

Thursday
April 10, 1997

Federal Register

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM-140; Special Conditions No. 25-ANM-125]

Special Conditions: Lockheed Martin Aerospace Corp. Model L382J Airplane, High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Lockheed Martin Aerospace Corp. Model L382J airplane. This model airplane will utilize new avionics/electronic systems, Mil Std 1553 data buses and dual head-up displays that provide critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is April 2, 1997. Comments must be received on or before May 27, 1997.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attn: Rules Docket (ANM-7), Docket No. NM-140, 1601 Lind Avenue SW., Renton, Washington 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-140. Comments may be inspected in the Rules Docket

weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

Mike Zielinski, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2279.

SUPPLEMENTARY INFORMATION:

Comment Invited

The FAA has determined that good cause exists for making these special conditions effective upon issuance; however, interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and special condition number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. These special conditions may be changed in light of the comments received. All comments submitted will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this request must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-140." The postcard will be date stamped and returned to the commenter.

Background

On August 2, 1992, Lockheed Martin Aerospace Corp. applied for an amendment to their Type Certificate No. A1SO to include their new Model L382J. The Model L382J is a derivative of the L382B/E/G currently approved under Type Certificate No. A1SO, and features a new engine (with approximately the same rated horsepower, but heavily flat-rated) and propeller, both of which are controlled by a full authority digital engine control. Additionally, the flight deck is substantially modified by the installation of four liquid crystal flight displays, dual head-up displays, and Mil Std 1553 data buses. The flight

engine position is deleted, requiring automation of some functions as well as redesign of the front and overhead panels. Some structure has been modified but the aerodynamics of the airplane are essentially unchanged. The latest Part 25 requirement will be used for all significantly modified portions of the Model 382J (as compared to the present L382), and, for the unmodified portions of the airplane, the applicable certification standard will be the Part 25 rules that were effective on February 1, 1965.

Type Certification Basis

Under the provisions of § 21.101, Lockheed Martin Aerospace Corp. must show that the Model L382J airplanes meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A1SO or the applicable regulations in effect on the date of application for the changes to the Model L382. In addition, the certification basis includes certain special conditions and later amended sections of Part 25 that are not relevant to these proposed special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., Part 25, as amended) do not contain adequate or appropriate safety standards for the L382J because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Model L382J incorporates new avionic/electronic installations, including a digital Electronic Flight

Instrument System (EFIS), Mil Std 1553 data buses and dual head-up displays that provide critical data to the flightcrew and a Full Authority Digital Engine Control (FADEC) system that controls critical engine parameters. These systems may be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters and the growing use of sensitive electrical and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are issued for the L382J which require that new technology electrical and electronic systems, such as the EFIS, FADEC, HUD, etc., be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Peak (V/M)	Average (V/M)
10 KHz–100 KHz	50	50
100 KHz–500 KHz	60	60
500 KHz–2000 KHz	70	70
2 MHz–30 MHz	200	200
30 MHz–100 MHz	30	30
100 MHz–200 MHz	150	33
200 MHz–400 MHz	70	70
400 MHz–700 MHz	4,020	935
700 MHz–1000 MHz	1,700	170
1 GHz–2 GHz	5,000	990
2 GHz–4 GHz	6,680	840
4 GHz–6 GHz	6,850	310
6 GHz–8 GHz	3,600	670
8 GHz–12 GHz	3,500	1,270
12 GHz–18 GHz	3,500	360
18 GHz–40 GHz	2,100	750

As discussed above, these special conditions would be applicable initially to the Model L382J. Should Lockheed Martin Aerospace Corp. apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the Lockheed Martin Aerospace Corporation Model L382J airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

The substance of these special conditions for this airplane has been submitted to the notice and comment procedure in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. For this reason, and because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions immediately. Therefore, these special conditions are being made effective upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these proposed special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Lockheed Martin Aerospace Corp. Model L382J airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of this special conditions, the following definition applies: *Critical Functions.* Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on April 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM-100.

[FR Doc. 97-9244 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-93-AD; Amendment 39-9992; AD 97-08-04]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A320-111, -211, -212, and -231 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320-111, -211, -212, and -231 series airplanes, that requires reinforcement of the tail section of the fuselage at frames 68 and 69. This amendment is prompted by reports indicating that the tail section has struck the runway during takeoffs and landings. The actions specified by this AD are intended to prevent structural damage to the tail section when it strikes the runway; that

condition, if not detected, could result in depressurization of the fuselage during flight.

DATES: Effective May 15, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 15, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles 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: 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 certain Airbus Model A320-111, -211, -212, and -231 series airplanes was published in the **Federal Register** on October 23, 1996 (61 FR 54960). That action proposed to require modification of the tail section of the airplane by reinforcement of the fuselage at frames 68 and 69.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed AD.

Request to Extend the Compliance Time

One commenter requests that the compliance time for the modification be extended from the proposed 4 years to 6 years. This commenter points out that further analysis conducted by Airbus has indicated that additional fuselage frames, beyond those addressed by the proposal, may also be affected. Airbus has indicated that it will release a new Service Bulletin A320-53-1131, which will contain procedures that include modification of these additional frames. In anticipation of the imminent release of this service information, the commenter requests that the compliance time of the proposed AD be extended in

order to allow the rework of all affected areas to be performed at the same time.

The FAA concurs with the commenter's request to extend the compliance time. The FAA acknowledges that Airbus will soon release a new service bulletin to address other affected fuselage frames. In addition, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, has already issued French airworthiness directive (CN) 96-009-074(B)R1, which provides for a compliance time of 6 years for modification of the fuselage frames addressed in Airbus Service Bulletin A320-53-1110.

The FAA also acknowledges that, due to the magnitude of both the modification required by this AD action, as well as the modification of the additional frames that may be included in the new service bulletin, performing both modifications at the same time will decrease the chance for human error to occur and, thus, enhance safety.

Once the new service bulletin is released and reviewed, the FAA may consider additional rulemaking for accomplishment of the pertinent modifications identified in Airbus Service Bulletin A320-53-1131.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 97 Airbus Model A320-111, -211, -212, and -231 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 196 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$1,140,720, or \$11,760 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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 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 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

97-08-04 Airbus Industrie: Amendment 39-9992. Docket 96-NM-93-AD.

Applicability: Model A320-111, -211, -212, and -231 series airplanes, as listed in Airbus Service Bulletin A320-53-1110, dated August 28, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the

owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural damage to the tail section of the airplane when it strikes the runway which, if undetected, could result in depressurization of the fuselage during flight, accomplish the following:

(a) Within 6 years after the effective date of this AD, modify the fuselage by reinforcing frames 68 and 69 in accordance with Airbus Service Bulletin A320-53-1110, dated August 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, 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.

(d) The actions shall be done in accordance with Airbus Service Bulletin A320-53-1110, dated August 28, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 15, 1997.

Issued in Renton, Washington, on April 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 97-9009 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-239-AD; Amendment 39-9993; AD 97-08-05]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 747-100, -200, and -300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747-100, -200, and -300 series airplanes, that requires replacement of certain switches in the cabin attendant's panel at door 4 right and door 2 right with new improved switches. This amendment is prompted by reports indicating that fires have occurred on some airplanes due to the internal failure of some of these switches. The actions specified by this AD are intended to prevent the installation and use of switches that could short circuit when they fail, and consequently cause fire and smoke aboard the airplane.

DATES: Effective May 15, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 15, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Forrest Keller, Senior Aerospace Engineer, Systems and Equipment Branch, ANM-130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227-2790; fax (206) 227-1181.

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 certain Boeing Model 747-100, -200, and -300 series airplanes was published in the **Federal Register** as a supplemental notice of

proposed rulemaking (NPRM) on January 21, 1997 (62 FR 2981). That action proposed to require removing switches S4 and/or S5, or switches S7 and S8, that are currently installed on the cabin attendant's panel at door 4 right, and the equivalent switches at door 2 right, and replacing them with new improved switches.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

Two commenters support the proposed rule.

Request To Include a New Requirement for Doors 1 and 3

One commenter requests that the proposed replacement of the switches on the cabin attendant's panel also be accomplished at doors 1 and 3. The commenter states that doors 1 and 3 have the same switches that are subject to the addressed unsafe condition as the switches at doors 2 and 4.

The FAA acknowledges that the switches at doors 1 and 3 are prone to failure; however, at this time, the FAA has received no reports of fire and smoke at those locations. The FAA points out that adding a new requirement to the proposed AD would require public comment before adopting a final rule, hence a second supplemental NPRM. The FAA has considered the degree of urgency associated with addressing the identified unsafe condition at doors 2 and 4, and the amount of time that has already elapsed since issuance of the original proposed rule. In light of these items, the FAA has determined that further delay of this final rule action is not appropriate. However, the FAA is currently considering issuing a separate rulemaking action to address the identified unsafe condition at doors 1 and 3.

Request for an Alternative Method of Compliance

One commenter requests that the FAA revise paragraph (a) of the proposed rule to reference an alternative method of compliance for replacing the existing switches with new improved replacement switches. The commenter recommends suitable plug-in switches, in lieu of the soldered switches, as described in Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996 (which is referenced in the proposed AD as the appropriate source of service information). The commenter states that soldered switches add

considerable complexity and cost to the replacement, which prevents accomplishment of the replacement on the line. The commenter notes that it has requested Boeing revise the referenced alert service bulletin to specify a suitable plug-in switch.

The FAA does not concur. The FAA does not consider it appropriate to include various provisions in an AD applicable to a single operator's unique use of an affected airplane. Paragraph (c) of this AD contains a provision for requesting approval of an alternative method of compliance to address these types of unique circumstances. The FAA acknowledges that a design solution that utilizes plug-in switches may cost less and may be less complex; however, the FAA does not mandate a design solution based on those criteria alone. Further, the FAA is unaware of a revision to the referenced alert service bulletin.

Request To Revise the Cost Estimate

One commenter questions the FAA's cost and work hour estimate in the preamble of the proposal. The commenter states that the estimated per airplane cost of \$1,112, presented in the cost impact information in the preamble to the proposal, is too low. This commenter suggests that the required replacement would take approximately 10 work hours per airplane and would cost approximately \$1,300 per panel (2 panels per airplane). Upon further review, the FAA concurs that the number of work hours and cost of required parts is higher than approximated previously. The FAA has revised the cost impact information, below, to include this updated information.

New Notice of Status Change

Since issuance of the supplemental NPRM, Boeing has issued Notice of Status Change (NSC) 747-33A2252 NSC 01, dated October 10, 1996, which amends Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996. This NSC removes airplanes that have been converted to special freighters from the effectivity listing of the alert service bulletin and makes certain editorial changes. The FAA has revised the final rule to reference this NSC as an additional source of service information.

New "Note 2"

The FAA has revised the final rule to include a new NOTE 2 to clarify that, although the procedures in Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996, address replacing only the switches located at door 4, they can be used just as effectively for replacing

the switches located at door 2. The FAA mentioned this clarification in the Requirements of the Revised Proposed Rule Section in the preamble of the supplemental NPRM.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither significantly increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 648 Boeing Model 747-100, -200, and -300 series airplanes of the affected design in the worldwide fleet. Of this number, the FAA estimates that 167 airplanes of U.S. registry will be affected by this AD.

The required replacement of the switches will take approximately 10 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$1,300 per panel (2 panels per airplane). Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$534,400, or \$3,200 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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 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 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

97-08-05 Boeing: Amendment 39-9993. Docket 96-NM-239-AD.

Applicability: Model 747-100, -200, and -300 series airplanes; as listed in Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996, as revised by Boeing Notice of Status Change 747-33A2252 NSC 01, dated October 10, 1996; 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 prevent the installation and use of switches in the cabin attendant's panel that could short circuit when they fail, and consequently cause fire and smoke aboard the airplane, accomplish the following:

(a) Within 10 months after the effective date of this AD, remove switches S4 and/or S5, or switches S7 and S8, that are installed in the cabin attendant's panel at door 4 right, and the equivalent switches at door 2 right, and replace them with new switches in accordance with the procedures specified in Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996, as revised by Boeing Notice of Status Change 747-33A2252 NSC 01, dated October 10, 1996.

Note 2: Although the procedures in Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996, as revised by Boeing Notice of Status Change 747-33A2252 NSC 01, dated October 10, 1996, address replacing only the switches located at door 4, they can be used just as effectively for replacing the switches located at door 2.

(b) As of the effective date of this AD, no person shall install at door 2 right or at door 4 right of any airplane an attendant's panel having switch part numbers identified in the "Old Switch" column of any table contained in Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996, as revised by Boeing Notice of Status Change 747-33A2252 NSC 01, dated October 10, 1996.

(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, 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 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(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.

(e) The replacement shall be done in accordance with Boeing Alert Service Bulletin 747-33A2252, dated August 1, 1996, as revised by Boeing Notice of Status Change 747-33A2252 NSC 01, dated October 10, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on May 15, 1997.

Issued in Renton, Washington, on April 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.
[FR Doc. 97-9010 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 94-NM-196-AD; Amendment 39-9991; AD 97-08-03]

RIN 2120-AA64

Airworthiness Directives; Airbus Model A310 and A300-600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310 and A300-600 series airplanes, that requires a functional flow test and leak test to verify if the pressure reducing valve in the cargo fire extinguishing system is in a serviceable condition, and replacement of any faulty valve with a new valve prior to extended range twin-engine operations of the airplane. This amendment is prompted by a report that, during a scheduled maintenance check, an inoperative pressure reducing valve was found in the cargo fire extinguishing system. The actions specified by this AD are intended to ensure that a faulty pressure reducing valve is not installed, which could result in reduced fire protection of the cargo compartment of the airplane.

DATES: Effective May 15, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 15, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles 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: 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 certain Airbus

Model A310 and A300-600 series airplanes was published in the **Federal Register** on September 7, 1995 (60 FR 46541). That action proposed to require a functional flow test and leak test to verify if the pressure reducing valve in the cargo fire extinguishing system is in a serviceable condition.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposal

One commenter supports the proposed AD.

Request To Make AD Effective Immediately

One commenter supports the intent of the proposed rule, but opposes the FAA's method of issuing the rule by providing time for prior notice and public comment. This commenter considers that the potential unsafe condition regarding the fire extinguishing systems that qualify an airplane for extended range twin-engine operation (ETOPS) flights should have been issued as an immediately adopted rule. Further, the commenter contends that the AD should prohibit extended ETOPS operation beyond 60 minutes, and include a temporary revision to the Airplane Flight Manual (AFM) alerting the crew of the potentially unsafe condition should a fire exist. Terminating action for the restricted operation and AFM revision should be authorized after compliance with the inspection and replacement criteria of the AD. The commenter maintains that the seriousness of a cargo fire during ETOPS operation mandates such action.

While the FAA recognizes the urgency of safety measures to ensure that fire does not present an unsafe condition onboard an airplane, the FAA does not concur with the commenter's suggestion that notice and time for public comment should have been waived for this rulemaking action. The FAA conducted a review of the characteristics of the failure mode relative to the subject pressure valve and concluded that the safety implications did not warrant rulemaking without the opportunity for public participation. The airplane on which the inoperative pressure reducing valve was found was not approved for ETOPS operations. Further, at the time the notice was issued, there were no U.S.-registered Model A300-600 or A310 series airplanes that were approved for ETOPS operations. The consequences of the subject faulty valve are not as critical for non-ETOPS

operations, since other additional fire extinguishing features of the system can address problems that occur within a typical flight range (or 60 minutes).

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 48 Airbus Model A310 and A300-600 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$2,880, or \$60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the 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 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 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

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

97-08-03 Airbus Industrie: Amendment 39-9991. Docket 94-NM-196-AD.

Applicability: Model A310 and A300-600 series airplanes on which Airbus Modification 6403 (reference Airbus Service Bulletin A310-26-2010 or A300-600-26-6011) has been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it otherwise 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 use the authority provided in paragraph (b) of this AD to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition; or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any airplane from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To ensure that a faulty pressure reducing valve in the cargo fire extinguishing system is not installed, which could result in reduced fire protection of the cargo compartment of the airplane from 260 minutes to 60 minutes, accomplish the following:

(a) Prior to the accumulation of 600 total flight hours after the effective date of this AD, perform a functional flow test and leak test to verify if the pressure reducing valve in the cargo fire extinguishing system is in a serviceable condition, in accordance with paragraph 4.2., Description, of Airbus All Operators Telex AOT 26-13, dated June 28, 1994. If a faulty pressure reducing valve is installed, prior to extended range twin-engine operations (ETOPS), replace it with a new valve, in accordance with the aircraft maintenance manual, reference 26-23-14, Page block 401.

(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.

