12, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–7633 Filed 3–25–97; 8:45 am]

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Federal Register

Wednesday
March 26, 1997

Part VIII

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51852; FRL–5579–9]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from June 1, to June 30, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51852]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@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 [OPPTS–51852]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under **''SUPPLEMENTARY INFORMATION''** of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA Sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of Notices of Commencement.

A record has been established for this notice under docket number ''[OPPTS–51852]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 121 Premanufacture Notices Received From: 06/01/96 to 06/30/96

Case No.	Received Date	End Date	Manufacturer/Importer	Use	Chemical
P–96–1192	06/04/96	09/02/96	CBI	(G) Component of coating with open use	(G) Alkyl alcohol terminated polyurethane from 1,3-bis(1-isocyanato-1-methylethyl)benzene, 1,6-hexanediol, polyether polyis and substituted aromatic diols
P–96–1193	06/04/96	09/02/96	CBI	(G) Component of coating with open use	(G) Neutralized alkyl alcohol terminated, amine functional polyurethane derived from 5-isocyanato-1-(isocyanatomethyl)-1,3,3 trimethylcylohexane, polyether polyols and alkyl diols
P–96–1194	06/04/96	09/02/96	CBI	(G) Component of coating with open use	(G) Neutralized alkyl alcohol terminated, amine functional polyurethane derived from 5-isocyanato-1-(isocyanatomethyl)-1,3,3 trimethylcylohexane, polyether polyols and alkyl diols
P–96–1195	06/04/96	09/02/96	CBI	(G) Component of coating with open use	(G) Neutralized alkyl alcohol terminated, amine functional polyurethane derived from 5-isocyanato-1-(isocyanatomethyl)-1,3,3 trimethylcylohexane, polyether polyols and alkyl diols
P–96–1196	06/04/96	09/02/96	CBI	(G) Component of coating with open use	(G) Neutralized alkyl alcohol terminated, amine functional polyurethane derived from 5-isocyanato-1-(isocyanatomethyl)-1,3,3 trimethylcylohexane, polyether polyols and alkyl diols
P–96–1198	06/03/96	09/01/96	GE Silicones	(G) UV stabilizer used in protective coatings	(G) Silsesquioxane resin
P–96–1199	06/03/96	09/01/96	GE Silicones	(G) Sisesquioxane-based protective coating	(G) Organo-modified
P–96–1200	06/03/96	09/01/96	Unitika America Corporation	(S) Additive in polymer	(S) Magnesium silicon sodium fluoride oxide
P–96–1201	06/03/96	09/01/96	CBI	(G) Viscosity index improver	(G) Alkyl methacryalate copolymer
P–96–1203	06/04/96	09/02/96	Ciba Geigy Corporation Pigments Division	(S) Intermediate for pigment production	(S) 1,4–Cyclohexanedicarboxylic acid, 2,5-dioxo-dimethyl ester, ion(2–), disodium (9CI)
P–96–1204	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol.
P–96–1205	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol.
P–96–1206	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1207	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1208	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1209	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1210	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1211	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1212	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1213	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol

I. 121 Premanufacture Notices Received From: 06/01/96 to 06/30/96—Continued

Case No.	Received Date	End Date	Manufacturer/Importer	Use	Chemical
P–96–1214	06/04/96	09/02/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1215	06/06/96	09/04/96	Mitsubishi Rayon American, Inc.	(S) Cleaning solvent for printed circuit boards & integrated circuits; cleaning solvent in screen printing ink removal operations	(S) Propanoic acid, 3-methoxy-2-methyl-, methyl ester (9ci)
P–96–1216	06/06/96	09/04/96	Orient Chemical Corporation	(G) Coloring material for printing ink	(G) Mixture of acid-substituted aromatic azo compounds
P–96–1217	06/06/96	09/04/96	Mitsubishi Chemical America, Inc	(G) Coating agent for films	(G) Polyethyleneimine derivative
P–96–1218	06/05/96	09/03/96	CBI	(G) Process intermediate	(G) Salt of a halo-substituted benzenamine
P–96–1219	06/05/96	09/03/96	CBI	(G) Open, non-dispersive	(G) Amino benzaldehyde
P–96–1220	06/05/96	09/03/96	United Catalysts Inc	(G) A thickner for water born products	(G) Hydrophobically modified polyethylene glycol-glycoluril copolymer
P–96–1221	06/05/96	09/03/96	United Catalysts Inc	(G) A thickner for water born products	(G) Hydrophobically modified polyethylene glycol-glycoluril copolymer
P–96–1222	06/05/96	09/03/96	United Catalysts Inc	(G) A thickner for water born products	(G) Hydrophobically modified polyethylene glycol-glycoluril copolymer
P–96–1223	06/04/96	09/02/96	GE Silicones	(G) Polymerization/depolymerization catalyst	(G) Reaction product of linesr phosphonitrilic chloride with siloxane oil
P–96–1224	06/10/96	09/08/96	GE Silicones	(G) Polymerization/depolymerization catalyst	(G) Linear phosphonitrilic chloride
P–96–1225	06/07/96	09/05/96	The Dow Chemical Company	(S) Functional monomer for resins used in adhesives and sealants; functional monomer for resins used in solvent borne coatings	(S) 2-propenoic acid, 2-methyl-, (2-oxo-1,3-dioxolan-4-yl)methyl ester
P–96–1226	06/06/96	09/04/96	CBI	(G) Dye	(G) Thiophene azo dyestuff
P–96–1227	06/06/96	09/01/96	The Goodyear Tire And Rubber Company	(S) Resin for paints and coatings	(G) Substituted styrene/ acrylic polymer
P–96–1228	06/06/96	09/01/96	The Goodyear Tire & Rubber Company	(S) Resin for paints and coatings	(G) Substituted styrene/acrylic polymer
P–96–1229	06/07/96	09/05/96	CBI	(G) Open, non-dispersive use as a plastics additive.	(G) Polyurethane
P–96–1230	06/07/96	09/05/96	Hercules Incorporated	(G) Papermaking aid	(G) Hydrophobically modified polyamino amide-epichlorohydrin resin
P–96–1231	06/11/96	09/09/96	Essex Specialty Products, Inc	(S) Polymer used in sealant manufacture	(G) Isocyanate functional poly carbomoyl (polyalkylene oxide)
P–96–1232	06/12/96	09/10/96	CBI	(S) Resin used to manufacture industrial coatings	(G) 2-propenoic acid, 2-methyl-,2-hydroxyethyl ester, polymer with butyl 2-propenoate, ethenylbenzene and oxiranylmethyl 2-methyl-2-propenoate, tert-bu, 3,5,5-trimethylhexane peroxoate-intiated
P–96–1233	06/12/96	09/10/96	CBI	(G) Molding compound for encapsulation	(G) Reaction product of epoxy with anhydride and glycerol and glycol
P–96–1234	06/12/96	09/10/96	Reichhold Chemicals Inc	(S) Adhesives for plastic films or sheets	(G) Polyester polyurethane
P–96–1235	06/13/96	09/11/96	CBI	(G) A component of the material for fabrication	(G) Substituted resocinol
P–96–1236	06/10/96	09/08/96	Eastman Chemical Company	(S) Reaction byproduct used as a chemical intermediate	(S) 2*h*-azepin-2-one, hexahydro-, homopolymer, monononamide, dist. residues
P–96–1237	06/13/96	09/11/96	CBI	(G) Component of formulated adhesive	(G) Polyurethane dispersion
P–96–1238	06/13/96	09/11/96	Hercules Incorporated	(G) Isolated intermediate for production of *PTD*d–0847 (*PMN-D*PD–0008)	(G) Hydrophobically modified polyaminoamide oligomer
P–96–1239	06/14/96	09/12/96	CBI	(G) Open, non-dispersive	(G) Aliphatic polyisocyanate homopolymer
P–96–1240	06/17/96	09/15/96	CBI	(S) Emulsifier for paint; emulsifier for adhesive; emulsifier for coating paper; emulsifier for coating textile	(G) Substituted alkylphenyloxy polyoxyethylenesulfonic salt
P–96–1241	06/13/96	09/11/96	CBI	(G) Synthetic base stock	(G) Branched alkenes
P–96–1242	06/13/96	09/11/96	CBI	(G) Synthetic base stock	(G) Branched alkenes
P–96–1243	06/13/96	09/11/96	CBI	(G) Synthetic base stock	(G) Branched alkenes