(d) The tests shall be done in accordance with Airbus All Operators Telex AOT 26-13, dated June 28, 1994. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on May 15, 1997.

Issued in Renton, Washington, on April 2, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-9011 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92-CE-41-AD; Amendment 39-9994; AD 97-08-06]

RIN 2120-AA64

Airworthiness Directives; Louis L'Hotellier, S.A., Ball and Swivel Joint Quick Connectors

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Louis L'Hotellier S.A. (L'Hotellier) ball and swivel joint quick connectors installed on gliders and sailplanes that are not equipped with a "Uerling" sleeve or an LS-safety sleeve. These connectors allow the operator of the gliders and sailplanes to quickly connect and disconnect the control

systems during assembly and disassembly for storage purposes. This action requires enlarging the safety pin guide hole diameter, and fabricating and installing a placard that specifies a check of the security of the connectors prior to each flight. Several in-flight accidents involving inadvertent disconnection of these connectors that are installed on certain gliders and sailplanes prompted this action. The actions specified by this AD are intended to prevent the connectors from becoming inadvertently disconnected, which could result in loss of control of the sailplane or glider.

DATES: Effective June 2, 1997.

ADDRESSES: This AD may be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 92–CE–41–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. J. Mike Kiesov, Project Officer, Sailplanes/Gliders, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply Louis L'Hotellier S.A.

(L'Hotellier) ball and swivel joint quick connectors was published in the **Federal Register** on November 21, 1996 (61 FR 59203). The action proposed to require the following actions for gliders and sailplanes utilizing the L'Hotellier ball and swivel joint quick connectors, and that are not equipped with a "Uerling" sleeve or an LS-Safety sleeve:

- Enlarge the safety pin guide hole diameter to a minimum of 1.2 mm (0.05 in.) to accommodate a safety wire or pin, as applicable.
- Fabricate a placard (using ⅛ inch letters) with the following words: "All L'Hotellier control system connectors must be secured with safety wire, pins, or safety sleeves, as applicable, prior to operation."
- Install this placard in the glider or sailplane within the pilot's clear view.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No

comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 1,100 sailplanes and gliders, with an average of 4 connectors per sailplane, in the U.S. registry would be affected by this AD, that it would take less than 4 workhours per sailplane or glider to accomplish the action (less than 1 workhour per connector), and that the average labor rate is approximately \$60 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$264,000. This cost is figured for the estimated time it would take for an authorized mechanic to enlarge the safety pin guide hole diameter. An owner/operator who holds a private pilot's certificate, as authorized by sections 43.7 and 43.11 of the Federal Aviation Regulations (14 CFR 43.7 and 43.11), can fabricate and install the placard. This \$264,000 figure is based on the assumption that all of the affected owners/operators of the affected sailplanes and gliders do not have the guide pin hole already enlarged, a safety sleeve installed, or the placard installed.

Compliance Time

The compliance time of this AD is in calendar time instead of hours time-in-service (TIS). The average monthly usage of the affected sailplanes and gliders ranges throughout the fleet. For example, one owner may operate the sailplane or glider 25 hours in one week, while another operator may operate the sailplane or glider 25 hours in one year. For this reason, the FAA has determined that, in order to ensure that all of the owners/operators of the affected sailplanes and gliders incorporate the required actions within a reasonable amount of time, a calendar compliance time is required.

Regulatory Impact

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 copy of the final 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.

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 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD) to read as follows:

97–08–06 Louis L'Hotellier, S.A. Ball and Swivel Joint Quick Connectors:
Amendment 39–9994; Docket No. 92–CE–41–AD.

Applicability: All quick connectors installed in, but not limited to, the following gliders and sailplanes that are not equipped with a "Uerling" sleeve or an LS-Safety sleeve:

Manufacturer	Models
Alexander Schleicher	ASK21, ASK23, ASW12, ASW15, ASW15B, ASW17, ASW19, ASW19B, ASW24, ASW24B, AS12, AS-K13, AS-K13, Ka 6, Ka 6 B, Ka 6 BR, Ka 6 C, Ka 6 CR, Ka 6 CR-Pe, Ka 6 E, K7, Ka2B, K 8, K 8 B, and Rhonlerche II.
Centrair, S.N	101, 101A, 101P, 101AP, and 201B.
Eiravion	PIK 20, PIK 20B, and PIK 20D.
Glaser Dirks	DG100, DG400, and DG-500M.
Burkhart Grob	G102 Astir CS, G102 Club Astir III, G102 Club Astir IIIb, G102 Standard Astir III, G102, G103 Twin Astir, G103 Twin II, G103A Twin II Acro, G103C Twin III Acro, G103C Twin III SL, G109, and G109B.
Intreprinderea ICA (Lark)	IS-28B2 and IS-29D2.
Rolladen Schneider	LS1-f and LS3-a.
Schempp-Hirth	Cirrus, Std Cirrus, Nimbus 2, Nimbus 2B, Mini-Nimbus HS-7, Mini-Nimbus B, Janus, Discus a, Duo-Discus, Standard Austria-S, Standard Austria-SH, Standard Austria-SH1, Ventus, Ventus-a, and Ventus-a/16.6.
Schweizer	2-33 and 1-26.

Note 1: This AD applies to the product 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 the product that has 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 within the next 30 calendar days after the effective date of this AD, or upon installation of the quick connectors, whichever occurs later, unless already accomplished.

To prevent the quick connectors from becoming inadvertently disconnected, which could result in loss of control of the sailplane or glider, accomplish the following:

(a) For quick connectors that have a safety pin guide hole, enlarge the hole in the lock plate to a minimum diameter of 1.2 mm (0.05 in.) to accommodate a safety wire or pin.

(b) Fabricate and install a placard (using 1/8 inch letters) in the glider or sailplane, within the pilot's clear view, with the following words: "All L'Hotellier control system connectors must be secured with safety wire, pins, or safety sleeves, as applicable, prior to operation."

(c) Fabricating and installing the placard as required by paragraph (b) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the sailplane's or glider's records showing compliance with this AD in accordance with section 43.9 of the Federal Aviation Regulations.

(d) An alternative method of compliance or adjustment of the compliance times that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from Small Airplane Directorate.

(e) Copies of this AD may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39-9994) becomes effective on June 2, 1997.

Issued in Kansas City, Missouri, on April 2, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97-9164 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28882; Amdt. No. 1792]

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. Material incorporated by reference are available for examination or purchase as stated above.

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

The Rule

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

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

The FAA has determined that this regulation only involves an established

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 4, 1997.

David R. Harrington,
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 and 97.35 [Amended]

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

* * * *Effective April 24, 1997*

Minneapolis, MN, Minneapolis-St Paul Intl (Wold-Chamberlain), ILS PRM RWY 29R, Orig

Minneapolis, MN, Minneapolis-St Paul Intl (Wold-Chamberlain), ILS PRM RWY 29L, Orig

* * * *Effective May 22, 1997*

Atqasuk, AK, Atqasuk, GPS RWY 6, Orig
Atqasuk, AK, Atqasuk, GPS RWY 24, Orig
Kake, AK, Kake, NDB/DME RWY 10, Orig
Clarksville, AR, Clarksville Muni, NDB OR
GSP-A, Amdt 5

Clarksville, AR, Clarksville Muni, GPS RWY 9, Orig
Clarksville, AR, Clarksville Muni, GPS RWY 27, Orig
Lake Village, AR, Lake Village Muni, VOR OR GPS-A, Amdt 7
Lake Village, AR, Lake Village Muni, VOR/DME OR GPS-B, Amdt 5
French Lick, IN, French Lick Muni, NDB RWY 26, Orig, CANCELLED
Fort Leavenworth, KS, Sherman AAF, VOR-A, Amdt 3, CANCELLED
Hazard, KY, Wendell H Ford, VOR/DME RWY 14, Orig
Hazard, KY, Wendell H Ford, GPS RWY 14, Orig
Northampton, MA, Northampton, VOR OR GPS-A, Amdt 4
Northampton, MA, Northampton, VOR/DME-B, Amdt 4
Drummond Island, MI, Drummond Island, GPS RWY 8, Orig
Drummond Island, MI, Drummond Island, GPS RWY 26, Orig
Dodge Center, MN, Dodge Center, GPS RWY 34, Orig
St Paul, MN, Lake Elmo, GPS RWY 31, Orig
Newark, NJ, Newark Intl, ILS RWY 11, Amdt 1
Montgomery, NY, Orange County, ILS RWY 3, Orig
Hazen, ND, Mercer County Regional, NDB RWY 32, Orig
Norwalk-Huron, OH, Norwalk-Huron County, GPS RWY 28, Orig
Hobart, OK, Hobart Muni, VOR RWY 35, Amdt 8
Hobart, OK, Hobart Muni, GPS RWY 17, Orig
Hobart, OK, Hobart Muni, GPS RWY 35, Orig
Gregory, SD, Gregory Muni, GPS RWY 31, Orig
Hot Springs, SD, Hot Springs Muni, GPS RWY 19, Orig
Weslaco, TX, Mid Valley, RNAV OR GPS RWY 13, Orig, CANCELLED
Weslaco, TX, Mid Valley, GPS RWY 13, Orig
Tomahawk, WI, Tomahawk Regional, VOR/DME-A, Orig

* * * *Effective July 17, 1997*

Kake, AK, Kake, GPS RWY 10, Orig
Willimantic, CT, Windham, GPS RWY 9, Orig
Deming, NM, Deming Muni, VOR RWY 26, Amdt 9
Deming, NM, Deming Muni, GPS RWY 4, Orig
Deming, NM, Deming Muni, GPS RWY 26, Orig
Marysville, OH, Union County, GPS RWY 9, Orig
Marysville, OH, Union County, GPS RWY 27, Orig

Note: The FAA published the following procedure in Docket No. 28838, Amdt. No. 1787 to Part 97 of the Federal Aviation Regulations (Vol 62, No. 58) Page 14297 dated Wednesday, March 26, 1997 under section 97.29 effective April 24, 1997 which is hereby amended to read * * *
Wilmington, DE, New Castle County, MLS RWY 9, Orig.

[FR Doc. 97-9245 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28883; Amdt. No. 1793]

RIN 2120-AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

*For Purchase—*Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs

Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal 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 requires making them effective in less than 30 days.

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 4, 1997.

David R. Harrington,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME;

§ 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * Effective upon Publication

FDC date	State	City	Airport	FDC No.	SIAP
01/03/97 ...	FL	Gainesville	Gainesville Regional	7/0043	VOR OR GPS-A, AMDT 10...
01/13/97 ...	SC	Greer	Greenville-Spartanburg	7/0261	ILS RWY 21, AMDT 2A...
01/13/97 ...	SC	Greer	Greenville-Spartanburg	7/0262	ILS RWY 3, AMDT 20A...
01/13/97 ...	SC	Greer	Greenville-Spartanburg	7/0263	NDB OR GPS RWY 3, AMDT 14...
03/05/97 ...	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	7/1190	ILS RWY 22, AMDT 4A... THIS CORRECTS TL 97-08.
03/10/97 ...	KS	Parsons	Tri-City	7/1242	NDB OR GPS RWY 35, AMDT 5... THIS CORRECTS NOTAM IN TL 97-08.
03/19/97 ...	MA	Nantucket	Nantucket Memorial	7/1465	ILS RWY 24, AMDT 15...
03/19/97 ...	MO	Mosby	Mosby/Clay County Regional	7/1463	GPS RWY 18, ORIG...
03/20/97 ...	AR	Dumas	Billy Free Muni	7/1495	VOR/DME OR GPS RWY 36, AMDT 2A...
03/20/97 ...	AR	Dumas	Billy Free Muni	7/1496	NDB RWY 36, ORIG...
03/20/97 ...	AR	McGehee	McGehee Muni	7/1494	VOR/DME OR GPS-A, AMDT 2...
03/20/97 ...	MO	Kansas City	Kansas City Downtown	7/1457	ILS RWY 19, AMDT 20B...
03/20/97 ...	NH	Lebanon	Lebanon Muni	7/1489	ILS RWY 18, AMDT 3A...
03/20/97 ...	NJ	Robbinsville	Trenton-Robbinsville	7/1501	VOR OR GPS RWY 29, AMDT 10...
03/21/97 ...	LA	Covington	Greater St. Tammany	7/1512	GPS RWY 17, ORIG...
03/21/97 ...	LA	Welsh	Welsh	7/1515	VOR/DME OR GPS RWY 6, AMDT 3...
03/25/97 ...	MA	Westfield	Barnes Muni	7/1557	NDB RWY 20, AMDT 13...
03/25/97 ...	MA	Westfield	Barnes Muni	7/1558	VOR OR GPS RWY 20, AMDT 18...
03/25/97 ...	MA	Westfield	Barnes Muni	7/1559	VOR OR TACAN OR GPS RWY 2, AMDT 2...
03/25/97 ...	MA	Westfield	Barnes Muni	7/1560	ILS RWY 20, AMDT 3...
03/27/97 ...	AL	Greensboro	Greensboro Muni	7/1643	NDB OR GPS RWY 36, ORIG...
03/27/97 ...	AR	Monticello	Monticello Muni/Ellis Field	7/1647	VOR-A, AMDT 5...
03/27/97 ...	AR	Monticello	Monticello Muni/Ellis	7/1648	GPS RWY 3 ORIG...
03/27/97 ...	KY	Campbellsville	Taylor County	7/1636	GPS RWY 5, ORIG...
03/27/97 ...	KY	Campbellsville	Taylor County	7/1638	SDF RWY 23, AMDT 2...
03/27/97 ...	KY	Campbellsville	Taylor County	7/1640	NDB OR GPS RWY 23, AMDT 3...
03/27/97 ...	KY	Campbellsville	Taylor County	7/1642	VOR/DME OR GPS-A, AMDT 5...
03/27/97 ...	OK	Clinton	Clinton-Sherman	7/1665	VOR OR GPS RWY 35L, AMDT 11...
03/27/97 ...	TX	Carthage	Panola Co-Sharpe Field	7/1672	NDB OR GPS RWY 35, AMDT 1...
03/27/97 ...	TX	Marfa	Marfa Muni	7/1655	VOR RWY 30, AMDT 4...
03/27/97 ...	TX	Marshall	Harrison County	7/1669	RNAV RWY 33, AMDT 1A...
03/27/97 ...	TX	Marshall	Harrison County	7/1670	GPS RWY 33, ORIG-A...
03/27/97 ...	TX	Marshall	Harrison County	7/1671	VOR/DME-A, AMDT 4B...
03/28/97 ...	MI	Sturgis	Kirsch Muni	7/1683	NDB RWY 18, AMDT 5...
03/28/97 ...	MI	Sturgis	Kirsch Muni	7/1684	NDB RWY 24, AMDT 10...
03/28/97 ...	MN	South St Paul	South St Paul Muni-Richard E. Fleming Field.	7/1696	NDB OR GPS-B, AMDT 3B...
03/31/97 ...	OH	Norwalk	Norwalk-Huron County	7/1729	VOR OR GPS-A, AMDT 5...
04/01/97 ...	TX	Fort Worth	Fort Worth Alliance	7/1765	GPS RWY 34R, ORIG-A...
04/01/97 ...	TX	Fort Worth	Fort Worth Alliance	7/1766	GPS RWY 16L, ORIG-A...
04/01/97 ...	TX	Fort Worth	Fort Worth Alliance	7/1768	ILS RWY 34R, AMDT 2A...

[FR Doc. 97-9246 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-13-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1603

RIN 3046-AA45

Procedures for Previously Exempt State and Local Government Employee Complaints of Employment Discrimination Under the Government Employee Rights Act of 1991

AGENCY: Equal Employment Opportunity Commission.

ACTION: Interim rule.

SUMMARY: Title III of the Civil Rights Act of 1991, entitled the Government Employee Rights Act of 1991, extends the protections against employment discrimination based on race, color, religion, sex, national origin, age and disability to previously exempt state and local government employees. This interim rule establishes EEOC procedures for resolving employment discrimination complaints filed by those individuals.

DATES: This rule will become effective on April 10, 1997. Written comments on the interim rule must be received on or before June 9, 1997.

ADDRESSES: Comments should be submitted to the Office of the Executive Secretariat, Equal Employment Opportunity Commission, 1801 L Street, N.W., Washington, D.C. 20507. Copies of comments submitted by the public will be available for review at the Commission's library, room 6502, 1801 L Street, N.W., Washington, D.C. between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Nicholas M. Inzeo, Deputy Legal Counsel, Thomas J. Schlageter, Assistant Legal Counsel or Stephanie D. Garner, Senior Attorney, at (202) 663-4669 or TDD (202) 663-7026. This notice is also available in the following formats: Large print, braille, audio tape and electronic file on computer disk. Requests for this notice in an alternative format should be made to the Publications Center at 1-800-669-3362.

SUPPLEMENTARY INFORMATION: Title III of the Civil Rights Act of 1991 contains the Government Employee Rights Act of 1991, 2 U.S.C. 1201 *et seq.* Section 321 of the Government Employee Rights Act of 1991 (the Act) provides new equal employment opportunity protections for previously exempt state and local government employees. The Act designates the Equal Employment Opportunity Commission as the enforcement agency for previously exempt state and local government employees covered by section 321. 2 U.S.C. 1220.

Section 321 of the Act provides for an administrative enforcement mechanism that is different from EEOC's normal charge resolution procedures contained in 29 C.F.R. Part 1601. Under section 321, a covered individual who believes he or she was discriminated against has 180 days to file a complaint. Thereafter, the Act provides that the matter be processed in accordance with the formal adjudication principles and procedures set forth in sections 554 through 557 of the Administrative Procedure Act, 5 U.S.C. 554-557. Section 321 provides for judicial review of a Commission final order under chapter 158 of title 28 of the United States Code.

This interim rule sets out the Commission's procedures for handling complaints brought by individuals covered by section 321 of the Act. The filing procedures for complaints follow established Commission procedures for charges published at 29 CFR Part 1601. Previously exempt state and local government employees may file a complaint with the Commission at its offices in Washington, D.C. or any of its field offices. The Commission will review each complaint for jurisdiction

under section 321 and dismiss those complaints that fail to state a claim. EEOC may refer a complaint from a previously exempt state or local government employee to a neutral mediator or to any other alternative dispute resolution process. EEOC may investigate a 321 complaint using a variety of fact-finding methods. In an investigation, EEOC can issue subpoenas for the production of evidence or witnesses. EEOC's existing subpoena procedures, found at 29 CFR 1601.16, will apply to subpoenas issued under this part. The investigative procedures of this rule are modeled after those in Part 1601 of this Chapter. It is the Commission's intention to apply these procedures consistently with its application of the Part 1601 procedures.

If the complaint is not dismissed or resolved during mediation or investigation, the Commission will send the complaint to an administrative law judge for formal adjudication in accordance with the Administrative Procedure Act. Discovery under this part will be conducted in accordance with the Federal Rules of Civil Procedure and the administrative law judge will accept evidence in accordance with the Federal Rules of Evidence, except that the rules on hearsay will not be strictly applied. The administrative law judge will issue a decision within 270 days after referral of a complaint for hearing.

Within 30 days of issuance, any party may appeal the dismissal of a complaint, a matter certified for interlocutory review, an administrative law judge's denial of a motion for withdrawal or a decision of an administrative law judge to the Commission. After the parties have briefed the issues, the Commission will issue a final order. In the absence of a timely appeal, the final decision of the administrative law judge will become the final order of the Commission. Previously exempt state and local government employees may seek judicial review of an EEOC final order within 60 days after its issuance in the judicial circuit in which the petitioner resides, or has its principle office, or in the United States Court of Appeals for the District of Columbia Circuit.

The Commission is publishing part 1603 as an interim rule to provide for immediate processing of complaints already filed under section 321 of the Act. The Commission will consider all comments received on part 1603 and, if necessary, will publish a revised final rule.

Executive Order 12866

In promulgating the interim rule implementing section 321 of the Act, the Commission has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. In addition, it has been determined that this regulation is not a significant regulatory action within the meaning of section 3(f).

Regulatory Flexibility Act

As Chairman of the Equal Employment Opportunity Commission, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this interim rule will not have a significant economic impact on a substantial number of small entities because it establishes procedures for complaints of discrimination by formerly exempt state and local government employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) does not apply to this interim rule because it does not contain information collection requirements that require the approval of the Office of Management and Budget.

List of Subjects in 29 CFR Part 1603

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations, Investigations, State and local governments.

For the Commission.

Gilbert F. Casellas,
Chairman.

For the reasons set forth in the preamble, title 29, chapter XIV of the Code of Federal Regulations is amended by adding part 1603 to read as follows:

PART 1603—PROCEDURES FOR PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEE COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER SECTION 321 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

Sec.
1603.100 Purpose.

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- 1603.304 Commission decision.
- 1603.305 Modification or withdrawal of Commission decision.
- 1603.306 Judicial review.

Authority: 2 U.S.C. 1220.

§ 1603.100 Purpose.

This part contains the regulations of the Equal Employment Opportunity Commission (hereinafter the Commission) for processing complaints of discrimination filed under section 321 of the Government Employee Rights Act, 2 U.S.C. 1220.

Subpart A—Administrative Process**§ 1603.101 Coverage.**

Section 321 of the Government Employee Rights Act of 1991 applies to employment, which includes application for employment, of any individual chosen or appointed by a person elected to public office in any State or political subdivision of any State by the qualified voters thereof:

- (a) To be a member of the elected official's personal staff;
- (b) To serve the elected official on the policymaking level; or
- (c) To serve the elected official as an immediate advisor with respect to the exercise of the constitutional or legal powers of the office.

§ 1603.102 Filing a complaint.

(a) *Who may make a complaint.* Individuals referred to in § 1603.101 who believe they have been discriminated against on the basis of race, color, religion, sex, national origin, age or disability or retaliated against for opposing any practice made unlawful by federal laws protecting equal employment opportunity or for

participating in any stage of administrative or judicial proceedings under federal laws protecting equal employment opportunity may file a complaint not later than 180 days after the occurrence of the alleged discrimination.

(b) *Where to file a complaint.* A complaint may be filed in person or by mail or by facsimile machine to the offices of the Commission in Washington, D.C., or any of its field offices or with any designated agent or representative of the Commission. The addresses of the Commission's field offices appear in 29 CFR 1610.4.

(c) *Contents of a complaint.* A complaint shall be in writing, signed and verified. In addition, each complaint should contain the following:

- (1) The full name, address and telephone number of the person making the complaint;
- (2) The full name and address of the person, governmental entity or political subdivision against whom the complaint is made (hereinafter referred to as the respondent);
- (3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices (See 29 CFR 1601.15(b)); and
- (4) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State or local FEP agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(d) *Amendment of a complaint.* Notwithstanding paragraph (c) of this section, a complaint is sufficient when the Commission receives from the person making the complaint a written statement sufficiently precise to identify the parties and to describe generally the alleged discriminatory action or practices. A complaint may be amended to cure technical defects or omissions, including failure to verify the complaint, or to clarify and amplify its allegations. Such amendments, and amendments alleging additional acts that constitute discriminatory employment practices related to or growing out of the subject matter of the original complaint, will relate back to the date the complaint was first received. A complaint that has been amended after it was referred shall not be again referred to the appropriate state or local fair employment practices agency.

(e) *Misfiled complaint.* A charge filed pursuant to 29 CFR part 1601 or part 1626, that is later deemed to be a matter

under this part, shall be processed as a complaint under this part and shall relate back to the date of the initial charge or complaint. A complaint filed under this part that is later deemed to be a matter under 29 CFR part 1601 or part 1626 shall be processed as a charge under the appropriate regulation and shall relate back to the date of the initial complaint.

§ 1603.103 Referral of complaints.

(a) The Commission will notify an FEP agency, as defined in 29 CFR 1601.3(a), when a complaint is filed by a state or local government employee or applicant under this part concerning an employment practice within the jurisdiction of the FEP agency. The FEP agency will be entitled to process the complaint exclusively for a period of not less than 60 days if the FEP agency makes a written request to the Commission within 10 days of receiving notice that the complaint has been filed, unless the complaint names the FEP agency as the respondent.

(b) The Commission may enter into an agreement with an FEP agency that authorizes the FEP agency to receive complaints under this part on behalf of the Commission, or waives the FEP agency's right to exclusive processing of complaints.

§ 1603.104 Service of the complaint.

Upon receipt of a complaint, the Commission shall promptly serve the respondent with a copy of the complaint.

§ 1603.105 Withdrawal of a complaint.

The complainant may withdraw a complaint at any time by so advising the Commission in writing.

§ 1603.106 Computation of time.

(a) All time periods in this part that are stated in terms of days are calendar days unless otherwise stated.

(b) A document shall be deemed timely if it is delivered by facsimile not exceeding 20 pages, in person or postmarked before the expiration of the applicable filing period, or, in the absence of a legible postmark, if it is received by mail within five days of the expiration of the applicable filing period.

(c) All time limits in this part are subject to waiver, estoppel and equitable tolling.

(d) The first day counted shall be the day after the event from which the time period begins to run and the last day of the period shall be included unless it falls on a Saturday, Sunday or federal holiday, in which case the period shall be extended to include the next business day.

§ 1603.107 Dismissals of complaints.

(a) Where a complaint on its face, or after further inquiry, is determined to be not timely filed or otherwise fails to state a claim under this part, the Commission shall dismiss the complaint.

(b) Where the complainant cannot be located, the Commission may dismiss the complaint provided that reasonable efforts have been made to locate the complainant and the complainant has not responded within 30 days to a notice sent by the Commission to the complainant's last known address.

(c) Where the complainant fails to provide requested information, fails or refuses to appear or to be available for interviews or conferences as necessary, or otherwise refuses to cooperate, the Commission, after providing the complainant with notice and 30 days in which to respond, may dismiss the complaint.

(d) Written notice of dismissal pursuant to paragraphs (a), (b), or (c) of this section shall be issued to the complainant and the respondent. The Commission hereby delegates authority to the Program Director, Office of Program Operations, or to his or her designees, and District Directors, or to their designees, to dismiss complaints.

(e) A complainant who is dissatisfied with a dismissal issued pursuant to paragraphs (a), (b), or (c) of this section may appeal to the Commission in accordance with the procedures in subpart C of this part.

§ 1603.108 Settlement and alternative dispute resolution.

(a) The parties are at all times free to settle all or part of a complaint on terms that are mutually agreeable. Any settlement reached shall be in writing and signed by both parties and shall identify the allegations resolved. A copy of any settlement shall be served on the Commission.

(b) With the agreement of the parties, the Commission may refer a complaint to a neutral mediator or to any other alternative dispute resolution process authorized by the Administrative Dispute Resolution Act, 5 U.S.C. 571 to 583, or other statute.

(c) The Commission may use the services of the Federal Mediation and Conciliation Service, other federal agencies, appropriate professional organizations, employees of the Commission and other appropriate sources in selecting neutrals for alternative dispute resolution processes.

(d) The alternative dispute resolution process shall be strictly confidential, and no party to a complaint or neutral shall disclose any dispute resolution

communication or any information provided in confidence to the neutral except as provided in 5 U.S.C. 584.

§ 1603.109 Investigations.

(a) Before referring a complaint to an administrative law judge under section 201 of this part, the Commission may conduct investigation using an exchange of letters, interrogatories, fact-finding conferences, interviews, on-site visits or other fact-finding methods that address the matters at issue.

(b) During an investigation of a complaint under this part, the Commission shall have the authority to sign and issue a subpoena requiring the attendance and testimony of witnesses, the production of evidence and access to evidence for the purposes of examination and the right to copy. The subpoena procedures contained in 29 CFR 1601.16 shall apply to subpoenas issued pursuant to this section.

Subpart B—Hearings**§ 1603.201 Referral and scheduling for hearing.**

(a) Upon request by the complainant under paragraph (b) of this section or if the complaint is not dismissed or resolved under subpart A of this part, on behalf of the Commission, the Office of Federal Operations shall transmit the complaint file to an administrative law judge, appointed under 5 U.S.C. 3105, for a hearing.

(b) If the complaint has not been referred to an administrative law judge within 180 days after filing, the complainant may request that the complaint be immediately transmitted to an administrative law judge for a hearing.

(c) The administrative law judge shall fix the time, place, and date for the hearing with due regard for the convenience of the parties, their representatives or witnesses and shall notify the parties of the same.

§ 1603.202 Administrative law judge.

The administrative law judge shall have all the powers necessary to conduct fair, expeditious, and impartial hearings as provided in 5 U.S.C. 556(c). In addition, the administrative law judge shall have the power to:

(a) Change the time, place or date of the hearing;

(b) Enter a default decision against a party failing to appear at a hearing unless the party shows good cause by contacting the administrative law judge and presenting arguments as to why the party or the party's representative could not appear either prior to the hearing or within two days after the scheduled hearing; and

(c) Take any appropriate action authorized by the Federal Rules of Civil Procedure (28 U.S.C. appendix).

§ 1603.203 Unavailability or withdrawal of administrative law judges.

(a) In the event the administrative law judge designated to conduct the hearing becomes unavailable or withdraws from the adjudication, another administrative law judge may be designated for the purpose of further hearing or issuing a decision on the record as made, or both.

(b) The administrative law judge may withdraw from the adjudication at any time the administrative law judge deems himself or herself disqualified. Prior to issuance of the decision, any party may move that the administrative law judge withdraw on the ground of personal bias or other disqualification, by filing with the administrative law judge promptly upon discovery of the alleged facts an affidavit setting forth in detail the matters alleged to constitute grounds for withdrawal.

(c) The administrative law judge shall rule upon the motion for withdrawal. If the administrative law judge concludes that the motion is timely and has merit, the administrative law judge shall immediately withdraw from the adjudication. If the administrative law judge does not withdraw, the adjudication shall proceed.

§ 1603.204 Ex parte communications.

(a) Oral or written communications concerning the merits of an adjudication between the administrative law judge or decision-making personnel of the Commission and an interested party to the adjudication without providing the other party a chance to participate are prohibited from the time the matter is assigned to an administrative law judge until the Commission has rendered a final decision. Communications concerning the status of the case, the date of a hearing, the method of transmitting evidence to the Commission and other purely procedural questions are permitted.

(b) Decision-making personnel of the Commission include members of the Commission and their staffs and personnel in the Office of Federal Operations, but do not include investigators and intake staff.

(c) Any communication made in violation of this section shall be made part of the record and an opportunity for rebuttal by the other party allowed. If the communication was oral, a memorandum stating the substance of the discussion shall be placed in the record.

(d) Where it appears that a party has engaged in prohibited ex parte

communications, that party may be required to show cause why, in the interest of justice, his or her claim or defense should not be dismissed, denied or otherwise adversely affected.

§ 1603.205 Separation of functions.

(a) The administrative law judge may not be responsible to or subject to the supervision or direction of a Commission employee engaged in investigating complaints under this part.

(b) No Commission employee engaged in investigating complaints under this part shall participate or advise in the decision of the administrative law judge, except as a witness or counsel in the adjudication, or its appellate review.

§ 1603.206 Consolidation and severance of hearings.

(a) The administrative law judge may, upon motion by a party or upon his or her own motion, after providing reasonable notice and opportunity to object to all parties affected, consolidate any or all matters at issue in two or more adjudications docketed under this part where common parties, or factual or legal questions exist; where such consolidation would expedite or simplify consideration of the issues; or where the interests of justice would be served. For purposes of this section, no distinction is made between joinder and consolidation of adjudications.

(b) The administrative law judge may, upon motion of a party or upon his or her own motion, for good cause shown, order any adjudication severed with respect to some or all parties, claims or issues.

§ 1603.207 Intervention.

(a) Any person or entity that wishes to intervene in any proceeding under this subpart shall file a motion to intervene in accordance with § 1603.208.

(b) A motion to intervene shall indicate the question of law or fact common to the movant's claim or defense and the complaint at issue and state all other facts or reasons the movant should be permitted to intervene.

(c) Any party may file a response to a motion to intervene within 15 days after the filing of the motion to intervene.

§ 1603.208 Motions.

(a) All motions shall state the specific relief requested. All motions shall be in writing, except that a motion may be made orally during a conference or during the hearing. After providing an opportunity for response, the administrative law judge may rule on an

oral motion immediately or may require that it be submitted in writing.

(b) Unless otherwise directed by the administrative law judge, any other party may file a response in support of or in opposition to any written motion within ten (10) business days after service of the motion. If no response is filed within the response period, the party failing to respond shall be deemed to have waived any objection to the granting of the motion. The moving party shall have no right to reply to a response, unless the administrative law judge, in his or her discretion, orders that a reply be filed.

(c) Except for procedural matters, the administrative law judge may not grant a written motion prior to the expiration of the time for filing responses. The administrative law judge may deny a written motion without awaiting a response. The administrative law judge may allow oral argument (including that made by telephone) on written motions. Any party adversely affected by the *ex parte* grant of a motion for a procedural order may request, within five (5) business days of service of the order, that the administrative law judge reconsider, vacate or modify the order.

(d) The administrative law judge may summarily deny dilatory, repetitive or frivolous motions. Unless otherwise ordered by the administrative law judge, the filing of a motion does not stay the proceeding.