I. 121 Premanufacture Notices Received From: 06/01/96 to 06/30/96—Continued

Case No.	Received Date	End Date	Manufacturer/Importer	Use	Chemical
P–96–1244	06/13/96	09/11/96	CBI	(G) Synthetic base stock	(G) Branched alkenes
P–96–1245	06/13/96	09/11/96	CBI	(G) Synthetic base stock	(G) Branched alkenes
P–96–1246	06/14/96	09/12/96	CBI	(G) Open, non-dispersive	(G) Aspartic ester
P–96–1247	06/17/96	09/15/96	CBI	(G) Lubricant base stock	(G) Dibasic acid, glycol, higher alcohol ester
P–96–1248	06/17/96	09/15/96	GE Silicones	(G) RTV shelf stabilizer	(G) Silazane polymer
P–96–1249	06/17/96	09/15/96	Mitsubishi Chemical America, Inc	(S) Solvent for litium battery	(S) Carbonic acid, ethyl methyl ester
P–96–1250	06/17/96	09/15/96	CBI	(G) Open, non-dipersive	(G) Keto heterocycle
P–96–1251	06/17/96	09/15/96	CBI	(G) Open, non-dipersive	(G) Keto heterocycle
P–96–1252	06/17/96	09/15/96	CBI	(S) Emulsifier for paint, adhesive, coating paper, coating textile	(G) Substituted alkylphenyloxy polyoxyethylene
P–96–1253	06/17/96	09/15/96	The C.P. Hall Company	(G) Plasticizer	(S) Tall oil fatty acid, $C_{11–14}$ branched alkyl esters, C13 rich
P–96–1254	06/18/96	09/16/96	B F Goodrich Company	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyols, polyisocanates and polyamines
P–96–1255	06/18/96	09/16/96	B F Goodrich Company	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyols, polyisocanates and polyamines
P–96–1256	06/18/96	09/16/96	B F Goodrich Company	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyols, polyisocanates and polyamines
P–96–1257	06/18/96	09/16/96	B F Goodrich Company	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyols, polyisocanates and polyamines
P–96–1258	06/18/96	09/16/96	B F Goodrich Company	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyols, polyisocanates and polyamines
P–96–1259	06/18/96	09/16/96	B F Goodrich Company	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyols, polyisocanates and polyamines
P–96–1260	06/18/96	09/16/96	CBI	(G) Adhesive for medical device parts	(G) Reaction product of methylene bis (4-phenylisocyanate) and polyether/ester polyol
P–96–1261	06/19/96	09/17/96	Essex Specialty Products, Inc	(S) Polymer used in sealant manufacture	(G) Isocyanate terminated adipic acid based urethane prepolymer
P–96–1262	06/19/96	09/17/96	3M Company	(S) Antistatic additive	(G) Substituted polyoxyethylene amine sulfonate
P–96–1263	06/19/96	09/17/96	CBI	(G) Destructive use	(G) Substituted phenyl azo substituted sulfocarbopolycle, sodium salt
P–96–1264	06/19/96	09/17/96	Dover Chemical Corporation	(S) Additive for lubricants	(G) Aliphatic ester
P–96–1265	06/19/96	09/17/96	Dover Chemical Corporation	(S) Additive for lubricants	(G) Aliphatic ester
P–96–1266	06/07/96	09/15/96	CBI	(S) Catatyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1267	06/07/96	09/15/96	CBI	(S) Catatyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1268	06/07/96	09/15/96	CBI	(S) Catatyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1269	06/07/96	09/15/96	CBI	(S) Catatyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1270	06/20/96	09/18/96	CBI	(G) Component of paint, an open dispersive use	(G) Modified aromatic polymer
P–96–1271	06/21/96	09/19/96	H.B. Fuller Company	(S) Fabric adhesive for iron on patches	(G) Polyamide
P–96–1272	06/21/96	09/19/96	H.B. Fuller Company	(S) Fabric adhesive for iron on patches	(G) Polyamide
P–96–1273	06/21/96	09/19/96	CBI	(G) Open, non-dispersive	(G) Triazine azo
P–96–1274	06/21/96	09/19/96	CBI	(G) Resin for coating	(G) Vegetable oil modified hydrocarbon resin
P–96–1275	06/24/96	09/22/96	CBI	(G) Open, non-dispersive	(G) Triazine azo
P–96–1276	06/25/96	09/23/96	3M Company	(G) Stabilizer	(G) Substituted heterocycle
P–96–1277	06/24/96	09/22/96	CBI	(G) Hydraulic fluid	(G) Ester of alkyl ether with acid of group III B element
P–96–1278	06/24/96	09/22/96	CBI	(G) Hydraulic fluid	(G) Esters of alkyl ether with acid of group III *B* element
P–96–1279	06/24/96	09/22/96	CBI	(S) Production intermediate	(G) Tertiary amine

I. 121 Premanufacture Notices Received From: 06/01/96 to 06/30/96—Continued

Case No.	Received Date	End Date	Manufacturer/Importer	Use	Chemical
P–96–1280	06/24/96	09/22/96	CBI	(G) Industrial production aid	(G) Quaternary ammonium compound
P–96–1281	06/24/96	09/22/96	CBI	(G) Industrial production aid	(G) Quaternary ammonium compound
P–96–1282	06/25/96	09/23/96	CBI	(S) Basic resin for UV-curable coatings additive for flexibilisation of acrylic resins	(G) Polysiloxane epoxy acrylate copolymer
P–96–1283	06/26/96	09/24/96	CBI	(G) Component of ink	(G) Aliphatic polyol, polymer with aromatic polycarboxylic acid, ester with aliphatic alcohol
P–96–1284	06/25/96	09/22/96	Essex Specialty Products, Inc	(S) Polymer used in sealant manufacture	(G) Hydroxyl functional polycarbomoyl (polyalkylene oxide) oligomer
P–96–1285	06/25/96	09/23/96	3M Company	(S) Chemical intermediate	(G) Substituted heterocycle, potassium salt
P–96–1286	06/24/96	09/22/96	Tioxide Americas Inc	(S) Adhesion promotor for use in radiation cure coatings	(S) Zirconium, tetrakis(3-methyl, butz-en-1-olato)
P–96–1287	06/24/96	09/22/96	Tioxide Americas Inc	(S) Adhesion promotor for use in radiation cure coatings	(S) Titanium, tetrakis (3 methyl, but-2-en-1-olato)
P–96–1288	06/26/96	09/24/96	E. I. du Pont de Nemours & Company	(G) Destructive use-intermediate	(G) Hydrofluoroalkene
P–96–1289	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1290	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1291	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1292	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1293	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1294	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1295	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1296	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1297	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1298	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1299	06/24/96	09/22/96	CBI	(S) Coatings	(G) Polymer of polyisocyanate with extended hydroxy esters of carbamic acid and alcohol
P–96–1300	06/26/96	09/24/96	CBI	(G) A destructive use as a chemical intermediate	(G) Polyester resin
P–96–1301	06/27/96	09/24/96	CBI	(G) Component of ink	(G) Maleated vegetable oil, polymer with aliphatic and cycloaliphatic polyamines
P–96–1302	06/27/96	09/25/96	B.F. Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1303	06/27/96	09/25/96	B.F.Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1304	06/27/96	09/25/96	B F Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1305	06/27/96	09/25/96	B F Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines

I. 121 Premanufacture Notices Received From: 06/01/96 to 06/30/96—Continued

Case No.	Received Date	End Date	Manufacturer/Importer	Use	Chemical
P–96–1306	06/27/96	09/25/96	B F Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1307	06/27/96	09/25/96	B F Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1308	06/27/96	09/25/96	B F Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sports floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1309	06/28/96	09/26/96	Electra Polymers & Chemicals Inc.	(S)Etch resist coating for on printed circuit boards	(G) 2-propenoic acid, half ester with fatty acid anhycloride
P–96–1310	06/28/96	09/26/96	H.B. Fuller Company	(S) Adhesive for film laminating	(G) Polyester, polyurethane polymer
P–96–1311	06/28/96	09/26/96	H.B. Fuller Company	(S) Adhesive for film laminating	(G) Polyester, polyurethane polymer
P–96–1312	06/28/96	09/26/96	H.B. Fuller Company	(S) Adhesive for film laminating	(G) Polyester, polyurethane polymer
P–96–1313	06/27/96	09/25/96	CBI	(G) Coating component	(G) Modified isocyanate prepolymer
P–96–1314	06/26/96	09/24/96	CBI	(G) Rubber/plastic additive	(G) Fatty acid, amide

II. 44 Notices of Commencement Received From: 06/01/96 to 06/30/96

Case No.	Received Date	Commencement Date	Chemical
P–87–1623	08/24/87	06/17/96	(G) Isobutyric acid carbomonocyclic ester
P–89–0609	04/13/89	06/17/96	(G) Fluoinated acid fluorids
P–89–0610	04/13/89	06/17/96	(G) Fluoinated acid fluorids
P–92–0046	06/12/96	05/21/96	(G) Amino ester
P–92–0047	06/12/96	05/29/96	(G) Amino epoxy adduct
P–92–0048	06/12/96	05/30/96	(G) Amino epoxy lactate salt
P–93–1491	06/14/96	05/07/96	(G) Oxyalkylated linear alcohol-carboxylic acid adduct & salts(sodium, magnesium, calcium, potassium, ammonium, or triethylamine)
P–94–0334	06/17/96	05/31/96	(G) A polymer of: 2,5-furandione polymer with ethenyl benzene 1-methylethyl benzene, and bis (1-methyl-1-phenyl ethyl) peroxide, ester of isopropanol, cyclohexanol; aqueous ammonia (28% ammonia)
P–94–2074	06/06/96	05/13/96	(G) Perfluorinated carboxylic acid fluoride
P–94–2075	06/06/96	05/17/96	(G) Perfluorinated ether
P–94–2189	06/11/96	06/04/96	(G) Amine functionalized polyether polyester polymer
P–95–0022	06/25/96	06/24/96	(G) Substituted phenyl azo substituted phenyl amino triazinyl substituted naphthalenesulfonic derivative
P–95–0107	06/13/96	05/16/96	(G) Substituted pyrimidine
P–95–0894	06/27/96	06/14/96	(G) Fatty acids, CG5**18**-unsaturated, dimers, polymers with a dibasic acid and diamines
P–95–0932	06/12/96	05/21/96	(G) Dialkyl malonate, alkyl alkenoate polymer
P–95–0937	06/21/96	06/02/96	(G) Pyrimidine salt
P–95–0938	06/21/96	06/02/96	(G) Pyrimidine
P–95–1235	06/21/96	06/08/96	(G) Azo dyestuff
P–95–1354	06/14/96	05/30/96	(G) Poly condensation compound
P–95–1699	06/27/96	05/23/96	(G) Organofunctional silica
P–95–1706	06/17/96	05/21/96	(G) Polyamine epoxy resin adduct
P–95–1854	06/05/96	06/01/96	(S) A butane, 1,1, 1,2,2, 3,3, 4,4-nonafluoro-4-methoxy-*GB* propane, 2-(difluoromethoxymethyl)-1,1,1, 2,3, 3,3-heptafluoro-
P–95–1894	06/10/96	05/16/96	(G) Copolymer of acrylic esters, methacrylic esters and acrylic acid
P–95–1968	06/11/96	05/10/96	(G) Amine salt of polyacrylate
P–95–2033	06/17/96	06/14/96	(G) Carboxy alkylidene phosphonic acids (sodium salts)
P–95–2045	06/11/96	05/10/96	(G) Polyurethane resin
P–96–0007	06/06/96	05/21/96	(G) Modified melamine-formaldehyde resin
P–96–0008	06/06/96	05/21/96	(G) Modified melamine-formaldehyde resin
P–96–0038	06/07/96	05/10/96	(G) Styrene maleic anhydride (sma) ammonium salt
P–96–0043	06/21/96	05/25/96	(S) Morpholine benzoate
P–96–0262	06/27/96	05/29/96	(G) Aryl allyloxy peg 400 alpha, omega-bis(alkenyl)polyglycol
P–96–0305	06/04/96	05/09/96	(G) Adhesive
P–96–0324	06/17/96	06/03/96	(S) Hexanoic acid, 2-ethyl-, 2-hydroxypropyl ester
P–96–0351	06/10/96	04/15/96	(G) Perfluoroalkyl ethyl esters of fatty acids
P–96–0410	06/03/96	05/07/96	(G) 4-[bis(Trichloromethyl) heteromonocycle]-*N*–(*N*-heptyl)benzamide
P–96–0585	06/21/96	05/23/96	(G) Salt of a substituted polyalkylene polyamine
P–96–0589	06/17/96	05/22/96	(G) *N,N*-dimethyl amino ethyl methacrylate-ethyl acrylate copolymer
P–96–0591	06/17/96	06/04/96	(G) Aliphatic isocyanate terminated prepolymer
P–96–0689	06/28/96	06/15/96	(G) Substituted phenyl azo substituted naphthalenyl amino triazinyl substituted alkyl compound
P–96–0693	06/26/96	05/28/96	(S) Phosphonic acid, [1,2-ethanediylbis [nitrilobis (methylene)]] tetrakis-, pentasodium salt
P–96–0695	06/17/96	05/28/96	(G) Silylated polygycol