(e) All motions and responses must comply with the filing and service requirements of § 1603.209.

§ 1603.209 Filing and service.

(a) Unless otherwise ordered by the administrative law judge, a signed original of each motion, brief or other document shall be filed with the administrative law judge, with a certificate of service indicating that a copy has been sent to all other parties, and the date and manner of service. All documents shall be on standard size (8½ × 11) paper. Each document filed shall be clear and legible.

(b) Filing and service shall be made by first class mail or other more expeditious means of delivery, including, at the discretion of the administrative law judge, by facsimile. The administrative law judge, may in his discretion, limit the number of pages that may be filed or served by facsimile. Service shall be made on a party's representative, or, if not represented, on the party.

(c) Every document shall contain a caption, the complaint number or docket number assigned to the matter, a designation of the type of filing (e.g., motion, brief, etc.), and the filing

person's signature, address, telephone number and telecopier number, if any.

§ 1603.210 Discovery.

(a) Unless otherwise ordered by the administrative law judge, discovery may begin as soon as the complaint has been transmitted to the administrative law judge pursuant to § 1603.201. Discovery shall be completed as expeditiously as possible within such time as the administrative law judge directs.

(b) Unless otherwise ordered by the administrative law judge, parties may obtain discovery by written interrogatories (not to exceed 20 interrogatories including subparts), depositions upon oral examination or written questions, requests for production of documents or things for inspection or other purposes, requests for admission or any other method found reasonable and appropriate by the administrative law judge.

(c) Except as otherwise specified, the Federal Rules of Civil Procedure shall govern discovery in proceedings under this part.

(d) Neutral mediators who have participated in the alternative dispute resolution process in accordance with § 1603.108 shall not be called as witnesses or be subject to discovery in any adjudication under this part.

§ 1603.211 Subpoenas.

(a) Upon written application of any party, the administrative law judge may on behalf of the Commission issue a subpoena requiring the attendance and testimony of witnesses and the production of any evidence, including, but not limited to, books, records, correspondence, or documents, in their possession or under their control. The subpoena shall state the name and address of the party at whose request the subpoena was issued, identify the person and evidence subpoenaed, and the date and time the subpoena is returnable.

(b) Any person served with a subpoena who intends not to comply shall, within 5 days after service of the subpoena, petition the administrative law judge in writing to revoke or modify the subpoena. All petitions to revoke or modify shall be served upon the party at whose request the subpoena was issued. The requestor may file with the administrative law judge a response to the petition to revoke or modify within 5 days after service of the petition.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the administrative law judge may refer the matter to the Commission for enforcement in accordance with 29 CFR 1601.16(c).

§ 1603.212 Witness fees.

Witnesses summoned under this part shall receive the same fees and mileage as witnesses in the courts of the United States. Those fees must be paid or offered to the witness by the party requesting the subpoena at the time the subpoena is served, or, if the witness appears voluntarily, at the time of appearance. A federal agency or corporation is not required to pay or offer witness fees and mileage allowances in advance.

§ 1603.213 Interlocutory review.

(a) Interlocutory review may not be sought except when the administrative law judge determines upon motion of a party or upon his or her own motion that:

(1) The ruling involves a controlling question of law or policy about which there is substantial ground for difference of opinion;

(2) An immediate ruling will materially advance the completion of the proceeding; or

(3) The denial of an immediate ruling will cause irreparable harm to the party or the public.

(b) Application for interlocutory review shall be filed within ten (10) days after notice of the administrative law judge's ruling. Any application for review shall:

(1) Designate the ruling or part thereof from which appeal is being taken; and

(2) Contain arguments or evidence that tend to establish one or more of the grounds for interlocutory review contained in paragraph (a) of this section.

(c) Any party opposing the application for interlocutory review shall file a response to the application within 10 days after service of the application. The applicant shall have no right to reply to a response unless the administrative law judge, within his or her discretion, orders that a reply be filed.

(d) The administrative law judge shall promptly certify in writing any ruling that qualifies for interlocutory review under paragraph (a) of this section.

(e) The filing of an application for interlocutory review and the grant of an application shall not stay proceedings before the administrative law judge unless the administrative law judge or the Commission so orders. The Commission shall not consider a motion for a stay unless the motion was first made to the administrative law judge.

§ 1603.214 Evidence.

The administrative law judge shall accept relevant non-privileged evidence in accordance with the Federal Rules of

Evidence (28 U.S.C. appendix), except the rules on hearsay will not be strictly applied.

§ 1603.215 Record of hearings.

(a) All hearings shall be mechanically or stenographically reported. All evidence relied upon by the administrative law judge for decision shall be contained in the transcript of testimony, either directly or by appropriate reference. All exhibits introduced as evidence shall be marked for identification, with a copy provided for all parties, if not previously provided, and incorporated into the record. Transcripts may be obtained by the parties and the public from the official reporter at rates fixed by the contract with the reporter.

(b) Corrections to the official transcript will be permitted upon motion, only when errors of substance are involved and upon approval of the administrative law judge. Motions for correction must be submitted within ten (10) days of the receipt of the transcript unless additional time is permitted by the administrative law judge.

§ 1603.216 Summary decision.

Upon motion of a party or after notice to the parties, the administrative law judge may issue a summary decision without a hearing if the administrative law judge finds that there is no genuine issue of material fact or that the complaint may be dismissed pursuant to § 1603.107 or any other grounds authorized by this part. A summary decision shall otherwise conform to the requirements of § 1603.217.

§ 1603.217 Decision of the administrative law judge.

(a) The administrative law judge shall issue a decision on the merits of the complaint within 270 days after referral of a complaint for hearing, unless the administrative law judge makes a written determination that good cause exists for extending the time for issuing a decision. The decision shall contain findings of fact and conclusions of law, shall order appropriate relief where discrimination is found, and shall provide notice of appeal rights consistent with subpart C of this part.

(b) The administrative law judge shall serve the decision promptly on all parties to the proceeding and their counsel. Thereafter, the administrative law judge shall transmit the case file to the Office of Federal Operations including the decision and the record. The record shall include the complaint; the investigative file, if any; referral notice; motions; briefs; rulings; orders; official transcript of the hearing; all

discovery and any other documents submitted by the parties.

Subpart C—Appeals**§ 1603.301 Appeal to the Commission.**

Any party may appeal to the Commission the dismissal of a complaint under § 1603.107, any matter certified for interlocutory review under § 1613.213, or the administrative law judge's decision under § 1603.216 or § 1603.217.

§ 1603.302 Filing an appeal.

(a) An appeal shall be filed within 30 days after the date of the appealable decision or certification for interlocutory review, unless the Commission, upon a showing of good cause, extends the time for filing an appeal for a period not to exceed an additional 30 days.

(b) An appeal shall be filed with the Director, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington, D.C. 20036, by mail or personal delivery or facsimile.

§ 1603.303 Briefs on appeal.

(a) The appellant shall file a brief or other written statement within 30 days after the appeal is filed, unless the Commission otherwise directs.

(b) All other parties may file briefs or other written statements within 30 days of service of the appellant's brief or statement.

(c) Every brief or statement shall contain a statement of facts and a section setting forth the party's legal arguments. Any brief or statement in support of the appeal shall contain arguments or evidence that tend to establish that the dismissal, order or decision:

(1) Is not supported by substantial evidence;

(2) Contains an erroneous interpretation of law, regulation or material fact, or misapplication of established policy;

(3) Contains a prejudicial error of procedure; or

(4) Involves a substantial question of law or policy.

(d) Appellate briefs shall not exceed 50 pages in length.

(e) Filing and service of the appeal and appellate briefs shall be made in accordance with § 1603.209.

§ 1603.304 Commission decision.

(a) On behalf of the Commission, the Office of Federal Operations shall review the record and the appellate briefs submitted by all the parties. The Office of Federal Operations shall

prepare a recommended decision for consideration by the Commission.

(b) When an administrative law judge certifies a matter for interlocutory review under § 1603.213, the Commission may, in its discretion, issue a decision on the matter or send the matter back to the administrative law judge without decision.

(c) The Commission will not accept or consider new evidence on appeal unless the Commission, in its discretion, reopens the record on appeal.

(d) The decision of the Commission on appeal shall be its final order and shall be served on all parties.

(e) In the absence of a timely appeal under § 1603.302, the decision of the administrative law judge under § 1603.217 or a dismissal under § 1603.107 shall become the final order of the Commission. A final order under this paragraph shall not have precedential significance.

§ 1603.305 Modification or withdrawal of Commission decision.

At any time, the Commission may modify or withdraw a decision for any reason provided that no petition for review in a United States Court of Appeals has been filed.

§ 1603.306 Judicial review.

Any party to a complaint who is aggrieved by a final decision under § 1603.304 may obtain a review of such final decision under chapter 158 of title 28 of the United States Code by filing a petition for review with a United States Court of Appeals within 60 days after issuance of the final decision. Such petition for review should be filed in the judicial circuit in which the petitioner resides, or has its principal office, or in the United States Court of Appeals for the District of Columbia Circuit.

[FR Doc. 97-9162 Filed 4-9-97; 8:45 am]

BILLING CODE 6570-06-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations: Overflight Payments to North Korea

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendment.

SUMMARY: This rule amends the Foreign Assets Control Regulations to authorize by general license payments with respect to the provision of services by North Korea in connection with the overflight of North Korea or emergency

landings in North Korea by aircraft owned or controlled by a person subject to the jurisdiction of the United States or registered in the United States.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT:

Steven I. Pinter, Chief of Licensing, tel.: 202/622-2480, or William B. Hoffman, Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

As part of the October 21, 1994 United States-Democratic People's Republic of Korea Agreed Framework, the United States undertook to ease economic sanctions against North Korea. As a measure consistent with this foreign policy, the Treasury Department is amending the Foreign Assets Control Regulations, 31 CFR part 500 (the "Regulations"), by adding § 500.585 to authorize, by general license, the payment of fees with respect to the provision of services by North Korea in connection with the overflight of North

Korea or emergency landings in North Korea by aircraft owned or controlled by a person subject to the jurisdiction of the United States or registered in the United States.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601-612, does not apply.

List of Subjects in 31 CFR Part 500

Administrative practice and procedure, Banks, banking, Blocking of assets, Cambodia, Exports, Finance, Foreign claims, Foreign investment in the United States, Foreign trade, Imports, Information and informational materials, International organizations, North Korea, Penalties, Reporting and recordkeeping requirements, Securities, Services, Specially designated nationals, Terrorism, Travel restrictions, Trusts and estates, Vietnam.

For the reasons set forth in the preamble, 31 CFR part 500 is amended as set forth below:

1. The authority citation for part 500 is revised to read as follows:

Authority: 50 U.S.C. App. 1-44; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104-132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d); E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

2. Section 500.585 is added to read as follows:

§ 500.585 Payments for services rendered by North Korea to United States aircraft authorized.

Payments to North Korea of charges for services rendered by the Government of North Korea in connection with the overflight of North Korea or emergency landing in North Korea by aircraft owned or controlled by a person subject to the jurisdiction of the United States or registered in the United States are authorized.

Dated: March 24, 1997.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: March 31, 1997.

James E. Johnson,

Assistant Secretary (Enforcement).

[FR Doc. 97-9206 Filed 4-7-97; 12:05 pm]

BILLING CODE 4810-25-F

DEPARTMENT OF DEFENSE**Office of the Secretary****32 CFR Part 2****Pilot Program Policy**

AGENCY: Department of Defense, Office of the Deputy Under Secretary of Defense (Acquisition Reform).

ACTION: Final rule.

SUMMARY: This rule establishes the criteria for nominating an acquisition program as a participant in the Defense Acquisition Pilot Program, the procedures for designation under the pilot program, and the policies related to requests for statutory and regulatory relief to be granted under the pilot program. This part implements the provisions of Section 809 of the National Defense Authorization Act for Fiscal Year 1991, as amended by the National Defense Authorization Act of FY 1994.

EFFECTIVE DATE: April 10, 1997.

ADDRESSES: Office of the Deputy Under Secretary of Defense (Acquisition Reform), Room 2A330, 3620 Defense Pentagon, Washington, DC 20301-3620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard K. Sylvester, telephone (703) 697-6399.

SUPPLEMENTARY INFORMATION: On December 2, 1993, the Department of Defense published a proposed rule (58 FR 63542). Public comments were received on the proposed rule and reviewed and addressed. The comments fell into two basic categories, the majority which dealt with administrative corrections and have been incorporated, and the second group, which are no longer germane as a result of the designation of programs as authorized by the Federal Acquisition Streamlining Act of 1994 or from inapplicability due to more recent changes in statute. No substantive changes have been made to the rule.

Publication in the **Federal Register** is required by Section 809 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2430 note), as amended by the National Defense Authorization Act of FY 1994. This rule does not constitute "significant regulatory action as defined by E.O. 12866. The rule does not: (1) Have an annual effect on the economy of \$100 million or more, or adversely affect in a material way, the economy, a sector of the economy, productivity, competition, jobs; the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise

interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants user fees, loan programs, or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. This rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Therefore, no Regulatory Flexibility Analysis was prepared. This rule does not impose any reporting or record keeping requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 32 CFR Part 2

Government procurement.

Accordingly, title 32, chapter I, is amended by adding part 2, to read as follows:

PART 2—PILOT PROGRAM POLICY

Sec.

- 2.1 Purpose.
- 2.2 Statutory relief for participating programs.
- 2.3 Regulatory relief for participating programs.
- 2.4 Designation of participating programs.
- 2.5 Criteria for designation of participating programs.

Authority: 10 U.S.C. 2340 note.

§2.1 Purpose.

Section 809 of Public Law 101-510, "National Defense Authorization Act for Fiscal Year 1991," as amended by section 811 of Public Law 102-484, "National Defense Authorization Act for Fiscal Year 1993" and Public Law 103-160, "National Defense Authorization Act for Fiscal Year 1994," authorizes the Secretary of Defense to conduct the Defense Acquisition Pilot Program. In accordance with section 809 of Public Law 101-510, the Secretary may designate defense acquisition programs for participation in the Defense Acquisition Pilot Program.

(a) The purpose of the pilot programs is to determine the potential for increasing the efficiency and effectiveness of the acquisition process. Pilot programs shall be conducted in accordance with the standard commercial, industrial practices. As used in this policy, the term "standard commercial, industrial practice" refers to any acquisition management practice, process, or procedure that is used by commercial companies to produce and sell goods and services in the commercial marketplace. This definition purposely implies a broad range of potential activities to adopt commercial practices, including

regulatory and statutory streamlining, to eliminate unique Government requirements and practices such as government-unique contracting policies and practices, government-unique specifications and standards, and reliance on cost determination rather than price analysis.

(b) Standard commercial, industrial practices include, but are not limited to:

- (1) Innovative contracting policies and practices;
- (2) Performance and commercial specifications and standards;
- (3) Innovative budget policies;
- (4) Establishing fair and reasonable prices without cost data;
- (5) Maintenance of long-term relationships with quality suppliers;
- (6) Acquisition of commercial and non-developmental items (including components); and
- (7) Other best commercial practices.

§2.2 Statutory relief for participating programs.

(a) Within the limitations prescribed, the applicability of any provision of law or any regulation prescribed to implement a statutory requirement may be waived for all programs participating in the Defense Acquisition Pilot Program, or separately for each participating program, if that waiver or limit is specifically authorized to be waived or limited in a law authorizing appropriations for a program designated by statute as a participant in the Defense Acquisition Pilot Program.

(b) Only those laws that prescribe procedures for the procurement of supplies or services; a preference or requirement for acquisition from any source or class of sources; any requirement related to contractor performance; any cost allowability, cost accounting, or auditing requirements; or any requirement for the management of, testing to be performed under, evaluation of, or reporting on a defense acquisition program may be waived.

(c) The requirements in section 809 of Public Law 101-510, as amended by section 811 of Public Law 102-484, the requirements in any law enacted on or after the enactment of Public Law 101-510 (except to the extent that a waiver or limitation is specifically authorized for such a defense acquisition program by statute), and any provision of law that ensures the financial integrity of the conduct of a Federal Government program or that relates to the authority of the Inspector General of the Department of Defense may not be considered for waiver.

§2.3 Regulatory relief for participating programs.

(a) A program participating in the Defense Acquisition Pilot Program will not be subject to any regulation, policy, directive, or administrative rule or guideline relating to the acquisition activities of the Department of Defense other than the Federal Acquisition Regulation (FAR)¹, the Defense FAR Supplement (DFARS)², or those regulatory requirements added by the Under Secretary of Defense for Acquisition and Technology, the Head of the Component, or the DoD Component Acquisition Executive.