II. 44 Notices of Commencement Received From: 06/01/96 to 06/30/96—Continued

Case No.	Received Date	Commencement Date	Chemical
P–96–0751	06/11/96	05/27/96	(G) Organomoly bdenum complex of organic amide
P–96–0752	06/28/96	06/01/96	(G) Acetyl substituted alkyl sulfonic acid derivative
P–96–0830	06/28/96	06/24/96	(G) Flame retardant acrylic polymer

List of Subjects

Environmental protection, Premanufacture notices.

Dated: March 12, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–7634 Filed 3–25–97; 8:45 am]

BILLING CODE 6560–50–F

Federal Register

Wednesday
March 26, 1997

Part IX

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51853; FRL–5580–1]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from July 1, 1996 to July 31, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51853]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@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 [OPPTS–51853]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under **''SUPPLEMENTARY INFORMATION''** of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51853]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 128 Premanufacture Notices Received From: 07/01/97 to 07/31/96

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1315	07/03/96	10/01/96	Aceto Corporation	(S) Photopolymerisation initiator for uv radiation curing systems	(S) 9*H*-thioxanthen-9-one, 2,4-diethyl
P–96–1316	07/01/96	09/29/96	Unichema North America	(S) Lubricant base fluid	(S) Isooctadecanoic acid, 2-octyldodecyl ester
P–96–1317	07/01/96	09/29/96	Dupont	(G) Injection molding and extrusion resin	(G) Copolymer of tetrafluoroethylene and perfluoro alkoxy ethylene
P–96–1318	07/01/96	09/29/96	Dupont	(G) Injection molding and extrusion resin	(G) Copolymer of tetra fluoroethylene and perfluoro alkoxy ethylene
P–96–1319	07/03/96	10/01/96	CBI	(G) Destructive	(G) Nitro methyl quinoline
P–96–1320	07/01/96	09/29/96	Lonza Inc	(G) Organic intermediate-destructive use	(G) Isoalkyldimethylamine
P–96–1321	07/01/96	09/29/96	CBI	(G) Additive for consumer products, dispersive use	(S) Ethanone, 1-[1,1,[4or6]-trimethyl-[4,5,6 or 7]-indanyl)-
P–96–1322	07/03/96	10/01/96	Agrevo USA Company	(S) Use as intermediate in the production of a herbicide	(S) Phosphinic acid, [3-(acetyloxy)-3-cyanopropyl]methyl-, butylester
P–96–1323	07/02/96	09/30/96	CBI	(G) Flexibilizer for resin system	(G) Acid capped castor oil
P–96–1324	07/02/96	09/30/96	CBI	(G) Open, non-dispersive	(G) Polyester amide
P–96–1325	07/08/96	10/06/96	CBI	(G) Quality control agent	(G) Substituted benzene, [[[polysubstituted-heterominocycle]-(substituted)-oxoalkyl]amino]-
P–96–1326	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1327	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1328	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1329	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1330	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1331	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1332	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1333	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1334	07/05/96	10/03/96	CBI	(S) Catalyst for production of polyolefins	(G) Silica supported magnesium-titanium catalyst
P–96–1335	07/05/96	10/03/96	CBI	(S) Acid dye forthe coloration of anodized aluminum as a liquid dye	(G) Chromate (4-), substituted phenylazo-substituted maphthalene sulfonato-substituted sulfo phenylazo-substituted naphthslenesulfonate, sodium salt
P–96–1336	07/01/96	09/29/96	Harmann	(G) Additive for consumer products (dispersive use)	(S) 2-butenoic acid, 1,3-dimethylbutyl ester
P–96–1337	07/08/96	10/06/96	CBI	(G) Catalyst	(G) Amine substituted metal salt
P–96–1338	07/08/96	10/06/96	CBI	(G) Catalyst	(G) Amine substituted metal salt
P–96–1339	07/08/96	10/06/96	CBI	(G) Catalyst	(G) Amine substituted metal salt
P–96–1340	07/08/96	10/06/96	CBI	(G) Components in UV cure release coatings (for adhesive tape backing)	(G) Vinyl functional silicone fluid
P–96–1341	07/09/96	10/07/96	Ashland Chemical Company	(G) Open, dispersive use in molding operations	(G) Unsaturated polyester
P–96–1342	07/08/96	10/06/96	CBI	(G) Additive for inkjet ink	(G) Reduced maltose
P–96–1343	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Hexane, (phenoxyphenyl)-
P–96–1344	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Benzene, 1,1′-oxybis-, adduct with 1-hexene (1:2)
P–96–1345	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Octane, (phenoxyphenyl)-
P–96–1346	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Benzene, 1,1′-oxybis-, adduct with 1-octene (1:2)
P–96–1347	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Dodecane, (phenoxyphenyl)-
P–96–1348	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Benzene,1,1′-oxybis-, adduct with 1-dodecene (1:2)
P–96–1349	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Tetradecane,(phenoxyphenyl)-
P–96–1350	07/08/96	10/06/96	The Dow Chemical Company	(S) Chemical intermediate	(S) Benzene, 1,1′-oxybis-, adduct with 1-tetradecene (1:2)

I. 128 Premanufacture Notices Received From: 07/01/97 to 07/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1351	07/08/96	10/06/96	Ciba-Geigy Corporation, Textile Products Division	(G) Textile finishing chemical	(G) 1,2-propanediol, polymer with 2-alkyl-2-(hydroymethyl)-1,3-propanediol, 1,1′ -alkylenebis[4-isocycanatobenzene]and 2,2′-(methylimino)bis[ethanol], methyl ethyl ketone oxime-blocked
P–96–1352	07/09/96	10/07/96	CBI	(G) Electro deposition coating	(G) Acrylic apolymer amine salt
P–96–1353	07/09/96	10/07/96	CBI	(G) Electro deposition coating	(G) Acrylic apolymer amine salt
P–96–1354	07/09/96	10/07/96	CBI	(G) Electro deposition coating	(G) Acrylic apolymer amine salt
P–96–1355	07/09/96	10/07/96	CBI	(G) Electro deposition coating	(G) Acrylic apolymer amine salt
P–96–1356	07/09/96	10/07/96	CBI	(G) Electro deposition coating	(G) Acrylic apolymer amine salt
P–96–1357	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Hexane, (phenoxyphenyl)-, arsolfo beriv., sodium salt
P–96–1358	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Hexane, (phenoxyphenyl)-, ar, arsolfo derivative, disodium salt
P–96–1359	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzenesulfonic acid, phenoxy-, sodium salt, adduct with 1-hexene (1:2)
P–96–1360	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzenesulfonic acid, phenoxy-, monosulfo derivative, disodium salt, adduct with 1-hexene (1:2)
P–96–1361	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Octane, (pheneoxyphenyl)-, arsulfo derivative, sodium salt
P–96–1362	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Octane, (pheneoxyphenyl)-,ar,ar(or ar, ar′)-disulfo derivative, sodium salt
P–96–1363	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzene sulfonic acid, phenoxy-, adduct with 1-octene (1:2), sodium salt
P–96–1364	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzene sulfonic acid, phenoxy-, monosulfo driv., adduct with 1-octene (1:2), sodium salt
P–96–1365	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Decane, (phenoxyphenyl)-ar-sulfo deriv., sodium salt
P–96–1366	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzenesulfonic acid, phenoxy-, sdduct with 1-decene (1:2), sodium salt
P–96–1367	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Dodecane, (phenoxyphenyl)-, arsulfo derivative, sodium salt
P–96–1368	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Dodecane, (phenoxyphenyl)-,ar, ar(or ar, ar′)-disulfo derivative, sodium salt
P–96–1369	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzenesulfonic acid, phenoxy-, adduct with 1-dodecene (1:2), sodium salt
P–96–1370	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzenesulfonic acid, phenoxy-, monosulfo derivative, adduct with 1-dodecene (1:2), sodium salt

I. 128 Premanufacture Notices Received From: 07/01/97 to 07/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1371	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Tetradecane, (phenoxyphenyl)-, ar-sulfo derivative, sodium salt
P–96–1372	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Tetradecane, (phenoxyphenyl)-,ar, ar(or ar, ar′)-disulfo derivative, sodium salt
P–96–1373	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzensulfonic acid, phenoxy-, adduct with 1-tetradecene (1:2), sodium salt
P–96–1374	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzensulfonic acid, phenoxy-,monosulfo derivative, adduct with 1-tetradecene (1:2), disodium salt
P–96–1375	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Hexadecane, (phenoxyphenyl)-, ar-sulfo derivative, sodium salt
P–96–1376	07/08/96	10/06/96	The Dow Chemical Company	(S) Surfactant in cleaning products; sucfactant for chemical processing such as textiles or latex manufacture	(S) Benzenesulfonic acid, phenoxy-, sodium salt, adduct with 1-hexadecene (1:2)
P–96–1377	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, diol modified
P–96–1378	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, diol modified
P–96–1379	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, diol modified
P–96–1380	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, and phthalic anhydride, diol modified
P–96–1381	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, and phthalic anhydride, diol modified
P–96–1382	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, and phthalic anhydride, diol modified
P–96–1383	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, epoxy resin modified
P–96–1384	07/10/96	10/08/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylenes oxides), polyester with maleic anhydride, diol and epoxy resin modified
P–96–1385	07/10/96	10/08/96	Akzo Nobel Resins	(S) Vehicle for toners used in electric photographic copiers	(G) 1,3-benzenedicarboxylic acid, polymer with hexanedioic acid and alpha, alpha′-[(1-methylethylidene) di-4, 1-phenylene]bis[omega-hydroxypoly [oxy (methyl - 1,2-ethanediyl)]
P–96–1386	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Hexane, phenoxyphenyl)-, ar-sulfo derivative
P–96–1387	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Hexane, phenoxyphenyl)-,ar, ar-disulfo derivative
P–96–1388	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, adduct with 1-hexene (1:2)
P–96–1389	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, monosulfo derivative, adduct with 1-hexene (1:2)
P–96–1390	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Octane, (phenoxyphenyl)-, ar-sulfo derivative
P–96–1391	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Octane, (phenoxyphenyl)-,ar, ar(or ar,ar′)-disulfo derivative

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Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1392	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, adduct with 1-octene (1:2)
P–96–1393	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, monosulfo derivative, adduct with 1-octene (1:2)
P–96–1394	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Decane, (phenoxyphenyl)-, ar-sulfo derivative .
P–96–1395	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, adduct with 1-decene (1:2)
P–96–1396	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Dodecane, (phenoxyphenyl)-, ar-sulfo derivative
P–96–1397	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Dodecane, (phenoxyphenyl)-,ar, ar(or,ar,ar′)-disulfo derivative
P–96–1398	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, adduct with 1-dodecene (1:2)
P–96–1399	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, monosulfo derivative, adduct with 1-dodecene (1:2)
P–96–1400	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Tetradecane, (phenoxyphenyl)-ar-sulfo derivative
P–96–1401	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Tetradecane, (phenoxyphenyl)-ar,ar(or ar,ar′)-disulfo deriv.
P–96–1402	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, adduct with 1-tetradecene (1:2)
P–96–1403	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, monosulfo derivative, adduct with 1-tetradecene (1:2)
P–96–1404	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Hexadecane, (phenoxyphenyl)-, ar-sulfo derivative
P–96–1405	07/10/96	10/08/96	The Dow Chemical Company	(S) Chemical intermediate; surfactant for industrial and institutional cleaners	(S) Benzenesulfonic acid, phenoxy-, adduct with 1-hexadecene (1:2)
P–96–1406	07/10/96	10/08/96	Wacker Silicones Corporation	(S) Adhesion promoter for silicone sealants	(G) Aminoalkyl-functional alkoxysilane
P–96–1407	07/12/96	10/10/96	BASF Corporation	(G) Colorant	(G) Metal complexed reaction product of diazotized substituted benzenesulfonic acid and substituted benzaldehyde, sodium salt
P–96–1408	07/15/96	10/13/96	CBI	(G) Friction material	(G) Poltassium titanate
P–96–1409	07/11/96	10/09/96	CBI	(G) Paint additive, non-dispersive use	(G) Modified polyurethane
P–96–1410	07/12/96	10/10/96	CBI	(G) Paper dye intermediate	(G) Bisaniline
P–96–1411	07/11/96	10/09/96	CBI	(G) Paint additive, non-dispersive use	(G) Modified polyacrylate polymer, solvent free
P–96–1412	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1413	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1414	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1415	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1416	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1417	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1418	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1419	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff

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Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1420	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1421	07/12/96	10/10/96	CBI	(G) Recycled paper dye	(G) Polymeric triphenyl methane dyestuff
P–96–1422	07/16/96	10/10/96	Huntsman Corporation	(G) Highly dispersive use-surfantant	(G) Alkylpoly(oxyalkylene)amine
P–96–1423	07/16/96	10/14/96	Huls America Inc	(S) Molecular weight control process solvent for rubber polymerization	(S) 1,5-cyclo octadiene, (*z,z*)-
P–96–1424	07/18/96	10/16/96	3M Company	(S) Component of fire extinguishing mixture	(G) Fluorochemical acrylate copolymer
P–96–1425	07/16/96	10/14/96	CBI	(G) Processing aid	(G) Salt of a modified tallow alkylenediamine
P–96–1426	07/16/96	10/14/96	CBI	(G) Processing aid	(G) Salt of a fatty alkylenediamine derivative
P–96–1427	07/18/96	10/16/96	The Dow Chemical Company	(S) Chemical intermediate	(G) Stilbene siglycidyl ether
P–96–1428	07/18/96	10/16/96	CBI	(G) Curing agent	(G) Modified polyisocyanate
P–96–1429	07/16/96	10/14/96	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Alcohol alkoxylate
P–96–1430	07/16/96	10/14/96	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Alkylpoly(oxyalkylene)amine
P–96–1431	07/19/96	10/17/96	Inolex Chemical Company	(G) Precursor for polyurethanes	(G) Alkanedioic acid, polymer with polyalkylene glycols and substituted alkane trioic acids
P–96–1432	07/19/96	10/17/96	CBI	(G) A destructive use as a chemical intermediate	(G) Polyester resin
P–96–1433	07/18/96	10/16/96	3M Company	(G) Fire extinguishing foam/ fluorochemical surfactant	(G) Perfluoroalkylsulfonamide derivatives
P–96–1434	07/18/96	10/16/96	3M Company	(G) Fire extinguishing foam/ fluorochemical surfactant	(G) Perfluoro alkyl sulfonamide derivatives
P–96–1435	07/19/96	10/17/96	Icic Surfactants	(G) Fiber finish component	(G) Alkoxylated sorbitan fatty acid ester
P–96–1436	07/19/96	10/17/96	Icic Surfactants	(G) Fiber finish component	(G) Alkoxylated sorbitan fatty acid ester
P–96–1437	07/19/96	10/17/96	CBI	(G) Anti-sagging agent	(G) Polyacrylate
P–96–1438	07/18/96	10/16/96	3M	(S) Intermediate	(G) Potassium salt of perfluoro alkyl sulfonamide
P–96–1439	07/19/96	10/17/96	CBI	(G) Fuel and petroleum additive product	(G) Cyclic amine
P–96–1440	07/19/96	10/17/96	H.B. Fuller Company	(S) Adhesive for film laminating	(G) Polyester, polyurethane polymer
P–96–1441	07/19/96	10/17/96	H.B. Fuller Company	(S) Adhesive for film laminating	(G) Polyester, polyurethane polymer
P–96–1442	07/19/96	10/17/96	H.B. Fuller Company	(S) Adhesive for film laminating	(G) Polyester, polyurethane polymer
P–96–1443	07/23/96	10/21/96	Mitsubishi Chemical America, Inc	(G) Antifoaming agent	(G) Reaction products of polyalkylene oxides, diisocyanato alkylbenzene and alkyl alcohol
P–96–1444	07/23/96	10/21/96	Eastman Chemical Company	(S) Reaction by product used as a chemical intermediate	(S) 2*B*-azepin-2-one, hexahydro-, homopolymer, monoamide, distn. residues
P–96–1445	07/24/96	10/22/96	CBI	(G) Lubricant component	(G) *N,N*′-bis(fatty alkyl)-aromatic-diurea
P–96–1446	07/24/96	10/22/96	CBI	(S) Textile wet processing; personal hair care products	(G) Amino modified silicone-polyether copolymer
P–96–1447	07/24/96	10/22/96	AKZO Nobel Coatings Inc	(S) Printing ink resin	(G) Linseed oil, polymer with substituted phenols, formaldehyde, 1,6-hexanediol, maleic anhydride, polyethylene glycol and rosin
P–96–1448	07/24/96	10/22/96	AKZO Nobel Coatings Inc	(S) Printing ink resin	(G) Linseed oil, polymer with substituted phenols, formaldehyde, 1,6-hexanediol, maleic anhydride, polyethylene glycol and rosin, ammonium salt
P–96–1449	07/24/96	10/22/96	AKZO Nobel Coatings Inc	(S) Printing ink resin	(G) Linseed oil, polymer with substituted phenols, formaldehyde, 1,6-hexanediol, maleic anhydride, polyethylene glycol and rosin, compound ethanolamine
P–96–1450	07/24/96	10/22/96	AKZO Nobel Coatings Inc	(S) Printing ink resin	(G) Linseed oil, polymer with substituted phenols, formaldehyde, 1,6-hexanediol, maleic anhydride, polyethylene glycol and rosin, compound with diethanol amine.