(b) Provisions of the FAR and/or DFARS that do not implement statutory requirements may be waived by the Under Secretary of Defense for Acquisition and Technology using appropriate administrative procedures. Provisions of the FAR and DFARS that implement statutory requirements may be waived or limited in accordance with the procedures for statutory relief previously mentioned.

(c) Regulatory relief includes relief from use of government-unique specifications and standards. Since a major objective of the Defense Acquisition Pilot Program is to promote standard, commercial industrial practices, functional performance and commercial specifications and standards will be used to the maximum extent practical. Federal or military specifications and standards may be used only when no practical alternative exists that meet the user's needs. Defense acquisition officials (other than the Program Manager or Commodity Manager) may only require the use of military specifications and standards with advance approval from the Under Secretary of Defense for Acquisition and Technology, the Head of the DoD Component, or the DoD Component Acquisition Executive.

§2.4 Designation of participating programs.

(a) Pilot programs may be nominated by a DoD Component Head or Component Acquisition Executive for participation in the Defense Acquisition Pilot Program. The Under Secretary of Defense for Acquisition and Technology shall determine which specific programs will participate in the pilot program and will transmit to the Congressional defense committees a written notification of each defense acquisition program proposed for

participation in the pilot program. Programs proposed for participation must be specifically designated as participants in the Defense Acquisition Pilot Program in a law authorizing appropriations for such programs and provisions of law to be waived must be specifically authorized for waiver.

(b) Once included in the Defense Acquisition Pilot Program, decision and approval authority for the participating program shall be delegated to the lowest level allowed in the acquisition regulations consistent with the total cost of the program (e.g., under DoD Directive 5000.1,³ an acquisition program that is a major defense acquisition program would be delegated to the appropriate Component Acquisition Executive as an acquisition category IC program)

(c) At the time of nomination approval, the Under Secretary of Defense for Acquisition and Technology will establish measures to judge the success of a specific program, and will also establish a means of reporting progress towards the measures.

§2.5 Criteria for designation of participating programs.

(a) Candidate programs must have an approved requirement, full program funding assured prior to designation, and low risk. Nomination of a candidate program to participate in the Defense Acquisition Pilot Program should occur as early in the program's life-cycle as possible. Developmental programs will only be considered on an exception basis.

(b) Programs in which commercial or non-developmental items can satisfy the military requirement are preferred as candidate programs. A nominated program will address which standard commercial, industrial practices will be used in the pilot program and how those practices will be applied.

(c) Nomination of candidate programs must be accompanied by a list of waivers being requested to Statutes, FAR, DFARS, DoD Directives⁴ and Instructions,⁵ and where applicable, DoD Component regulations. Waivers being requested must be accompanied by rationale and justification for the waiver. The justification must include:

(1) The provision of law proposed to be waived or limited.

(2) The effects of the provision of law on the acquisition, including specific examples.

(3) The actions taken to ensure that the waiver or limitation will not reduce the efficiency, integrity, and effectiveness of the acquisition process used for the defense acquisition program; and

(4) A discussion of the efficiencies or savings, if any, that will result from the waiver or limitation.

(d) No nominated program shall be accepted until the Under Secretary of Defense has determined that the candidate program is properly planned.

Dated: April 4, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97-9202 Filed 4-9-97; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE**Department of the Army****Corps of Engineers****33 CFR Part 334****Danger Zones and Restricted Areas**

AGENCY: Army Corps of Engineers, DoD.
ACTION: Final rule.

SUMMARY: The Corps is amending many of the danger zone and restricted area regulations to clarify that persons, as well as vessels or other listed watercraft, are subject to the restrictions placed on the use of and entry into the areas established by the danger zone and restricted area regulations. This clarification does not affect the size, location or further restrict the public's use of the areas. The danger zones and restricted areas continue to be essential to the safety and security of Government facilities, vessels and personnel and protect the public from the hazards associated with the operations at the Government facilities. We are also making several minor editorial changes to remove obsolete materials and reflect a change in the name of a Naval Command referenced in a restricted area regulation.

EFFECTIVE DATE: May 12, 1997.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph Eppard, Regulatory Branch, CECW-OR at (202) 761-1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in Section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is amending danger zone and restricted area regulations in 33 CFR part 334, by inserting the word "person", or similar

¹ Copies of this Department of Defense publication may be obtained from the Government Printing Office, Superintendent of Documents, Washington, DC 20402.

² See footnote 1 to § 2.3(a).

³ Copies may be obtained, at cost, from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

⁴ See footnote 3 to § 2.4(b).

⁵ See footnote 3 to § 2.4(b).

verbiage that clarifies, as appropriate, that the regulations affect persons in a vessel, as well as persons outside of vessels in the water, engaged in activities such as, swimming, diving, floating, waterskiing, and snorkeling. On December 20, 1996, we published these changes in the Notice of Proposed Rulemaking section of the **Federal Register** (61 FR 67265-67273), with the comment period ending on February 18, 1997. We did not receive any objections to the proposed amendments. We did however, receive a request from the Navy that we make several additional editorial amendments to the danger zone and restricted area regulations. We agree with the Navy on the need for these additional changes and we are amending §§ 334.10 and 334.30 to show that patrol vessels in addition to aircraft will be patrolling the areas; the restricted area in § 334.80 is amended by adding "person" as we had proposed for other areas and in § 334.240 to reflect a change in the identity of the Naval Command at the Potomac River, Mattawoman Creek and Chicamuxen Creek, Maryland naval facility. During our review, we found that the regulations in § 334.1110 which establish a restricted area in Suisun Bay at the Naval Weapons Station, Concord, California, should have been amended and we have added the word "person" to those regulations. In addition, during the comment period we revoked the regulations in § 334.90, which established a danger zone in the waters offshore of Sea Girt, New Jersey and accordingly, the revisions as proposed are no longer necessary at this site. All other regulations are amended as proposed and the additional editorial amendments are made without further notice since these are minor editorial amendments having no actual effect on the restrictions placed on the public's use of the restricted areas.

Procedural Requirements

a. Review Under Executive Order 12866

This rule is issued with respect to a military function of the Defense Department and the provisions of Executive Order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

These rules have been reviewed under the Regulatory Flexibility Act (Pub. L. 96-354), which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (i.e., small businesses and small Governments). The Corps expects that

the economic impact of the changes to the danger zones would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this final rule will have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

We have concluded, based on the minor nature of the editorial changes that these amendments to danger zones and restricted areas will not have a significant impact to the human environment, and preparation of an environmental impact statement is not required.

d. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments will not be significantly and uniquely affected by this rulemaking.

e. Submission to Congress and the GAO

Pursuant to section 801(a)(1)(A) of the Administrative Procedure Act as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, the Army has submitted a report containing this rule to the U.S. Senate, House of Representatives, and the Comptroller General of the General Accounting Office. This rule is not a major rule within the meaning of section 804(2) of the Administrative Procedure Act, as amended.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Transportation.

For the reasons set out in the preamble, the Army Corps of Engineers amends 33 CFR part 334, as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1); and 40 Stat. 892 (33 U.S.C. 3)

2. Section 334.10 is amended by revising the first sentence of paragraph (b)(5), to read as follows:

§ 334.10 Gulf of Maine off Seals Island, Maine; naval aircraft bombing target area.

* * * * *

(b) * * *

(5) Prior to the conducting of each bombing practice, the area will be

patrolled by a naval aircraft or surface vessel to ensure that no persons or watercraft are within the danger zone.

Vessels may be requested to veer off when drops are to be made, however, drops will be made only when the area is clear. * * *

* * * * *

3. Section 334.30 is amended by revising paragraph (b)(3), to read as follows:

§ 334.30 Gulf of Maine off Pemaquid Point, Maine; Naval sonobuoy test area.

* * * * *

(b) * * *

(3) Prior to and during the period when sonobuoys are being dropped, an escort vessel or naval aircraft will be in the vicinity to ensure that no persons or vessels are in the testing area. Vessels may be requested to veer off when sonobuoys are about to be dropped, however, drops will be made only when the area is clear.

* * * * *

4. Section 334.40 is amended by revising paragraph (b)(1), to read as follows:

§ 334.40 Atlantic Ocean in vicinity of Duck Island, Maine, Isles of Shoals; naval aircraft bombing target area.

* * * * *

(b) * * * (1) No person or vessel shall enter or remain in the danger zone from 8:00 a.m. to 5:00 p.m. (local time) daily, except as authorized by the enforcing agency.

* * * * *

5. Section 334.50 is amended by revising paragraph (b), to read as follows:

§ 334.50 Piscataqua River at Portsmouth Naval Shipyard, Kittery, Maine; restricted areas.

* * * * *

(b) *The regulations.* All persons, vessels and other craft, except those vessels under the supervision of or contract to local military or naval authority, are prohibited from entering the restricted areas without permission from the Commander, Portsmouth Naval Shipyard or his/her authorized representative.

6. Section 334.60 is amended by revising paragraph (b)(1), to read as follows:

§ 334.60 Cape Cod Bay south of Wellfleet Harbor, Mass.; naval aircraft bombing target area.

* * * * *

(b) * * * (1) No person or vessel shall enter or remain in the danger zone at any time, except as authorized by the enforcing agency.

* * * * *

7. Section 334.70 is amended by revising paragraph (a)(2), to read as follows:

§ 334.70 Buzzards Bay, and adjacent waters, Mass.; danger zones for naval operations.

(a) * * *

(2) *The regulations.* The vessel or person shall at any time enter or remain within a rectangular portion of the area bounded on the north by latitude 41°16'00", on the east by longitude 70°47'30", on the south by latitude 41°12'30", and on the west by longitude 70°50'30", or within the remainder of the area between November 1, and April 30, inclusive, except by permission of the enforcing agency.

* * * * *

8. Section 334.75 is amended by revising the third sentence in paragraph (b)(1), to read as follows:

§ 334.75 Thames River, Naval Submarine Base New London, restricted area.

* * * * *

(b) * * * (1) * * * However, all persons, vessels and watercraft, except U.S. military personnel and vessels must leave the restricted area when notified by personnel of the New London Submarine Base that such use will interfere with submarine maneuvering, operations or security.

* * * * *

9. Section 334.78 is amended by revising paragraph (b)(1), to read as follows:

§ 334.78 Rhode Island Sound, Atlantic Ocean, approximately 4.0 nautical miles due south of Lands End in Newport, R.I.; restricted area for naval practice minefield.

* * * * *

(b) * * * (1) No persons, vessels or other watercraft will be allowed to enter the designated area during minefield training.

* * * * *

10. Section 334.80 is amended by revising paragraphs (b)(1) and (b)(2), to read as follows:

§ 334.80 Narragansett Bay, RI; restricted area.

* * * * *

(b) * * * (1) No person or vessel shall at any time, under any circumstances, anchor or fish or tow a drag of any kind in the prohibited area because of the extensive cable system located therein.

(2) Orders and instructions issued by patrol craft or other authorized representatives of the enforcing agency shall be carried out promptly by persons or vessels in or in the vicinity of the prohibited area.

* * * * *

11. Section 334.100 is amended by revising paragraph (b)(1), to read as follows:

§ 334.100 Atlantic Ocean off Cape May, N.J.; Coast Guard Rifle Range.

* * * * *

(b) * * * (1) No person or vessel shall enter or remain in the danger area between sunrise and sunset daily, except as authorized by the enforcing agency.

* * * * *

12. Section 334.130 is amended by revising paragraphs (b)(1) and the first sentence of paragraph (b)(2), to read as follows:

§ 334.130 Atlantic Ocean off Wallops Island and Chincoteague Inlet, Va; danger zone.

* * * * *

(b) * * * (1) Persons and vessels may enter and operate in the danger zone at all times when warning signals are not displayed.

(2) When warning signals are displayed, all persons and vessels in the danger zone, except vessels entering or departing Chincoteague Inlet, shall leave the zone promptly by the shortest possible route and shall remain outside the zone until allowed by a patrol boat to enter or the dangers signal has been discontinued. * * *

* * * * *

13. Section 334.170 is amended by revising paragraphs (b)(1) and (b)(2), to read as follows:

§ 334.170 Chesapeake Bay, in the vicinity of Chesapeake Beach, Md; firing range, Naval Research Laboratory.

* * * * *

(b) * * * (1) No person or vessel shall enter or remain in Area A at any time.

(2) No person or vessel shall enter or remain in Area B or Area C between the hours of 1:00 p.m. and 5:00 p.m. daily except Sundays, except that through navigation of commercial craft will be permitted in Area C at all times, but such vessels shall proceed on their normal course and shall not delay their progress.

* * * * *

14. Section 334.190 is amended by revising paragraphs (b)(1) and (b)(2), to read as follows:

§ 334.190 Chesapeake Bay, in vicinity of Bloodsworth Island, Md; shore bombardment, air bombing, air strafing, and rocket firing area, U.S. Navy.

* * * * *

(b) * * * (1) Persons, vessels or other craft shall not enter or remain in the prohibited area at any time unless authorized to do so by the enforcing agency.

(2) No person, vessel or other craft shall enter or remain in the danger zone when notified by the enforcing authority to keep clear or when firing is or will soon be in progress, except as provided in paragraph (b)(5) of this section.

* * * * *

15. Section 334.210 is amended by revising paragraphs (b)(1), (b)(2) and (b)(5), to read as follows:

§ 334.210 Chesapeake Bay, in vicinity of Tangier Island; naval guided missiles test operations area.

* * * * *

(b) * * * (1) Persons, vessels or other craft shall not enter or remain in the prohibited area at any time unless authorized to do so by the enforcing agency.

(2) Except as otherwise provided in paragraph (b)(6) of this section, persons, vessels or other craft shall not enter or remain in the restricted area when firing is or will soon be in progress unless authorized to do so by the enforcing agency.

* * * * *

(5) Upon observing the warning flag or upon receiving a warning by any of the patrol vessels or aircraft, persons, vessels or other craft shall immediately vacate the restricted area and remain outside the area until the conclusion of firing for the day.

* * * * *

16. Section 334.230 is amended by revising the first sentence of paragraph (a)(2)(ii), and paragraph (b)(2)(iii), to read as follows:

§ 334.230 Potomac River

(a) *Naval Surface Weapons Center, Dahlgren, Va.* * * *

(2) * * *

(ii) When firing is in progress, no person, or fishing or oystering vessels shall operate within the danger zone affected unless so authorized by the Naval Surface Weapons Center's patrol boats. * * *

* * * * *

(b) *Accotink Bay, Accotink Creek, and Pohick Bay; U.S. Military Reservation, Fort Belvoir, Va.* * * *

(2) * * *

(iii) The Post Commander is hereby authorized by using such agencies and equipment necessary to stop all persons and boats at the boundary of the danger zone and prohibit their crossing the area until convenient to the firing schedule to do so.

17. Section 334.240 is amended by revising the section heading, in paragraph (a) and (b)(7) by removing "Naval Ordinance Station" and replacing it with "Naval Surface

Warfare Center, Indian Head Division," and by revising paragraphs (b)(3), and (b)(5), to read as follows:

§ 334.240 Potomac River, Mattawoman Creek and Chicamuxen Creek; Naval Surface Weapons Center, Indian Head Division, Indian Head, Md.

* * * * *

(b) * * *

(3) No persons or vessels except vessels of the United States or vessels authorized by the enforcing agency shall enter or remain in the danger zone while lights are flashing, when warning horns are in operation, or when warned or directed by a patrol vessel. * * *

(5) Except as prescribed in paragraph (b)(3) of this section, persons and vessels may enter and proceed through the danger zone without restriction. However, accidental explosions may occur at any time and persons and vessels entering the area do so at their own risk.

* * * * *

18. Section 334.310 is amended by revising paragraph (b)(2), to read as follows:

§ 334.310 Chesapeake Bay, Lynnhaven Roads; navy amphibious training area.

* * * * *

(b) * * *

(2) No person or vessel shall approach within 300 yards of any naval vessel or within 600 yards of any vessel displaying the red "baker" burgee.

* * * * *

19. Section 334.330 is amended by revising paragraph (b)(1), to read as follows:

§ 334.330 Atlantic Ocean and connecting waters in vicinity of Myrtle Island, Va.; Air Force practice bombing, rocket firing, and gunnery range.

* * * * *

(b) * * * (1) No person or vessel shall enter or remain in the danger zone except during intervals specified and publicized from time to time in local newspapers or by radio announcement.

* * * * *

20. Section 334.340 is amended by revising paragraph (b)(2), to read as follows:

§ 334.340 Chesapeake Bay off Plumtree Island, Hampton, VA.; Air Force precision test area.

* * * * *

(b) * * *

(2) No person or vessel shall enter or remain in the danger zone during periods of firing or bombing or when the zone is otherwise in use.

* * * * *

21. Section 334.370 is amended by revising paragraph (a)(2), to read as follows:

§ 334.370 Chesapeake Bay, Lynnhaven Roads; danger zones, U.S. Naval Amphibious Base.

(a) * * *

(2) *The regulations.* Persons or vessels, other than those vessels owned and operated by the United States, shall not enter the prohibited area at any time unless authorized to do so by the enforcing agency.

* * * * *

22. Section 334.400 is amended by revising paragraph (b)(1), to read as follows:

§ 334.400 Atlantic Ocean south of entrance to Chesapeake Bay off Camp Pendleton, Virginia; naval restricted area.

* * * * *

(b) * * * (1) Persons or vessels, other than those vessels owned and operated by the United States shall not enter the area except by permission of the Commanding Officer, U.S. Naval Amphibious Base, Little Creek, Norfolk, Virginia.

* * * * *

23. Section 334.410 is amended by revising the fourth sentence in paragraph (d)(1), the fifth sentence in paragraph (d)(2) and paragraph (d)(3), to read as follows:

§ 334.410 Albemarle Sound, Pamlico Sound, and adjacent waters, NC; danger zones for naval aircraft operations.

* * * * *

(d) * * * (1) * * * No persons or vessels shall enter this area during the hours of daylight without special permission from the enforcing agency. * * *

(2) * * * The area will be patrolled and persons and vessels shall clear the area under patrol upon being warned by the surface patrol craft or when "buzzed" by patrolling aircraft. * * *

(3) *Naval Aviation Ordnance test area.* The area described in paragraph (c) of this section shall be closed to persons and navigation except for such military personnel and vessels as may be directed by the enforcing agency to enter on assigned duties.

* * * * *

24. Section 334.430 is amended by revising paragraph (b)(1), to read as follows:

§ 334.430 Neuse River and tributaries at Marine Corps Air Station, Cherry Point, N.C.; restricted area.

* * * * *

(b) * * * (1) Except in cases of extreme emergency, all persons or vessels, other than those vessels

operated by the U.S. Navy or Coast Guard are prohibited from entering this area without prior permission of the enforcing agency.

* * * * *

25. Section 334.440 is amended by adding a new sentence at the beginning of paragraph (c)(1), revising the last sentence in paragraph (d)(2), redesignating paragraphs (e)(2)(i) through (e)(2)(vi) as (e)(2)(ii) through (e)(2)(vii) respectively, and adding a new paragraph (e)(2)(i), to read as follows:

§ 334.440 New River, N.C., and vicinity; Marine Corps firing ranges.

* * * * *

(c) * * * (1) No person shall enter or remain in the water in any closed section after notice of firing therein has been given. * * *

* * * * *

(d) * * *

(2) * * * Upon being so warned, all persons and vessels shall leave the area as quickly as possible by the most direct route.

(e) * * *

(2) * * *

(i) No person shall enter or remain in the waters of this area due the possibility of unexploded projectiles.

* * * * *

26. Section 334.450 is amended by revising paragraph (b), to read as follows:

§ 334.450 Cape Fear River and tributaries at Sunny Point Army Terminal, Brunswick County, N.C.; restricted area.

* * * * *

(b) Except in cases of extreme emergency, all persons or vessels of any size or rafts other than those authorized by the Commander, Sunny Point Army Terminal, are prohibited from entering this area without prior permission of the enforcing agency.

* * * * *

27. Section 334.470 is amended by adding a new sentence at the beginning of paragraph (b)(2), to read as follows:

§ 334.470 Cooper River and Charleston Harbor, S.C.; restricted areas.

* * * * *

(b) * * *

(2) No person shall enter or remain in the water within the restricted areas.

* * * * *

28. Section 334.480 is amended by revising the first sentence in paragraph (c), to read as follows:

§ 334.480 Archers Creek, Ribbon Creek and Broad River, S.C.; U.S. Marine Corps Recruit Depot rifle and pistol ranges, Parris Island.

* * * * *

(c) No person, vessel and other watercraft shall enter the restricted waters when firing is in progress. * * *

29. Section 334.490 is amended by revising paragraph (b)(2), to read as follows:

§ 334.490 Atlantic Ocean off Georgia Coast; air-to-air and air-to-water gunnery and bombing ranges for fighter and bombardment aircraft, U.S. Air Force.

* * * * *

(b) * * *

(2) Prior to conducting each practice, the entire area will be patrolled by aircraft to warn any persons and watercraft found in the vicinity that such practice is about to take place. The warning will be by "buzzing," (i.e., by flying low over the person or watercraft.) Any person or watercraft shall, upon being so warned, immediately leave the area designated and shall remain outside the area until practice has ceased.

* * * * *

30. Section 334.500 is amended by revising paragraph (b)(1), to read as follows:

§ 334.500 St. Johns River, Fla., Ribault Bay; restricted area.

* * * * *

(b) * * * (1) All persons, vessels and craft, except those vessels operated by the U.S. Navy or Coast Guard are prohibited from entering this area except in cases of extreme emergency.

* * * * *

31. Section 334.510 is amended by revising paragraph (b)(1), to read as follows:

§ 334.510 U.S. Navy Fuel Depot Pier, St. Johns River, Jacksonville, Fla., restricted area.

* * * * *

(b) * * * (1) The use of waters as previously described by private and/or commercial floating craft or persons is prohibited with the exception of vessels or persons that have been specifically authorized to do so by the Officer in Charge of the Navy Fuel Depot.

* * * * *

32. Section 334.520 is amended by revising paragraph (b)(2), to read as follows:

§ 334.520 Lake George, Fla.; naval bombing area.

* * * * *

(b) * * *

(2) Prior to each bombing operation the danger zone will be patrolled by naval aircraft which will warn all persons and vessels to leave the area by "zooming" a safe distance to the side and at least 500 feet above the surface. Upon being so warned, such persons and vessels shall leave the danger zone immediately and shall not re-enter the danger zone until bombing operations have ceased.

* * * * *

33. Section 334.540 is amended by revising paragraph (b)(1), to read as follows:

§ 334.540 Banana River at Cape Canaveral Missile Test Annex, Fla., restricted area.

* * * * *

(b) * * * (1) All unauthorized persons and craft shall stay clear of the area at all times.

* * * * *

34. Section 334.550 is amended by revising paragraph (b)(1), to read as follows:

§ 334.550 Banana River at Cape Canaveral Air Force Station, Fla.; restricted area.

* * * * *

(b) * * * (1) All unauthorized persons and craft shall stay clear of this area at all times.

* * * * *

35. Section 334.560 is amended by revising paragraph (b)(1), to read as follows:

§ 334.560 Banana River at Patrick Air Force Base, Fla.; restricted area.

* * * * *

(b) * * * (1) All unauthorized persons and watercraft shall stay clear of the area at all times.

* * * * *

36. Section 334.590 is amended by revising paragraph (b)(1), (b)(3), and the first sentence in paragraph (b)(2), to read as follows:

§ 334.590 Atlantic Ocean off Cape Canaveral, Fla.; Air Force missile testing area, Patrick Air Force Base, Fla.

* * * * *

(b) * * *

(1) All unauthorized persons and vessels are prohibited from operating within the danger zone during firing periods to be specified by the Commander, Air Force Missile Test Center, Patrick Air Force Base.

(2) Warning signals will be used to warn persons and vessels that the danger zone is active. * * *

(3) When the signals in paragraph (b)(2) of this section are displayed, all persons and vessels, except those authorized personnel and patrol vessels, will immediately leave the danger zone

by the most direct route and stay out until the signals are discontinued.

* * * * *

37. Section 334.600 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.600 TRIDENT Basin adjacent to Canaveral Harbor at Cape Canaveral Air Force Station, Brevard County, Fla.; danger zone.

* * * * *

(b) * * * (1) No unauthorized person or vessel shall enter the area. * * *

* * * * *

38. Section 334.610 is amended by revising paragraphs (b)(1) and (b)(3), to read as follows:

§ 334.610 Key West Harbor, at U.S. Naval Base, Key West, Fla.; naval restricted areas and danger zone.

* * * * *

(b) * * *

(1) Entering or crossing Restricted Areas #1 and #4 and the Danger Zone (Area #6) described in paragraph (a) of this section, by any person or vessel, is prohibited.

* * * * *

(3) Stopping or landing by any person and/or any vessel, other than Government-owned vessels and specifically authorized private craft in any of the restricted areas or danger zone described in paragraph (a) of this section is prohibited.

* * * * *

39. Section 334.630 is amended by revising paragraph (b)(1), to read as follows:

§ 334.630 Tampa Bay south of MacDill Air Force Base, Fla.; small arms firing range and aircraft jettison, U.S. Air Force, MacDill Air Force Base.

* * * * *

(b) * * * (1) All persons, vessels and other watercraft are prohibited from entering the danger zone at all times.

* * * * *

40. Section 334.640 is amended by revising the first sentence in paragraph (b)(2) and paragraph (b)(3), to read as follows:

§ 334.640 Gulf of Mexico south of Apalachee Bay, Fla.; Air Force rocket firing range.

* * * * *

(b) * * *

(2) Prior to the conduct of rocket firing, the area will be patrolled by surface patrol boat and/or patrol aircraft to insure that no persons or watercraft are within the danger zone and to warn any such persons or watercraft seen in the vicinity that rocket firing is about to take place in the area. * * *

(3) Any such person or watercraft shall, upon being so warned, immediately leave the area, and until the conclusion of the firing shall remain at such a distance that they will be safe from the fallout resulting from such rocket firing.

* * * * *

41. Section 334.660 is amended by revising paragraph (b)(2), to read as follows:

§ 334.660 Gulf of Mexico and Apalachicola Bay, south of Apalachicola, Fla.; Drone Recovery Area, Tyndall Air Force Base, Fla.

* * * * *

(b) * * *

(2) Patrol boats and aircraft will warn all persons and navigation out of the area before each testing period.

* * * * *

42. Section 334.670 is amended by revising paragraph (b)(2), to read as follows:

§ 334.670 Gulf of Mexico and Apalachicola Bay, south and west of Apalachicola, San Blas, and St. Joseph bays; air-to-air firing practice range, Tyndall Air Force Base, Fla.

* * * * *

(b) * * *

(2) All persons and vessels will be warned to leave the danger area during firing practice by surface patrol boat and/or patrol aircraft. When aircraft is used to patrol the area, low flight of the aircraft overhead and/or across the bow will be used as a signal or warning. Upon being so warned all persons and vessels shall clear the area immediately.

* * * * *

43. Section 334.680 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.680 Gulf of Mexico southeast of St. Andrew Bay East Entrance, small-arms firing range, Tyndall Air Force Base, Fla.

* * * * *

(b) * * *

(1) No person, vessel or other watercraft shall enter or remain in the areas during periods of firing. * * *

* * * * *

44. Section 334.700 is amended by revising the first and second sentences in paragraph (b)(1)(i) and paragraph (b)(1)(ii), to read as follows:

§ 334.700 Choctawhatchee Bay, aerial gunnery ranges, Air Proving Ground Center, Air Research and Development Command, Eglin Air Force Base, Fla.

* * * * *

(b) * * *

(1) * * *

(i) The aerial gunnery range in the west part of Choctawhatchee Bay (described in paragraph (a)(1) of this section), may be used by persons and

watercraft except during periods when firing is conducted. During these periods firing will be controlled by observation posts, and persons and watercraft will be warned by patrol boats. * * *

(ii) No person, vessel or other craft shall enter or remain within the aerial gunnery range along the north shore of Choctawhatchee Bay (described in paragraph (a)(2) of this section) at any time.

* * * * *

45. Section 334.710 is amended by revising the second sentence in paragraph (b)(1), to read as follows:

§ 334.710 The Narrows and Gulf of Mexico adjacent to Santa Rosa Island, Air Proving Ground Command, Eglin Air Force Base, Fla.

* * * * *

(b) * * *

(1) * * * During periods of use entry into the area will be prohibited to all persons and navigation.

* * * * *

46. Section 334.720 is amended by revising paragraph (b)(3), to read as follows:

§ 334.720 Gulf of Mexico, south from Choctawhatchee Bay; guided missiles test operations area, Headquarters Air Proving Ground Command, U.S. Air Force, Eglin Air Force Base, Fla.

* * * * *

(b) * * *

(3) All person and vessels exclusive of those identified in paragraph (b)(2) of this section will be warned to leave the immediate danger area during firing periods by surface patrol craft. Upon being so warned, such persons and vessels shall clear the area immediately. Such periods normally will not exceed two hours.

* * * * *

47. Section 334.730 is amended by revising the first sentence in paragraph (b)(2) and paragraph (b)(3), to read as follows:

§ 334.730 Waters of Santa Rosa Sound and Gulf of Mexico adjacent to Santa Rosa Island, Air Force Proving Ground Command, Eglin Air Force Base, Fla.

* * * * *

(b) * * *

(2) No person, vessel or other watercraft shall enter the prohibited area, except to navigate the Gulf Intracoastal Waterway. * * *

(3) During periods when experimental test operations are underway no person, vessel or other watercraft shall enter or navigate the waters of the restricted area.

* * * * *

48. Section 334.740 is amended by revising paragraph (b)(1) to read as follows:

§ 334.740 Weekley Bayou, an arm of Boggy Bayou, Fla., Eglin Air Force Base; restricted area.

* * * * *

(b) * * * (1) No person or vessel shall enter the area without the permission of the Commander, Eglin Air Force Base, Florida, or his authorized representative.

* * * * *

49. Section 334.750 is amended by revising paragraph (b)(1), to read as follows:

§ 334.750 Ben's Lake, a tributary of Choctawhatchee Bay, Fla., at Eglin Air Force Base; restricted area.

* * * * *

(b) * * * (1) no person or vessel shall enter the area or navigate therein, without the permission of the Commander, Eglin Air Force Base, Florida, or his authorized representative. * * *

50. Section 334.778 is amended by revising paragraph (b)(1) and adding a sentence at the beginning of paragraph (b)(2), to read as follows:

§ 334.778 Pensacola Bay and waters contiguous to the Naval Air Station, Pensacola, FL; restricted area.

* * * * *

(b) * * * (1) All persons are prohibited from entering the waters for any reason and all vessels including pleasure (sailing, motorized, and or rowed), private and commercial fishing vessels, barges, and all other craft except United States military vessels are restricted from transiting, anchoring, or drifting within the above-described area when required by the Commanding Officer of the Naval Air Station Pensacola (N.A.S.), to safeguard the installation, its personnel and property in times of an imminent security threat, as required by a national emergency situation, natural disaster, or as directed by higher authority.

(2) All persons are prohibited from entering the water described in this section. * * *

* * * * *

51. Section 334.780 is amended by revising paragraph (b)(2) to read as follows:

§ 334.780 Pensacola Bay, Fla.; seaplane restricted area.

* * * * *

(b) * * *

(2) All persons, vessels and small craft, except crash boats, plane rearming boats, and similar craft ordered into the area on specific missions in connection

with the servicing of planes or patrol of the area, are prohibited from entering or being in the area at any time.

* * * * *

52. Section 334.786 is amended by adding a new sentence at the beginning of paragraph (b)(1), and revising paragraph (b)(2), to read as follows:

§ 334.786 Pascagoula Naval Station, Pascagoula, Mississippi; restricted area.

* * * * *

(b) * * * (1) All persons are prohibited from entering the waters within the restricted area for any reason.

(2) Mooring, anchoring, fishing, recreational boating or any activity involving persons in the water shall not be allowed at any time within 500 feet of any quay, pier, wharf, or levee along the Naval Station northern shoreline.

* * * * *

53. Section 334.790 is amended by revising paragraph (b)(1), to read as follows:

§ 334.790 Sabine River at Orange, Tex.; restricted area in vicinity of the Naval and Marine Corps Reserve Center.

* * * * *

(b) * * * (1) No person, vessel or other craft, except personnel and vessels of the U.S. Government or those duly authorized by the Commanding Officer, Naval and Marine Corps Reserve Center, Orange, Texas, shall enter, navigate, anchor or moor in the restricted area.

54. Section 334.800 is amended by revising paragraph (b)(1), to read as follows:

§ 334.800 Corpus Christi Bay, Tex.; seaplane restricted area, U.S. Naval Air Station, Corpus Christi.

* * * * *

(b) * * * (1) No person, vessel or watercraft shall enter or remain in the area at any time, day or night, except with express written approval of the enforcing agency or as a result of force majeure.

* * * * *

55. Section 334.802 is amended by revising the first sentence in paragraph (b), to read as follows:

§ 334.802 Ingleside Naval Station, Ingleside, Texas; restricted area.