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Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1451	07/24/96	10/22/96	AKZO Nobel Coatings Inc	(S) Printing ink resin	(G) Linseed oil, polymer with substituted phenols, formaldehyde, 1,6-hexanediol, maleic anhydride, polyethylene glycol and rosin, compound with triethanol amine.
P–96–1452	07/24/96	10/22/96	AKZO Nobel Coatings Inc	(S) Printing ink resin	(G) Linseed oil, polymer with substituted phenols, formaldehyde, 1,6-hexanediol, maleic anhydride, polyethylene glycol and rosin, compound with 2(dimethylamino) ethanol
P–96–1453	07/24/96	10/22/96	AKZO Nobel Coatings Inc	(S) Printing ink resin	(G) Linseed oil, polymer with substituted phenols, formaldehyde, 1,6-hexanediol, maleic anhydride, polyethylene glycol and rosin, sodium salt
P–96–1454	07/24/96	10/22/96	Ciba-Geigy Corporation	(S) Polymeritation retarder for monomer manufacturer (e.g. styrene; acrylics, etc.)	(G) Aromatic ketone derivatives
P–96–1455	07/24/96	10/22/96	CBI	(G) Lubricant component	(G) *N,N'*-bis(fatty alkyl)-aromatic diurea
P–96–1456	07/25/96	10/23/96	CBI	(G) Resin adhesive open, non-dispersive use	(G) Polybutadiene modified polyester urethane
P–96–1457	07/25/96	10/23/96	CBI	(G) Dye for printing material	(G) Metal complexed polyazo dye
P–96–1458	07/25/96	10/23/96	CBI	(S) Component fo release coating	(G) Epoxy modified polydimethyl siloxane
P–96–1459	07/26/96	10/24/96	Huls America Inc	(S) Chemical process aid	(S) Cis-cyclo octene
P–96–1460	07/29/96	10/27/96	Eastman Kodak Company	(G) Chemical intermediate	(S) 3-amino-4-chlorobenzoic acid
P–96–1461	07/26/96	10/24/96	Tioxide Americas Inc	(S) Component of catalyst for polyolefine producyion of wire enamels	(S) Mixed cresyl 1-butyl titanium (4+) salt, homopolymer
P–96–1462	07/26/96	10/24/96	Ashland Chemical Company	(G) Open, dispersive use in molding operations	(G) Unsaturated folyester
P–96–1463	07/29/96	10/27/96	CBI	(G) Non-dispersive use	(G) Silane urea adduct
P–96–1464	07/30/96	10/28/96	CBI	(S) Polyurethane foam	(G) Poly (acrylonitrile)
P–96–1465	07/26/96	10/24/96	Gelest, Inc	(G) Coating additive	(S) Siloxanes and silicones, $C_{24–54}$ branched and linear alkyl me, dime
P–96–1466	07/26/96	10/24/96	CBI	(G) Open, non-dispersersive	(G) Modified acrylic polymer
P–96–1467	07/29/96	10/27/96	Ciba-Geigy Corporation	(S) Metal deactivator for industrial lubricants	(G) Benzotriazole derivatives
P–96–1468	07/26/96	09/24/96	CBI	(G) Ink component	(G) Cycloaliphatic olefin distillate streams polymerized with aromatic olefin streams, unsaturated fatty acids, unsaturated oils, and rosin
P–96–1469	07/26/96	09/24/96	CBI	(G) Ink component	(G) Cycloaliphatic olefin distillate streams polymerized with aromatic olefin streams, unsaturated fatty acids, vegetable oil fatty acid, unsaturated oils and rosin
P–96–1470	07/26/96	09/24/96	CBI	(G) Ink component	(G) Cycloaliphatic olefin distillate streams polymerized with aromatic olefin streams, vegetable oil fatty acid, unsaturated oils and rosin
P–96–1471	07/26/96	09/24/96	CBI	(G) Ink component	(G) Cycloaliphatic olefin distillate streams polymerized with aromatic olefin streams, vegetable oil fatty acid, and rosin
P–96–1472	07/26/96	09/24/96	CBI	(G) Ink component	(G) Cycloaliphatic olefin distillate streams polymerized with aromatic olefin streams, formaldhyde, alkylphenol, unsaturated dicarboxylic acid, and rosin
P–96–1473	07/29/96	10/27/96	CBI	(G) Additive, open, non-dispersive use	(G) Polyester urethane block copolymer
P–96–1474	07/29/96	10/27/96	CBI	(G) Additive, open, non-dispersivbe use	(G) Polyester urethane block copolymer
P–96–1475	07/29/96	10/27/96	CBI	(G) Additive, open, non-dispersivbe use	(G) Polyester urethane block copolymer

I. 128 Premanufacture Notices Received From: 07/01/97 to 07/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1476	07/29/96	10/27/96	CBI	(S) Binder for toners used in photo-copiers	(G) Unknown
P–96–1477	07/30/96	10/28/96	CBI	(G) Release-coating polymer	(G) Silicone acrylate polymer
P–96–1478	07/30/96	10/28/96	CBI	(G) Polymer suspension agent	(G) Ethoxylated alcohol, phosphated, amine salt
P–96–1479	07/30/96	10/28/96	Olin Corporation	(S) Cross-linker for urethane coatings	(G) Aldimine
P–96–1480	07/30/96	10/28/96	Ciba-Geigy Corpora-tion	(S) UV light stabilizer for industrial and automobile coatings	(G) Benzotriazole derivative
P–96–1481	07/31/96	10/29/96	Reichhold Chemicals Inc	(S) UV curable inks and coatings	(G) Epoxy acrylate ester

II. 34 Notices of Commencement Received From: 07/01/96 to 07/31/96

Case No.	Received Date	Commence-ment/Import Date	Chemical
P–88–536	01/11/87	07/23/96	(G)Disubstituted naphthyl-azo-disubstituted phenyl-azo disubstituted
P–88–1075	02/28/88	07/30/96	(G)Substituted bis-alkenylsuccinimide alkylphenol and an aldehyde
P–88–1123	03/29/88	07/22/96	(G)Isocyanate-terminated polypropylene glycol, blocked
P–89–467	03/09/89	07/22/96	(G)Thermoplastic polyurethane resin
P–90–414	02/02/90	07/22/96	(G)Reactive silicone
91–571	02/13/91	07/22/96	(G)Alkyl-alkylene-polyether-polyacrylate
P–91–1319	08/14/91	07/05/96	(G) Silicone acrylate
P–91–1379	09/04/91	07/15/96	(G) Quaternaric polydimethylsiloxane
P–93–1230	07/07/93	07/22/96	(S) Siloxanes and silicones, di-me, me 3,3,3-trifluoropropyl, polymers with me silsesqiuoxanes, [(ethenyldimethylsilyl)oxy]-terminated
P–93–1232	07/23/96	07/15/96	(S) Siloxanes and silicones, di-me, me 3,3,3-trifluoropropyl, dimethyl hydrogensiloxy-termi-nated
P–93–1654	07/18/96	03/04/96	(G) Substituted polyoxyethylene
P–93–1701	07/09/96	06/27/96	(G) Polyester polyol isocyanate polymer
P–93–1705	07/09/96	06/28/96	(G) Polyester polyol isocyanate polymer reaction products
P–94–0211	07/02/96	06/20/96	(G) Aliphatic-aromatic polyurethane
P–94–0253	07/09/96	06/05/96	(G) Polyalkoxyalkane
P–94–1419	04/19/94	07/16/96	(G)Substitutd naphthalene
P–94–1744	07/16/96	06/17/96	(G) Substituted benzotriazole
P–94–1941	07/02/96	06/10/96	(G) Copolymer of fluoroorein
P–94–1946	07/16/96	07/11/96	(G) Modified epoxy resin modified aromatic epoxy resin
P–95–0081	07/25/96	07/18/96	(G) 3-cycloalkene-1-carboxaldehyde, alkyl-1-(trialkyl-1-(trialkyl-3-cycloalkene)
P–95–1647	06/29/95	07/23/96	(G) Propoxylated amine
P–95–1873	07/29/95	07/11/96	(G) Stabilized melamine formaldehyde polymer
P–95–0626	07/02/95	05/30/96	(G) Acrylic resin salt
P–95–0677	07/11/95	06/14/96	(G) Antimony double oxide
P–95–1325	07/08/95	06/24/96	(G) Substituted naphthalene disulfonic acid alkali salt
P–95–1365	07/10/95	06/08/96	(G) Ceteareth-25 mono itaconate
P–95–1419	07/16/95	06/19/96	(G) Polyhydroxy polyphosphate ester salt
P–95–1448	07/01/96	05/30/96	(G) Neutralized water based acid functional polymer
P–95–1647	07/30/96	07/23/96	(G) Propoxylated amine
P–95–1836	07/16/95	07/08/96	(G) Isophthalic acid polymer with cyclicalcohol and alkyldiamine
Y–95–0104	07/01/95	06/08/96	(G) Acrylate/methacrylic acid copolymer
P–96–0175	07/16/96	06/10/96	(S) Lithium manganese oxide
P–96–0226	11/20/95	07/30/96	(G) Unsaturated cyclic ether
P–96–0246	11/29/95	07/30/96	(G) Polyurethane methacrylate
P–96–0273	07/19/95	06/22/96	(G) Chlorocarbon
P–96–0286	07/01/95	06/11/96	(G) Hydroxy aromatic alkyl ketone
P–96–0287	12/14/95	06/20/96	(G) Polyurethane methacrylate
P–96–0318	07/03/96	06/07/96	(S) Silane, triethoxy (2,4,4-trimethylpentyl)-
P–96–0354	07/02/96	06/14/96	(G) Polymers with sustituted methacrylamide; substituted methacryl amide; 2-propenoic acid,-perfluoroalkyl esters, and alkyl acrylate
P–96–0421	07/01/95	05/29/96	(S) 2-propenoic acid, (4-methyl-1,3-phenylene)bis(iminocarbonyloxy-2,1-ethanediyl) ester
P–96–0551	01/22/96	07/22/96	(S) Hexanoic acid, 6-[(1-oxononyl) amino]-
P–96–0684	02/12/96	07/02/96	(S) Carbon black, carboxy-modified, sodium salts
P–96–0691	02/13/96	07/23/96	(G) Potassium alkanonate
P–96–0717	07/01/96	06/17/96	(G) 4,4′-(methylethylidene)bisphenol, polymer with (chloromethyl)oxirane, reaction products with alkylglycidyl ethers and triethylene tetramine
P–96–0746	07/19/96	06/25/96	(G) Organic orange pigment
P–96–0766	07/18/96	06/24/96	(G) Minor component of uax–6180, niax surfactants l–540, l–580
P–96–0769	07/05/96	07/01/96	(G) Naphthalene carboxamide, *N*-(substituted phenyl)-[[substituted phenyl] azo]-hydroxy-
P–96–0770	07/05/96	07/01/96	(G) Naphthalene carboxamide, *N*-(substituted phenyl)-[[substituted phenyl] azo]-hydroxy-

II. 34 Notices of Commencement Received From: 07/01/96 to 07/31/96—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–96–0771	03/05/96	07/25/96	(G) Macrocyclic hydroperoxide
P–96–0772	07/30/96	07/22/96	(S) Cellulose, 2-hydroxyethyl ether, reaction products with ethenyl phosphonic acid, calcium magnesium salts; cellulose, 2-hydroxyethyl ether, reaction product with ethenyl phosphonic acid, zinc salts; cellulose, 2-hydroxyethyl ether, reaction products with ethenyl phosphonic acid, calcium salts
P–96–0791	03/11/96	07/30/96	(S)Cellulose, 2-hydroxyethyl ether, reaction products with ethonyl phosphonic and zinc salts
P–96–0792	03/11/96	07/30/96	(S)Cellulose, 2-hydroxyethyl ether, reaction products with ethonyl phosphonic and calcium salts
P–96–0795	07/10/96	06/11/96	(G) Mixed fatty alkyldiamines, salt
P–96–0821	07/12/96	06/29/96	(G) Polyester polyurethane methacrylic graft copolymer
P–96–0820	07/16/96	07/11/96	(G) Fatty acids, C_{18}-unsaturated, dimers polymers with ethylenediamine, a monobasic acid and a diamine.
P–96–0858	03/26/96	07/22/96	(G) 2,7–Naphthalene disulfonic acid, 4-amino-5-hydroxy-3-substituted azo-6-substituted azo-, sodium salt
P–96–0865	07/16/96	07/05/96	(G) Chromophore substituted polyoxyalkylene tint
P–96–0867	03/29/96	07/25/96	(G) Salt of a modified tall oil polyalkylene polyamine
P–96–0868	03/29/96	07/25/96	(G) Salt of the reaction product of kraft lignin, mixed fatty acids and ethyleneamines
P–96–0968	04/23/96	07/26/96	(G) Epoxy-amine adduct salt

List of Subjects

Environmental protection, Premanufacture notices.

Dated: March 17, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–7635 Filed 3–25–97; 8:45 am]

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federal register

Wednesday
March 26, 1997

Part X

Environmental Protection Agency

Certain Chemicals; Premanufacture Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51854; FRL–5580–2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).
AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the **Federal Register** each month reporting premanufacture notices (PMN) and test marketing exemption (TME) application requests received, both pending and expired. The information in this document contains notices received from August 1, 1996 to August 31, 1996.

ADDRESSES: Written comments, identified by the document control number ''[OPPTS–51854]'' and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: oppt.ncic@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 [OPPTS–51854]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under **''SUPPLEMENTARY INFORMATION''** of this document.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to Section 5 reporting requirements. The notice requirements are provided in TSCA Sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number ''[OPPTS–51854]'' (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 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM–B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@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 record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

In the past, EPA has published individual notices reflecting the status of Section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive notice that will be issued at regular intervals.

In this notice, EPA shall provide a consolidated report in the **Federal Register** reflecting the dates PMN requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Additionally, in this same report, EPA shall provide a listing of receipt of new Notices of Commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260–1532, TDD (202) 554–0551, for generic use information, health and safety data not claimed as confidential or status reports on Section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

I. 138 Premanufacture Notices Received From: 08/01/96 to 08/31/96

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1482	08/01/96	10/30/96	Arizona Chemical	(S) Hot melt adhesives	(S) Phenol, (1,1,3,3-tetramethylbutyl)-, polymer with ethnylbenzene and (1-methylethenyl) benzene
P–96–1483	08/01/96	10/30/96	Arizona Chemical	(S) Hot melt adhesives-bookbinding, packaging and non-wovens	(S) Phenol, polymer with ethnylbenzene and (1-methylethenyl) benzene
P–96–1484	08/01/96	10/30/96	The Dow Chemical Company	(S) Chemical intermediate	(G) Alkali salt of linear alcohol
P–96–1486	08/02/96	10/31/96	Kanematsu USA Inc	(S) Adhesives for diaper; adhesives for ceiling; modifier for plastic	(S) Benzen, ethenyl-, polymer with 1-methyl-4-(1-methylethenyl) cyclohexene, hydrogenated
P–96–1487	08/02/96	10/31/96	CBI	(G) Coating component	(G) Esterified styrene maleic anhydride ammonium salt
P–96–1488	08/02/96	10/31/96	CBI	(G) Water-borne coating on the different kinds of substrate	(G) Water-borne polyurethane dispersion
P–96–1489	08/02/96	10/31/96	CBI	(G) Coating	(G) Styrenated acrylic copolymer
P–96–1490	08/02/96	10/31/96	CBI	(S) Direct dye for the coloring of paper by wet-end and surface dyeing	(G) Copper, [29*H*,31*H*,-phthalocyaninato(2-)-*N* 29, 30,*N* 31,*N*32]-, substituted sulfonamido sulfo derivatives, alkali salt
P–96–1491	08/05/96	10/31/96	Monsanto Company	(G) Flame retardant	(G) Hydroxy aryphosphinyl substituted alkanoic acid
P–96–1492	08/02/96	10/31/96	Eastman Kodak Company	(G) Latex for imaging chemicals	(G) Alkyl substituted alkenyl acid derivative, polymer with substituted alkyl sulfonic acid salt
P–96–1493	08/05/96	11/03/96	Hercules Incorporated	(G) Papermaking chemical	(G) Alkyl ester
P–96–1494	08/02/96	10/31/96	Dow Corning	(S) Catalyst neutralization agent	(G) Silyl phoshonate
P–96–1495	08/02/96	10/31/96	Dow Corning	(S) Catalyst neutralization agent	(G) Silyl phoshonate
P–96–1496	08/02/96	10/31/96	Dow Corning	(S) Catalyst neutralization agent	(G) Silyl phoshonate
P–96–1497	08/02/96	10/31/96	Dow Corning	(S) Catalyst neutralization agent	(G) Silyl phoshonate
P–96–1498	08/06/96	11/04/96	Monsanto Company	(S) Chemical intermediate	(G) A mixture of: haloaryl phosphinyl substituted alkenyl halide; carboxyalkyl(aryl)phosphinic acid anhydride; anhydride of alkenoic aciid with (halo-oxoalkyl)aryl phosphinic acid
P–96–1499	08/06/96	11/04/96	CBI	(S) Textile softener	(G) Aminoalkyl modified silicone fluid
P–96–1500	08/05/96	11/03/96	Bedoukian Research Inc.	(S) Chemical intermediate	(G) Substituted pyrone
P–96–1501	08/07/96	11/05/96	CBI	(G) Polymer crosslinker	(G) Borate complex
P–96–1502	08/07/96	11/05/96	CBI	(G) Commercial and consumer contained use in an article	(G) Substituted alkane anhilide
P–96–1503	08/05/96	11/03/96	Shell Chemical Company	(S) Non-ionic surfactant used in paper recycling as de-inking agents	(S) Alcohol, C_{14-15}, ethoxylated proproxylated
P–96–1504	08/06/96	11/03/96	CBI	(G) Industrial production aid	(G) Quaternary ammonium compound
P–96–1505	08/06/96	11/03/96	CBI	(G) Industrial production aid	(G) Quaternary ammonium compound
P–96–1506	08/06/96	11/03/96	CBI	(G) Industrial production aid	(G) Quarternary ammonium compound
P–96–1507	08/06/96	11/03/96	CBI	(G) Industrial production aid	(G) Quarternary ammonium compound
P–96–1508	08/06/96	11/03/96	CBI	(G) Industrial production aid	(G) Quarternary ammonium compound
P–96–1509	08/08/96	11/03/96	Tioxide Americas Inc.	(S) Adhesion premotor for use in radiation cure coatings	(S) 2-buten-1-ol, 3-methyl-, titanium (4+) salt
P–96–1510	08/05/96	11/03/96	CBI	(S) Production intermediate	(G) Tertiary amine
P–96–1511	08/05/96	11/03/96	CBI	(S) Production intermediate	(G) Tertiary amine
P–96–1512	08/05/96	11/03/96	CBI	(S) Production intermediate	(G) Tertiary amine
P–96–1513	08/05/96	11/03/96	CBI	(S) Production intermediate	(G) Tertiary amine
P–96–1514	08/05/96	11/03/96	CBI	(S) Production intermediate	(G) Tertiary amine
P–96–1515	08/05/96	11/03/96	CBI	(G) Additive, open, non-dispersive use	(G) Polyoxy alkylene polyester urethane block copolymer
P–96–1516	08/05/96	11/03/96	CBI	(G) Additive, open, non-dispersive use	(G) Polyoxy alkylene polyester urethane block copolymer
P–96–1517	08/05/96	11/03/96	CBI	(G) Additive, open, non-dispersive use	(G) Polyoxy alkylene polyester urethane block copolymer
P–96–1518	08/05/96	11/03/96	CBI	(G) Additive, open, non-dispersive use	(G) Polyoxy alkylene polyester urethane block copolymer
P–96–1519	08/08/96	11/06/96	Tioxide Americas Inc.	(S) Adhesive promotor for use in radiation cure coatings	(S) 2-buten-1-ol, 3-methyl-, zirconium (4+) salt

I. 138 Premanufacture Notices Received From: 08/01/96 to 08/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1520	08/07/96	11/05/96	Bernard Technologies, Inc.	(S) Inorganic wax	(G) Proprietary polymer and wax
P–96–1521	08/08/96	11/06/96	CBI	(G) Open, non-dispersive coating additive	(G) Polyester resin
P–96–1522	08/08/96	11/06/96	Harcros Chemical Group	(G) A coating for sandpaper	(G) Fatty alkyl phosphate, alkali metal salt
P–96–1523	08/08/96	11/06/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1524	08/08/96	11/06/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1525	08/08/96	11/06/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1526	08/08/96	11/06/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1527	08/08/96	11/06/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1528	08/08/96	11/06/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1529	08/08/96	11/06/96	BF Goodrich Company Specialty Chemicals	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polyisocyanates, polyols and polyamines
P–96–1530	08/08/96	11/06/96	CBI	(G) Ink, paint, coating components	(G) Vegetable oil polymer with aromatic dicarboxylic acid, vegetable oil fatty acids, aliphatic alpha olefin and olefin distillate streams
P–96–1531	08/08/96	11/06/96	CBI	(G) Ink, paint, coating components	(G) Vegetable oil polymer with aromatic dicarboxylic acid, vegetable oil fatty acids, aliphatic alpha olefin and olefin distillate streams
P–96–1532	08/08/96	11/06/96	CBI	(G) Ink, paint, coating components	(G) Vegetable oil polymer with aromatic dicarboxylic acid, vegetable oil fatty acids, aliphatic alpha olefin and olefin distillate streams
P–96–1533	08/08/96	11/06/96	H.B. Fuller Company	(G) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1534	08/08/96	11/06/96	H. B. Fuller Company	(G) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1535	08/08/96	11/06/96	H.B. Fuller Company	(G) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1536	08/08/96	11/06/96	International Specialty Products	(S) Crosslinker in polymerization reaction	(S) 2-pyrrolidone, 1-ethenyl-3-ethylidene
P–96–1537	08/08/96	11/06/96	CBI	(G) Non-dispersive use	(G) Quatenary amino cyclic urea amino epoxy adduct
P–96–1538	08/09/96	11/07/96	United Catalysts Inc.	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycol-glycoluril copolymer
P–96–1539	08/09/96	11/07/96	United Catalysts Inc	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycol-glycoluril copolymer
P–96–1540	08/09/96	11/07/96	United Catalysts Inc	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycol-glycoluril copolymer
P–96–1541	08/09/96	11/07/96	Ciba-Geigy Corporation, Textile Products Division	(G) Texile finishing chemical	(G) 1,2-propanediol polymer, with 2-alkyl-2(hydroxymethyl)-1,3-propanediol, 1,1 ′-alkylenebis[4-isocyanatobenzene]and 2,2 ′-(methylimino)bis[ethanol], mek oxime blocked
P–96–1542	08/13/96	11/11/96	Loctite Corporation, Corporate Environmental Health & Safety Affairs	(S) A component of adhesive and sealant formulations	(S) Silseswuixanes 3-[(2-methyl-1-oxo-2-propenyl)oxy propyl ph, polymers with silicic acid (h4sio4) tetra-et ester
P–96–1543	08/14/96	11/12/96	The Dow Chemical Company	(G) Fuel additives	(G) Alkaryl polyoxyalkylene derivative
P–96–1544	08/13/96	11/11/96	CBI	(G) Equilibration catalyst	(G) Reaction product of phosphonitrilic chloride with siloxane oil