* * * * *

(b) * * *

Mooring, anchoring, fishing, recreational boating or any activity involving persons in the water shall not be allowed within the restricted area.

* * * * *

56. Section 334.810 is amended by revising paragraph (b)(1), to read as follows:

§ 334.810 Holston River at Holston Ordnance Works, Kingsport, Tenn.; restricted area.

* * * * *

(b) * * * (1) Except in cases of extreme emergency, all vessels other than those owned or controlled by the U.S. Government and any activity involving persons in the water, are prohibited from entering the area without prior permission of the enforcing agency.

* * * * *

57. Section 334.820 is amended by revising paragraph (b), to read as follows:

§ 334.820 Lake Michigan; naval restricted area, U.S. Naval Training Center, Great Lakes, Ill.

* * * * *

(b) The regulations. No person or vessel of any kind, except those engaged in naval operations, shall enter, navigate, anchor, or moor in the restricted area without first obtaining permission to do so from the Commander, U.S. Naval Training Center, Great Lakes, Illinois, or his authorized representative.

58. Section 334.830 is amended by revising paragraph (b)(2), to read as follows:

§ 334.830 Lake Michigan; small-arms range adjacent to U.S. Naval Training Center, Great Lakes, Ill.

* * * * *

(b) * * *

(2) The enforcing agency is hereby authorized to use such agencies as shall be necessary to prohibit all persons and vessels from entering the area until such time as shall be convenient.

* * * * *

59. Section 334.850 is amended by revising paragraph (d)(1), to read as follows:

§ 334.850 Lake Erie, west end, north of Erie Ordnance Depot, Lacarne, Ohio.

* * * * *

(d) * * * (1) No person or vessel shall enter or remain in a danger zone during a scheduled firing period announced in a special firing notice unless specific permission is granted in each instance by a representative of the enforcing officer.

* * * * *

60. Section 334.920 is amended by revising paragraph (b)(1), to read as follows:

§ 334.920 Pacific Ocean off the east coast of San Clemente Island, Calif.; naval restricted area.

* * * * *

(b) * * * (1) No person or vessels, other than Naval Ordnance Test Station

craft, and those cleared for entry by the Naval Ordnance Test Station, shall enter the area at any time except in an emergency, proceeding with extreme caution.

* * * * *

61. Section 334.930 is amended by revising paragraph (b)(3), to read as follows:

§ 334.930 Anaheim Bay Harbor, Calif.; Naval Weapons Station, Seal Beach.

* * * * *

(b) * * *

(3) Recreational craft, such as water skis, jet skis (personal water craft), row boats, canoes, kayaks, wind surfers, sail boards, surf boards, etc., and any activity involving persons in the water, are specifically prohibited within the restricted area.

* * * * *

62. Section 334.938 is amended by revising the first sentence in paragraph (b), to read as follows:

§ 334.938 Federal Correctional Institution, Terminal Island, San Pedro Bay, California; restricted area.

* * * * *

(b) *The regulations.* No person or vessel of any kind shall enter, navigate, anchor or moor within the restricted area without first obtaining the permission of the Warden, Federal Correctional Institution, Terminal Island.

63. Section 334.940 is amended by revising the last sentence in paragraph (b)(2), to read as follows:

§ 334.940 Pacific Ocean in vicinity of San Pedro, Calif.; practice firing range for U.S. Army Reserve, National Guard, and Coast Guard Units.

* * * * *

(b) * * *

(2) * * * No person shall enter the water and no vessel, fishing boat, or recreational craft shall anchor in the danger zone during an actual firing period.

* * * * *

64. Section 334.950 is amended by revising the first and second sentences in paragraph (b)(1) and paragraph (b)(2), to read as follows:

§ 334.950 Pacific Ocean at San Clemente Island, California; Navy shore bombardment areas.

* * * * *

(b) * * *

(1) All persons and all vessels shall promptly vacate the areas when ordered to do so by the Navy or the Coast Guard. Persons and vessels shall not enter the areas during periods scheduled for firing.

(2) All persons in the area are warned that unexploded ordinance exists within the shore bombardment area on San Clemente Island and in the surrounding waters. All persons should exercise extreme caution when operating in the area.

* * * * *

65. Section 334.960 is amended by revising the second sentence in paragraph (b)(4), to read as follows:

§ 334.960 Pacific Ocean, San Clemente Island, Calif.; Naval danger zone off West Cove.

* * * * *

(b) * * *

(4) * * * When so notified, all persons and vessels shall leave the immediately by the shortest route.

* * *

* * * * *

66. Section 334.961 is amended by adding a new sentence at the beginning of paragraph (b)(1), to read as follows:

§ 334.961 Pacific Ocean, San Clemente Island, California, Naval danger zone off the northwest shore.

* * * * *

(b) * * * (1) No person shall enter this area during closure periods unless authorized to do so by the enforcing agency.

* * * * *

67. Section 334.990 is amended by revising paragraph (b)(1), to read as follows:

§ 334.990 Long Beach Harbor, Calif.; naval restricted area.

* * * * *

(b) * * * (1) The area is reserved exclusively for use by naval vessels. Permission for any person or vessel to enter the area must be obtained from the enforcing agency.

* * * * *

68. Section 334.1010 is amended by removing the heading "San Francisco Bay in vicinity of Hunters Point: naval restricted area—" from paragraph (a) and revising paragraph (b), to read as follows:

§ 334.1010 San Francisco Bay in vicinity of Hunters Point; naval restricted area.

* * * * *

(b) *The regulations.* No person may enter the area and no vessel or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commander, San Francisco Naval Shipyard, shall navigate, anchor or moor in this area.

69. Section 334.1020 is amended by revising paragraph (b)(1) and the first sentence of paragraph (b)(2), to read as follows:

§ 334.1020 San Francisco Bay and Oakland Inner Harbor; Restricted areas in vicinity of Naval Air Station, Alameda.

* * * * *

(b) * * *

(1) No person shall enter this area and no vessel or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commanding Officer, U.S. Naval Air Station, Alameda, California, shall navigate, anchor or moor in the area described in paragraph (a)(1) of this section.

(2) No person shall enter this area and no vessel without special authorization of the Commander, Twelfth Coast Guard District, shall lie, anchor or moor in the area described in paragraph (a)(2) of this section.

70. Section 334.1030 is amended by removing the heading "Oakland Inner Harbor adjacent to Alameda Facility, Naval Supply Center, Oakland; restricted area—" from paragraph (a); redesignating paragraph (a)(1) as (a) and redesignating paragraph (a)(2) as (b), and revising newly redesignated paragraph (b) to read as follows:

§ 334.1030 Oakland Inner Harbor adjacent to Alameda Facility, Naval Supply Center, Oakland; restricted area.

* * * * *

(b) *The regulations.* No persons and no vessels or other craft, except vessels of the United States Government or vessels duly authorized by the Commanding Officer, Naval Supply Center, Oakland, shall enter this area.

71. Section 334.1040 is amended by removing the heading "Oakland Harbor in vicinity of Naval Supply Center, Oakland; restricted area and navigation—" from paragraph (a); redesignating paragraph (a)(1) as (a); redesignating paragraph (a)(2) (i) and (ii) as (b) (1) and (2) and revising newly redesignated (b)(1), to read as follows:

§ 334.1040 Oakland Harbor in vicinity of Naval Supply Center, Oakland; restricted area and navigation.

* * * * *

(b) * * * (1) No persons and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commanding Officer, Naval Supply Center, Oakland, shall enter this area.

* * * * *

72. Section 334.1050 is amended by removing the heading "Oakland Outer Harbor adjacent to the Military Ocean Terminal Bay Area, Pier No. 8 (Port of Oakland Berth No. 10); restricted area—" from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) respectively, and revising newly redesignated paragraph (b) to read as follows:

§ 334.1050 Oakland Outer Harbor adjacent to the Military Ocean Terminal, Bay Area, Pier No. 8 (Port of Oakland Berth No. 10); restricted area.

* * * * *

(b) *The regulations.* No persons and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commander, Oakland Army Base, shall enter this area.

73. Section 334.1060 is amended by removing the heading "Oakland Outer Base adjacent to the Oakland Army Base; restricted area—" from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b), respectively, and revising newly redesignated paragraph (b) to read as follows:

§ 334.1060 Oakland Outer Harbor adjacent to the Oakland Army Base; restricted area.

* * * * *

(b) *The regulations.* No persons and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commander, Oakland Army Base, shall enter this area.

74. Section 334.1070 is amended by removing the heading "San Francisco Bay between Treasure Island and Yerba Buena Island; naval restricted area—" from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) respectively, and revising newly redesignated paragraph (b), to read as follows:

§ 334.1070 San Francisco Bay between Treasure Island and Yerba Buena Island; naval restricted area.

* * * * *

(b) *The regulations.* No person and no vessel or other craft, except vessels owned and operated by the U.S. Government or vessels duly authorized by the Commanding Officer, Naval Station, Treasure Island, shall enter the restricted area.

75. Section 334.1080 is amended by removing the heading "San Francisco Bay adjacent to northeast corner of Treasure Island; naval restricted area—" from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) respectively, and by adding a new sentence at the beginning of newly redesignated paragraph (b), to read as follows:

§ 334.1080 San Francisco Bay adjacent to northeast corner of Treasure Island; naval restricted area.

* * * * *

(b) *The regulations.* No person shall enter the restricted area.

76. Section 334.1090 is amended by removing the heading "San Francisco Bay in vicinity of the NSC Fuel

Department, Point Molate restricted area—" from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) respectively, and by revising newly redesignated paragraph (b), to read as follows:

§ 334.1090 San Francisco Bay in the vicinity of the NSC Fuel Department, Point Molate restricted area.

* * * * *

(b) *The regulations.* Persons and vessels not operating under supervision of the local military or naval authority or public vessels of the United States, shall not enter this area except by specific permission of the Commanding Officer, Naval Supply Center.

77. Section 334.1100 is amended by removing the heading "San Pablo Bay, Carquinez Strait, and Mare Island Strait in vicinity of U.S. Naval Shipyard, Mare Island; restricted area—" from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) respectively, and by revising newly redesignated paragraph (b), to read as follows:

§ 334.1100 San Pablo Bay, Carquinez Strait, and Mare Island Strait in vicinity of U.S. Naval Shipyard, Mare Island; restricted area

* * * * *

(b) *The regulations.* No persons shall enter this area and no vessels or other craft, except vessels of the U.S. Government or vessels duly authorized by the Commander, Mare Island Naval Shipyard, Vallejo, California, shall navigate, anchor or moor in this area.

78. Section 334.1110 is amended by removing the heading "Suisun Bay at Naval Weapons Station, Concord; restricted area—" from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) respectively, and by revising newly redesignated paragraph (b), to read as follows:

§ 334.1110 Suisun Bay at Naval Weapons Station, Concord; restricted area.

* * * * *

(b) *The regulations.* No persons shall enter this area and no vessels or other craft, except vessels operating under the authority of the local military or naval authority shall enter, lie to, anchor, or moor in this area except by specific permission of the Commanding Officer, Naval Weapons Stations, Concord.

79. Section 334.1120 is amended by revising paragraph (b)(5), to read as follows:

§ 334.1120 Pacific Ocean in the vicinity of Point Mugu, Calif.; Naval small arms firing range.

* * * * *

(b) * * *

(5) Persons, vessels or other craft shall not enter or remain in the danger zone when the warning flag is being displayed unless authorized to do so by the range officer in the control tower.

* * * * *

80. Section 334.1130 is amended by revising paragraphs (b)(2) and (b)(5), to read as follows:

§ 334.1130 Pacific Ocean, Western Space and Missile Center (WSMC), Vandenberg AFB, Calif.; danger zones.

* * * * *

(b) * * *

(2) The stopping or loitering by any person or vessel is expressly prohibited within Danger Zone 4, between the mouth of the Santa Ynez River and Point Arguello, unless prior permission is obtained from the Commander, Western Space and Missile Center (WSMC) at Vandenberg AFB, California.

* * *

(5) When a scheduled launch operation is about to begin, radio broadcast notifications will be made periodically, starting at least 24 hours in advance. Additional contact may be made by surface patrol boats or aircraft equipped with a loudspeaker system. When so notified, all persons and all vessels shall leave the specified zone or zones immediately by the shortest route.

* * * * *

81. Section 334.1140 is amended by revising paragraph (c)(2) and the first sentence in paragraph (c)(6), to read as follows:

§ 334.1140 Pacific Ocean at San Miguel Island, Calif.; naval danger zone.

* * * * *

(c) * * *

(2) The anchoring, stopping or loitering by any person, vessel, fishing boat or recreational craft within the danger zone during scheduled firing/drop hours is expressly prohibited.

* * *

(6) Landing by any vessel or going ashore by any person on San Miguel Island is specifically prohibited without prior permission of the Superintendent, Channel Islands National Park.

* * * * *

82. Section 334.1150 is amended by revising paragraph (a)(2)(i) and the last sentence in paragraph (b)(2) to read as follows:

§ 334.1150 Monterey Bay, Calif.

(a) * * *

(2) * * *

(i) The 5,000 yard short range is prohibited to all persons, vessels and craft, except those authorized by the enforcing agency, each week, between dawn and midnight from Monday through Friday and between dawn and dusk on Saturday and Sunday.

* * * * *

(b) * * *

(2) * * * In each case when moored or bottom obstructions are laid a notice to mariners will be issued giving notice of their approximate location within the danger zone and all persons and vessels shall keep clear.

83. Section 334.1160 is amended by revising the second sentence in paragraph (b) to read as follows:

§ 334.1160 San Pablo Bay, Calif.; target practice area, Mare Island Naval Shipyard, Vallejo.

* * * * *

(b) * * * At such times all persons and vessels shall stay clear.

84. Section 334.1170 is amended by revising the second sentence in paragraph (b) to read as follows:

§ 334.1170 San Pablo Bay, Calif.; gunnery range, Naval Inshore Operations Training Center, Mare Island, Vallejo.

* * * * *

(b) * * * No persons or vessels shall enter or remain in the danger zone during the above stated periods except those persons and vessels connected with the gunnery practice operations.

* * *

* * * * *

85. Section 334.1180 is amended by revising the first sentence in paragraph (b)(1) and the second sentence in paragraph (b)(2), to read as follows:

§ 334.1180 Strait of Juan de Fuca, Wash.; air-to-surface weapon range, restricted area.

* * * * *

(b) * * * (1) No person, vessel or other watercraft shall enter or remain within the designated restricted area between 0700 and 1200 hours daily, local time except as authorized by the enforcing agency and as follows: The area will be open to commercial gill net fishing during scheduled fishing periods from June 15 to October 15, annually.

* * *

(2) * * * Those persons and vessels found within the restricted area will be overflowed by the aircraft at an altitude of not less than 300' in the direction in which the unauthorized person and vessel are to proceed to clear the area.

* * *

* * * * *

86. Section 334.1200 is amended by removing the heading "Strait of Juan de

Fuca, eastern end; off the westerly shore of Whidbey Island; naval restricted areas—” from paragraph (a); redesignating paragraphs (a)(1), (a)(2) and (a)(3) as paragraphs (a), (b), and (c) respectively, and redesignating newly redesignated paragraphs (c) (i), (ii), and (iii) as (c) (1), (2) and (3) respectively, and revising newly redesignated paragraphs (c)(1) and (c)(2), to read as follows:

§ 334.1200 Strait of Juan de Fuca, eastern end; off the westerly shore of Whidbey Island; naval restricted areas.

* * * * *

(c) * * *

(1) Persons and vessels shall not enter these areas except at their own risk.

(2) All persons and vessels entering these areas shall be obliged to comply with orders received from naval sources pertaining to their movements while in the areas.

* * * * *

87. Section 334.1270 is amended by removing the heading “*Port Townsend, Indian Island, Walan Point; naval restricted area—*” from paragraph (a); redesignating paragraphs (a)(1) and (a)(2) as paragraphs (a) and (b) respectively, and by revising the first sentence in newly redesignated paragraph (b), to read as follows:

§ 334.1270 Port Townsend, Indian Island, Walan Point; naval restricted area.

* * * * *

(b) *The regulations.* No person or vessel shall enter this area without permission from the Commander, Naval Base, Seattle, or his/her authorized representative. * * *

* * * * *

88. Section 334.1310 is amended by revising paragraph (b)(1), to read as follows:

§ 334.1310 Lutak Inlet, Alaska; restricted areas.

* * * * *

(b) * * * (1) No person, vessel or other watercraft shall enter or remain in the Army POL dock restricted area when tankers are engaged in discharging oil at the dock.