I. 138 Premanufacture Notices Received From: 08/01/96 to 08/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1545	08/08/96	11/06/96	CBI	(G) Non-dispersive use	(G) Quaternary amino cyclic urea epoxy adduct
P–96–1546	08/13/96	11/11/96	CBI	(G) Urethane resin	(G) Polyester polyol
P–96–1547	08/09/96	11/07/96	Amoco Corporation	(S) Polymer modifier for improving polyester melt strength	(S) Polymer of: tertphthalic acid-ethylene glycol polyester; (1,4-benzene dicarboxylic acid ; 1,2-ethanediol; 1*H*, 3*H*-benzo[1,2-*C*:4,5-*C*]difuran-1, 3, 5,7-tetrone
P–96–1548	08/09/96	11/07/96	Unichema North America	(S) Industrial cleaning; commercial textile cleaning; emulsion polymerization	(S) Isooctadecanoic acid, 1-carboxyethyl ester, sodium salt
P–96–1549	08/09/96	11/07/96	Unichema North America	(S) Industrial cleaning; commercial textile cleaning; emulsion polymerization	(S) Isooctadecanoic acid, carboxyethoxy)-1-methyl 2-oxoethyl ester, sodium salt
P–96–1550	08/09/96	11/07/96	Unichema North America	(S) Industrial cleaning; commercial textile cleaning; emulsion polymerization	(S) Isooctadecanoic acid, 2-[2-(1-carboxyethoxy)-1-methyl 2-oxoethoxy]-1-methyl-2-oxoethyl ester, sodium salt
P–96–1551	08/09/96	11/07/96	Unichema North America	(S) Industrial cleaning; commercial textile cleaning; emulsion polymerization	(S) Isooctadecanoic acid, 2-[2-[2-(1-carboxyethoxy)-1-methyl 2-oxoethoxy]-1-methyl 2-oxoethoxy]-1-methyl-2-oxoethyl ester, sodium salt
P–96–1552	08/12/96	11/10/96	BF Goodrich Company Specialty Polymers & Chemical Division	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polylos, polyisocyanates and polyamines
P–96–1553	08/12/96	11/10/96	BF Goodrich Company Specialty Polymers & Chemical Division	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polylos, polyisocyanates and polyamines
P–96–1554	08/12/96	11/10/96	BF Goodrich Company Specialty Polymers & Chemical Division	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polylos, polyisocyanates and polyamines
P–96–1555	08/12/96	11/10/96	BF Goodrich Company Specialty Polymers & Chemical Division	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polylos, polyisocyanates and polyamines
P–96–1556	08/12/96	11/10/96	BF Goodrich Company Specialty Polymers & Chemical Division	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polylos, polyisocyanates and polyamines
P–96–1557	08/12/96	11/10/96	BF Goodrich Company Specialty Polymers & Chemical Division	(G) Topcoat used for the coating of various wood products, residential and sport floors	(G) Polyurethane based on polylos, polyisocyanates and polyamines
P–96–1558	08/12/96	11/10/96	H.B. Fuller Company	(S) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1559	08/12/96	11/10/96	H.B. Fuller Company	(S) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1560	08/12/96	11/10/96	H.B. Fuller Company	(S) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1561	08/12/96	11/10/96	H.B. Fuller Company	(S) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1562	08/12/96	11/10/96	H.B. Fuller Company	(S) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1563	08/12/96	11/10/96	H.B. Fuller Company	(S) Moisture-cure adhesive	(G) Isocyanate-terminated polyester polymer
P–96–1564	08/16/96	11/14/96	CBI	(G) Molding compound for automobile parts	(G) Polyamide elastomer
P–96–1565	08/16/96	11/14/96	Stepan Chemical Company	(G) Additive for fiber and pesticide formulations	(G) Alkyl poly(oxyethylene) sulfuric acid ester, substituted amine salt
P–96–1566	08/15/96	11/13/96	Essential Industries Inc.	(S) Industrial cleaners	(G) Unknown
P–96–1567	08/15/96	11/13/96	CBI	(G) Component of ink, an open dispersive use	(G) Modified phenolic resin
P–96–1568	08/16/96	11/14/96	United Catalysts Inc.	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycoluril copolymer

I. 138 Premanufacture Notices Received From: 08/01/96 to 08/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1569	08/16/96	11/14/96	United Catalysts Inc.	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycoluril-copolymer
P–96–1570	08/16/96	11/14/96	United Catalysts Inc.	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycoluril-copolymer
P–96–1571	08/16/96	11/14/96	United Catalysts Inc.	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycoluril-copolymer
P–96–1572	08/16/96	11/14/96	United Catalysts Inc	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycoluril-copolymer
P–96–1573	08/16/96	11/14/96	United Catalysts Inc	(G) Thickener/rheology modifier for waterborne systems	(G) Hydrophobically modified polyethylene glycoluril-copolymer
P–96–1574	08/16/96	11/14/96	Spies Hecker, Inc	(S) Binder for paints	(S) 1,3-benzene dicarboxylic acid, polymer with 1,4-cyclohexandicarboxylic acid, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, hexanedioic acid, 1,6-hexanediol and 1,3-isobenzo furandione
P–96–1575	08/16/96	11/14/96	Spies Hecker, Inc.	(S) Binder for electro deposition paints	(S) 2-propenoic acid, methyl-, butyl ester, polymer with n-(3-(dimethylamino)propyl)-2-methyl-2-propenamide, dodecyl 2-propenoate, ethenylbenzene, 4-hydroxybutyl 2-propenoate and 2-methylpropyl 2-methyl-2-propenoate
P–96–1576	08/21/96	11/19/96	CBI	(S) Raw material for use in fragrances for soaps, detergents, and household products; raw material for use in fine fragrances (perfumes & colognes); raw material for use in specialty fragrance bases	(G) Trialkyl substituted benzenealkane nitrile
P–96–1577	08/20/96	11/18/96	CBI	(S) Binder	(G) Polyester acrylate
P–96–1578	08/20/96	11/18/96	Arco Chemical Company	(S) Unsaturated polyester resin	(G) Poly(alkylene oxides), polyester with maleic anhydride and 1,2-propanediol, 2-methyl-1,3-propanediol modified
P–96–1579	08/20/96	11/18/96	Dupont Chambers Works—E.I. Du Pont de Nemours Du Pont Chemicals Chambers Works Facility	(G) Paper fluorodizer	(G) Poly substituted acrylic copolymer
P–96–1580	08/20/96	11/18/96	CBI	(G) Monomer used in specialty polymer	(G) Amine sulfonate monomer
P–96–1581	08/19/96	11/17/96	Bedoukian Research Inc.	(G) Chemical intermediate	(G) Halo substituted alkene
P–96–1582	08/19/96	11/17/96	Bedoukian Research Inc.	(G) Chemical intermediate	(G) Chloro substituted alkene
P–96–1583	08/19/96	11/17/96	CBI	(S) Adhesion promoter for polyvinyl chloride based plastisols	(G) Aminoamide
P–96–1584	08/21/96	11/19/96	CBI	(G) Microelectrical use	(G) Aromatic benzaldehyde polymer
P–96–1585	08/26/96	11/24/96	Akzo Nobel Resins	(S) Resin used to manufacture industrial coatings	(S) Polymer of: butylmethacrylate; methacrylic acid; butylacrylate; styrene; hydroxyethlacrylate; tert. butylperoxy 3,5,5-trimethylhexanoate
P–96–1586	08/23/96	11/21/96	CBI	(G) Processing aid	(G) Derivative of a modified alkali lignin readtion product
P–96–1587	08/23/96	11/21/96	CBI	(G) Processing aid	(G) Derivative of a fatty alkanepolyamine
P–96–1588	08/23/96	11/21/96	CBI	(G) Processing aid	(G) Salt of a fatty acid-amine reaction product
P–96–1589	08/23/96	11/21/96	CBI	(G) Processing aid	(G) Derivative of a fatty alkyldiamine
P–96–1590	08/23/96	11/21/96	Hanse Chemie USA, Inc	(S) Basic resin for UV-curaable coatings additive for flexibili sation of acrylic resins	(G) Polysiloxane epoxy acrylate copolymer
P–96–1591	08/22/96	11/20/96	CBI	(G) Component of coating with open use	(G) Hydroxy functional acrylic polymer
P–96–1592	08/22/96	11/20/96	CBI	(G) Component of coating with open use	(G) Hydroxy functional acrylic polymer

I. 138 Premanufacture Notices Received From: 08/01/96 to 08/31/96—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–96–1593	08/22/96	11/20/96	CBI	(G) Chemical intermediate having destructive use	(G) Hydroxy functional acrylate
P–96–1594	08/22/96	11/20/96	CBI	(G) Colorant for aqueous solution	(G) Substituted, polyalkoxylated aromatic amine tint
P–96–1595	08/23/96	11/21/96	CBI	(G) Functional vinyl chloride/ vinyl acetate terpolymer intermediate	(G) Vinyl chloride, polymer with vinyl acetate and amine sulfonate monomer
P–96–1596	08/23/96	11/21/96	CBI	(G) Functional vinyl chloride/ vinyl acetate terpolymer intermediate	(G) Vinyl chloride, polymer with vinyl acetate and sulfonate salt monomer
P–96–1597	08/26/96	11/24/96	H.B. Fuller Company	(S) Remoistenable hot-melt adhesive for packaging, envelopes, forms	(G) Polyamide
P–96–1598	08/26/96	11/24/96	CBI	(G) Open, non-dispersive	(G) Acylated urethane
P–96–1599	08/26/96	11/24/96	CBI	(G) Coating additive	(G) Organosilane ester
P–96–1600	08/09/96	11/07/96	Hercules Incorporated	(G) Electronics and coatings modifier; open non-dispersive use and dispersive use	(G) Aromatic hydrocarbon resin
P–96–1601	08/09/96	11/07/96	Hercules Incorporated	(G) Electronics and coatings modifier; open non-dispersive use and dispersive use	(G) Aromatic hydrocarbon resin
P–96–1602	08/09/96	11/07/96	Hercules Incorporated	(G) Electronics and coatings modifier; open non-dispersive use and dispersive use	(G) Aromatic hydrocarbon resin
P–96–1603	08/26/96	11/24/96	CBI	(G) Electrodeposition coating	(G) Acrylic-urethane polymer salt
P–96–1604	08/28/96	11/26/96	Dystar L.P.	(S) Direct dye for textile coloration	(G) Trisubstituted naphthalene disulfonic acid salt
P–96–1605	08/28/96	11/26/96	Dystar L.P.	(S) Direct dye for textile coloration	(G) Trisubstituted naphthalene disulfonic acid salt
P–96–1606	08/27/96	11/25/96	CBI	(G) Open, non-dispersersive	(G) Modified acrylic polymer
P–96–1607	08/29/96	11/27/96	Hoechst Celanese	(G) Chemical intermediate	(G) Salt of a substituted benzoic acid
P–96–1608	08/29/96	11/27/96	Hercules Incorporated	(G) Isolated intermediate	(G) Polyamidoamine resin
P–96–1609	08/29/96	11/27/96	Hercules Incorporated	(G) Papermaking adhesion aid	(G) Polyamidoamine-epichlorohydrin resin
P–96–1610	08/28/96	11/26/96	Amoco Corporation	(S) Polymer used in electronic material coating	(G) Imide oligomer
P–96–1611	08/28/96	11/26/96	Amoco Corporation	(S) Intermediate in manufacture of polymers used in electronic material coating	(G) Aromatic/aliphatic copolyimide
P–96–1612	08/28/96	11/26/96	CBI	(G) Component of coating with open use	(G) Amine fuctional acrylic latex
P–96–1613	08/28/96	11/26/96	CBI	(G) Component of coating with open use	(G) Amine fuctional acrylic latex
P–96–1614	08/28/96	11/26/96	CBI	(G) Component of coating with open use	(G) Amine fuctional acrylic latex
P–96–1615	08/28/96	11/26/96	CBI	(G) Component of coating with open use	(G) Amine fuctional acrylic latex
P–96–1616	08/28/96	11/26/96	CBI	(G) Component of coating with open use	(G) Amine fuctional acrylic latex
P–96–1617	08/28/96	11/26/96	CBI	(G) Component of coating with open use	(G) Amine fuctional acrylic latex
P–96–1618	08/30/96	11/28/96	CBI	(S) Agricultural chemical intermediate	(G) Substituted pyridine dicarboxylic acid
P–96–1619	08/30/96	11/28/96	CBI	(G) Lubricant component	(G) *N,N′*-bis(fatty alkyl)-aromatic-diurea
P–96–1620	08/30/96	11/28/96	CBI	(G) Lubricant component	(G) *N,N′*-bis(fatty alkyl)-aromatic-diurea

II 54 Notices of Commencement Received From: 08/01/96 to 08/31/96

Case No.	Received Date	Commencement/Import Date	Chemical
P–87–860			
P–90–1749		08/27/97	(G)Substituted cyclohexane
P–92–0200	08/06/96	07/31/96	(G) Barium alkylaryl sulfonate
P–92–1083	08/20/96	02/22/93	(G) Nitrile substituted ethylene copolymer in aromatic hydrocarbon solvent
P–94–0025	08/07/96	07/11/96	(G) Polyamide resin
P–94–1954	08/26/96	07/30/96	(G) Styrene acrylic latex polymer

II 54 Notices of Commencement Received From: 08/01/96 to 08/31/96—Continued

Case No.	Received Date	Commencement/Import Date	Chemical
P–95–0982	08/06/96	07/10/96	(G) Metal resinate
P–95–0983	08/06/96	07/10/96	(G) Metal resinate
P–95–1059	08/20/96	08/13/96	(G) Substituted phenyl azo substituted phenyl amino triazinyl substituted naphthalene sulfonic acid derivative
P–95–1124	08/09/96	07/28/96	(G) Aryl substituted copper phthalocyanine
P–95–1129	08/06/96	07/23/96	(G) Acrylate copolymer
P–95–1352	08/07/96	07/29/96	(G) Substituted polyoxyalkylene colorant
P–95–1403	08/27/96	08/12/96	(G) Unsaturated polyester
P–95–1475	08/29/96	08/05/96	(S) A polymer of: 1,1′-methylenebis(isocyanato-benzene); 2,2-dihydroxymethyl-butanol-1; phenol
P–95–1478	08/20/96	08/06/96	(G) Triethylaminium salt of polyurethane polymer
P–95–1533	08/27/96	07/25/96	(G) Acyl aminomethylene phosphonate
P–95–1557	08/26/96	07/23/96	(G) Imine
P–95–1579	08/29/96	08/25/96	(G) Substituted naphthalene azo metal complex dye
P–95–1584	08/05/96	07/24/96	(S) Low molecular weight alcell organosolv lignin
P–95–2041	08/09/96	07/17/96	(G) Mono and diamine salt carboxylate
P–96–0019	08/06/96	07/23/96	(G) Lithiated metal oxide
P–96–0239	08/26/96	08/08/96	(G) Sulfonated polystrene
P–96–0361	08/16/96	08/06/96	(G) Oil free terephthalic polyester
P–96–0553	08/27/96	07/31/96	(G) Substituted naphthalene carboxamide
P–96–0586	08/05/96	07/31/96	(G) Acryl modified polysiloxane
P–96–0606	08/08/96	08/06/96	(G) Amino-benzothiazolyl substituted phenol phosphoric acid salt
P–96–0607	08/29/96	08/05/96	(S) 1,4-benzenedicarboxylic acid, dimethyl ester, polymer with 1,3-dihydro-1,3-dioxo-5-isobenzofurancarboxylic acid, 1,2-ethanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 4,4′-methylenebis(benzenamine) and 1,2,3-propanetriol
P–96–0673	08/21/96	08/19/96	(G) Siloxanes and silicones, di-me, polyether polyester modified
P–96–0676	08/08/96	07/06/96	(G) halo amino benzoic acid derivative
P–96–0687	08/05/96	07/05/96	(G) C_5 oligomers and naphtha steam cracked reaction overheads
P–96–0716	08/13/96	08/02/96	(G) Substituted biphenol
P–96–0718	08/13/96	07/26/96	(G) Substituted biphenol
P–96–0749	08/15/96	08/09/96	(G) Substituted phenyl azo sustituted phenyl aminotriazinyl substituted phenyl substituted naphthalenesulfonic acid
P–96–0805	08/13/96	07/22/96	(G) Propanenitrile, 3-[[3-(alkyloxy)propyl]amino]-
P–96–0819	08/07/96	07/09/96	(G) 1-hydroxy-2-nitro-4-(2-aminoethyl) benzene derivative, hydrochoride
P–96–0828	08/07/96	07/07/96	(G) Caprolactone polyurethane
P–96–0833	08/09/96	07/24/96	(G) Ester functionalized polymer
P–96–0866	08/05/96	07/03/96	(G) Derivative of substituted carbomonocyclic carboxylic acid-amine distillation stream by-product reaction product
P–96–0870	08/13/96	07/10/96	(G) Modified polyester diol
P–96–0938	08/07/96	07/10/96	(G) Hexanedioic acid, polymer with 1,4-butanediol, 1,3-diisocyanatomethylbenzene, alkoxylated amines and 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, polyethylene glycol mono-me ether-blocked, methanesulfonate (salt), reaction products with alkyl amines
P–96–0940	08/15/96	07/22/96	(G) Poly bd dimethacrylate
P–96–0962	08/02/96	07/22/96	(G) Hydrophobically modified acrylate copolymer, sodium salt
P–96–0972	08/22/96	07/25/96	(G) Thermosetting acrylic silicone resin
P–96–0974	08/21/96	08/19/96	(G) Dialkylaminoethanol, compounds with phosphoric acid ester
P–96–0983	08/19/96	08/02/96	(G) Styrene-acrylic copolymer
P–96–0984	08/22/96	08/18/96	(G) Mixed magnesium transition metal alkoxide
P–96–0993	08/23/96	08/08/96	(G) Polyester polyol
P–96–0994	08/23/96	08/08/96	(G) Polyester polyol
P–96–0995	08/13/96	07/30/96	(G) Modified cationic polyacrylamide
P–96–1005	08/13/96	08/01/96	(G) Propanol, [(1-methyl-1,2-ethanediyl)bis(oxy)]bis-, polymer with dipropylene glycol; ethanylene oxide, hydroxy-terminated polybutadiene, 1,1′-methylenebis-[isocyanatobenzene], hydroxy alkyl amine, alkyl methacryalate and propylene oxide
P–96–1049	08/27/96	08/20/96	(G) Alkyl modified polyacrylate
P–96–1050	08/27/96	08/20/96	(G) Alkyl modified polyacrylate
P–96–1063	08/26/96	08/12/96	(S) Silane, trimethoxy[3-(oxiranylmethoxy)propyl]-, hydrolyzed, reaction products with vitreous silica.
P–96–1107	08/26/96	08/15/96	(S) Acetic acid, rhodium (3+) salt (8ci, 9ci)

List of Subjects

Environmental protection, Premanufacture notices.

Dated: March 11, 1997.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 97–7636 Filed 3–25–97; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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