* * * * *

89. Section 334.1340 is amended by redesignating paragraph (b)(1) as (b) and revising it to read as follows:

§ 334.1340 Pacific Ocean, Hawaii; danger zones.

* * * * *

(b) *The regulations.* No person, vessel or other craft shall enter or remain in

any of the areas at any time except as authorized by the enforcing agency.

* * * * *

90. Section 334.1350 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.1350 Pacific Ocean, Island of Oahu, Hawaii; danger zone.

* * * * *

(b) * * * (1) The area will be closed to the public and all shipping on specific dates to be designated for actual firing and no person, vessel or other craft shall enter or remain in the area during the times designated for firing except as may be authorized by the enforcing agency. * * *

* * * * *

91. Section 334.1410 is amended by revising the second sentence in paragraph (b)(1), to read as follows:

§ 334.1410 Pacific Ocean at Makapuu Point, Waimanalo, Island of Oahu, Hawaii, Makai Undersea Test Range.

* * * * *

(b) * * * (1) * * * During the display signals in the restricted area, all persons and surface craft will remain away from the area until such time as the signals are withdrawn. * * *

* * * * *

92. Section 334.1420 is amended by revising the first sentence in paragraph (b)(1), to read as follows:

§ 334.1420 Pacific Ocean off Orote Point, Apra Harbor, Island of Guam, Marianas Islands; small arms firing range.

* * * * *

(b) * * * (1) The danger zone shall be closed to the public and shipping on specific dates to be designated for actual firing and no person, vessel or other craft shall enter or remain in the danger zone designated for firing except as may be authorized by the enforcing agency. * * *

* * * * *

* * * * *

93. Section 334.1450 is amended by revising paragraph (b)(1), to read as follows:

§ 334.1450 Atlantic Ocean off north coast of Puerto Rico; practice firing areas, U.S. Army Forces Antilles.

* * * * *

(b) * * * (1) The danger zones shall be open to navigation at all times except when practice firing is being conducted. When practice firing is being conducted, no person, vessel or other craft except those engaged in towing targets or patrolling the area shall enter or remain within the danger zones: Provided, that any vessel propelled by mechanical power at a speed greater than five knots

may proceed through the Camp Totuguero artillery range at any time to and from points beyond, but not from one point to another in the danger zone between latitudes 18° 31' and 18° 32', at its regular rate of speed without stopping or altering its course, except when notified to the contrary.

* * * * *

94. Section 334.1460 is amended by revising the third sentence in paragraph (b)(1), to read as follows:

§ 334.1460 Atlantic Ocean and Vieques Sound in vicinity of Culebra Island; bombing and gunnery target area.

* * * * *

(b) * * *

(1) * * * At such times, no person or surface vessels, except those patrolling the area, shall enter or remain within the danger area. * * *

* * * * *

95. Section 334.1470 is amended by revising the second sentence in paragraph (b)(1), to read as follows:

§ 334.1470 Caribbean Sea and Vieques Sound, in vicinity of eastern Vieques; bombing and gunnery target area.

* * * * *

(b) * * *

(1) * * * At such times, no persons or surface vessels, except those patrolling the area, shall enter or remain within the danger area. * * *

* * * * *

96. Section 334.1480 is amended by revising paragraph (b), to read as follows:

§ 334.1480 Vieques Passage and Atlantic Ocean, off east coast of Puerto Rico and coast of Vieques Island; naval restricted areas.

* * * * *

(b) *The regulations.* No person or vessel shall enter or remain within the restricted areas at any time unless on official business. Fishing vessels are permitted to anchor in Playa Blanca, passing through the restricted area described in paragraph (a)(1) of this section, to and from anchorage on as near a north-south course as sailing conditions permit. Under no conditions will swimming, diving, snorkeling, other water related activities or fishing, be permitted in the restricted area.

For the Commander

Dated: March 26, 1997.

Russell L. Fuhrman,

Major General, USA, Director of Civil Works.

[FR Doc. 97-8604 Filed 4-9-97; 8:45 am]

BILLING CODE 3710-92-M

**FEDERAL EMERGENCY
MANAGEMENT AGENCY****44 CFR Part 65**

[Docket No. FEMA-7217]

**Changes in Flood Elevation
Determinations****AGENCY:** Federal Emergency
Management Agency, FEMA.**ACTION:** Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Executive Associate Director reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this

interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief Executive Officer of community	Effective date of Modification	Community No.
Connecticut: New Haven.	City of New Haven	February 24, 1997, March 3, 1997, New Haven Register.	The Honorable John DeStefano, Jr., mayor of the city of New Haven, Office of the Mayor, 165 Church Street, New Haven, Connecticut 06510.	February 18, 1997.	090084 C
Florida: Duval	City of Jacksonville	February 18, 1997, February 25, 1997, The Florida Times Union.	The Honorable John Delaney, mayor of the city of Jacksonville, 220 East Bay Street, 14th Floor, Jacksonville, Florida 32202.	February 11, 1997.	120077 F

State and county	Location	Dates and name of newspaper where notice was published	Chief Executive Officer of community	Effective date of Modification	Community No.
Maryland: Washington	Town of Boonsboro	February 14, 1997, February 21, 1997, The Morning Herald and The Daily Mail.	The Honorable Charles F. Kauffman, Jr., mayor of the town of Boonsboro, 21 North Main Street, Boonsboro, Maryland 21713.	May 22, 1997.	240071 A
Washington	Unincorporated areas	February 14, 1997, February 21, 1997, The Morning Herald and The Daily Mail.	Mr. Rodney Shoop, Washington County Administrator, 100 West Washington Street, Hagerstown, Maryland 21740.	May 22, 1997.	240070 A
Ohio: Tuscarawas	City of Dover	February 14, 1997, The Times-Reporter.	The Honorable Richard M. Homrighausen, mayor of the city of Dover, 110 East Third Street, Dover, Ohio 44622.	March 9, 1997.	390543 B
Wisconsin: Dane	Unincorporated areas	February 18, 1997, February 25, 1997, Wisconsin State Journal.	Mr. Richard Phelps, Dane County Executive, City-County Building, Room 421, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53709.	February 12, 1997.	550077 B
Dane	City of Madison	February 18, 1997, February 25, 1997, Wisconsin State Journal.	The Honorable Paul Soglin, mayor of the city of Madison, City-County Building, Room 403, 210 Martin Luther King, Jr. Boulevard, Madison, Wisconsin 53710.	February 12, 1997.	550083 E

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: April 2, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97-9208 Filed 4-9-97; 8:45 am]

BILLING CODE 6718-03-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT:

Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Executive Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt

or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of

the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Indiana:					
Allen (FEMA Docket No. 7191).	Town of Grabill	February 18, 1997, February 25, 1997, Journal Gazette.	Ms. Joanne Sauder, Grabill Town Council, P.O. Box 321, Grabill, Indiana 46741.	July 9, 1996	180499 D
Allen (FEMA Docket No. 7191).	Unincorporated areas	February 18, 1997, February 25, 1997, Journal Gazette.	Mr. Jack McComb, Allen County Commissioner, City/County Building, 1 East Main Street, Room 220, Fort Wayne, Indiana 46802.	May 26, 1997.	180302 D

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: April 2, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97-9209 Filed 4-9-97; 8:45 am]

BILLING CODE 6718-03-P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained

by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT:

Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone

areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	West Fork North Branch Chicago River: At Interstate 94 Approximately 100 feet up-stream of Montgomery Road	* 660 *651	Approximately 1,650 feet up-stream of Metra Railroad bridge Approximately 100 feet down-stream of Elgin Joliet and Eastern Railroad	* 666 * 670
FLORIDA		Maps available for inspection at the Municipal Building, 850 Waukegan Road, Deerfield, Illinois.		Maps available for inspection at the Municipal Building, Village of Lake Bluff, 40 East Center Avenue, Lake Bluff, Illinois.	
Walton County (Unincorporated Areas) (FEMA Docket No. 7195) <i>Gulf of Mexico:</i> Approximately 1.6 miles southwest of the intersection of U.S. Route 98 and County Route 30A in the vicinity of Morris Lake Approximately 2,000 feet south of the intersection of U.S. Route 98 and County Route 30A in the vicinity of Inlet Beach		Grayslake (Village), Lake County (FEMA Docket No. 7130) <i>Mill Creek:</i> At intersection of Bonnie Brae Avenue and Pierce Court		Lake Forest (City), Lake County (FEMA Docket No. 7130) <i>Lake Michigan:</i> Entire shoreline within community <i>Middle Fork North Branch Chicago River:</i> Approximately 1,450 feet upstream of State Route 22 (Half Day Road) Approximately 4,200 feet downstream of Wisconsin Central Limited Railroad crossing	* 585 * 659 * 669
Maps available for inspection at the Walton County Emergency Operations Center, 75 South Davis Lane, Defuniak Springs, Florida.	* 10 * 12	Maps available for inspection at the Municipal Building, 33 South Whitney Street, Grayslake, Illinois. Green Oaks (Village), Lake County (FEMA Docket No. 7130) <i>Tributary to Middle Fork North Branch Chicago River:</i> Entire shoreline within community	* 773 * 682	<i>Skokie River:</i> Approximately 200 feet up-stream of Old Elm Road Approximately 1,650 feet up-stream of Metra Railroad bridge	* 652 * 666
ILLINOIS		Maps available for inspection at the Municipal Building, 2020 O'Plaine Road, Green Oaks, Illinois.		<i>West Fork North Branch Chicago River:</i>	
Beach Park (Village), Lake County (FEMA Docket No. 7130) <i>Lake Michigan:</i>					

Source of flooding and location	#Depth in feet above ground. * Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. * Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. * Elevation in feet (NGVD)
Approximately 0.3 mile upstream of Half Day Road (State Route 22)	* 668	Approximately 0.6 mile upstream of Checker Drive	* 710	Waukegan (City), Lake County (FEMA Docket No. 7130)	
Approximately 0.3 mile downstream of Everett Road	* 671	Approximately 0.8 mile upstream of Long Grove Road (State Route 53)	* 728	<i>Lake Michigan:</i>	
Maps available for inspection at the Municipal Building, 220 East Deepath Road, Lake Forest, Illinois.		Maps available for inspection at the Village of Long Grove Municipal Building, 3110 Old McHenry Road, Long Grove, Illinois.		Entire shoreline within the community	*585
Libertyville (Village), Lake County (FEMA Docket No. 7130)		North Barrington (Village), Lake County (FEMA Docket No. 7130)		<i>Irondale Creek:</i>	
<i>Seavey Drainage Ditch:</i>		<i>North Flint Creek:</i>		Approximately 0.49 mile upstream of Guerin Road	* 676
Approximately 500 feet west of the intersection of Sylvan Drive and Dawes Street	* 701	Approximately 400 feet upstream of Rugby Road	* 805	Approximately 0.59 mile upstream of Guerin Road	* 679
<i>Bull Creek:</i>		Approximately 1,250 feet upstream of Rugby Road	* 808	<i>Skokie River:</i>	
Approximately 1,200 feet upstream of State Route 21	* 671	Maps available for inspection at the Municipal Building, 111 North Old Barrington Road, North Barrington, Illinois.		Approximately 500 feet upstream of 29th Street	* 698
Approximately 0.42 mile upstream of Butterfield Road ..	* 715			Just downstream of Washington Street	* 696
<i>Bull Creek Tributary:</i>		Park City (City), Lake County (FEMA Docket No. 7130)		<i>Middle Fork North Branch Chicago River:</i>	
At confluence with Bull Creek	* 677	<i>Skokie River:</i>		Approximately 1,250 feet downstream of Wisconsin Central Limited Railroad	* 692
Approximately 1,850 feet upstream of confluence with Bull Creek	* 687	Approximately 0.4 mile upstream of 29th Street	* 698	Approximately 1,600 feet downstream of Interstate 94	* 704
Maps available for inspection at the Municipal Building, 200 East Cook Avenue, Libertyville, Illinois.		On downstream side of Washington Street bridge	* 696	Maps available for inspection at the Municipal Building, 410 Robert V. Sabonjian Place, Waukegan, Illinois.	
Lincolnshire (Village), Lake County (FEMA Docket No. 7130)		Maps available for inspection at the Municipal Building, 3420 Kehm Boulevard, Park City, Illinois.		Winthrop Harbor (Village), Lake County (FEMA Docket No. 7130)	
<i>West Fork North Branch Chicago River:</i>				<i>Lake Michigan:</i>	
Approximately 1,500 feet upstream of Duffy Lane	* 666	Riverwoods (Village), Lake County (FEMA Docket No. 7130)		Entire shoreline within the community	* 585
Approximately 1.1 miles upstream of Half Day Road (State Route 22)	* 671	<i>West Fork North Branch Chicago River:</i>		<i>Kellogg Ravine:</i>	
<i>Aptakisic Creek:</i>		At Interstate 94	* 664	Approximately 1,150 feet downstream of Metra Crossing	* 653
Approximately 2,750 feet downstream of Busch Road	* 657	Approximately 0.4 mile upstream of Duffy Lane	* 666	Approximately 1,900 feet downstream of State Highway 173	* 664
Approximately 2,400 feet downstream of Busch Road	* 658	Maps available for inspection at the Municipal Building, 300 Portwine Road, Riverwoods, Illinois.		Maps available for inspection at the Municipal Building, 830 Sheridan Road, Winthrop Harbor, Illinois.	
Maps available for inspection at the Municipal Building, One Old Half Day Road, Lincolnshire, Illinois.		Vernon Hills (Village), Lake County (FEMA Docket No. 7130)		Wood Dale (City), DuPage County (FEMA Docket No. 7187)	
Long Grove (Village), Lake County (FEMA Docket No. 7195)		<i>Indian Creek:</i>		<i>Salt Creek:</i>	
<i>Diamond Lake Drain:</i>		Ponding areas south of Westmoreland Drive east of intersection with State Highway 83	* 702	Approximately 500 feet downstream of Thorndale Avenue	* 682
Downstream side of State Route 83	* 717	<i>Diamond Lake Drain:</i>		Approximately 0.8 mile upstream of Thorndale Avenue	683
Approximately 550 feet downstream of State Route 83	* 712	At State Route 83	* 721	Maps available for inspection at the Building Department, Wood Dale City Hall, 404 North Wood Dale Road, Wood Dale, Illinois.	
<i>Tributary A to Buffalo Creek:</i>		Approximately 1,000 feet upstream of State Route 83	* 722	Zion (City), Lake County (FEMA Docket No. 7130)	
Approximately 1,600 feet upstream of the confluence with Buffalo Creek	* 699	Maps available for inspection at the Municipal Building, 290 Evergreen Drive, Vernon Hills, Illinois.		<i>Lake Michigan:</i>	
At the county boundary	* 704			Entire shoreline within the community	* 585
<i>Buffalo Creek:</i>				<i>Kellogg Ravine:</i>	

Source of flooding and location	#Depth in feet above ground. * Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. * Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. * Elevation in feet (NGVD)
Approximately 0.76 mile upstream of confluence with North Branch Kellogg Ravine	* 631	Maps available for inspection at the London Grove Township Building, 3 London Way, Avondale, Pennsylvania.		Approximately 1.30 miles upstream of confluence of Hurricane Creek	*1,505
Approximately 1.70 miles upstream of confluence with North Branch Kellogg Ravine	* 643	West Brunswick (Township), Schuylkill County (FEMA Docket No. 7172)		Big Prater Creek:	
Maps available for inspection at the Municipal Building, 2828 Sheridan Road, Zion, Illinois.		Schuylkill River:		At confluence with Levisa Fork	*1,117
NEW HAMPSHIRE		Approximately 0.47 mile downstream of State Route 61	*392	Approximately 40 feet upstream of State Route 657 ..	*1,478
Tilton (Town), Belknap County (FEMA Docket No. 7195)		Approximately 700 feet upstream of the confluence of Red Creek	*476	Trace Fork Branch:	
Gulf Brook:		Pine Creek:		Confluence with Big Prater Creek	*1,171
Just upstream of U.S. Route 3/State Route 11	* 474	At CONRAIL Railroad	*458	Approximately 50 feet upstream of Route 612 bridge	*1,456
Approximately 0.52 mile upstream of U.S. Route 3/State Route 11	* 485	Approximately 0.4 mile downstream of Fork Mountain Road (T-713)	*458	Bull Creek:	
Maps available for inspection at the Tilton Town Hall, Lane Use Office, 257 Main Street, Tilton, New Hampshire.		Maps available for inspection at the Argal Federal Credit Union Building (Second Floor), 250 Parkway Avenue, Schuylkill Haven, Pennsylvania.		Confluence with Levisa Fork ...	*972
PENNSYLVANIA		Westtown (Township) Chester County (FEMA Docket No. 7187)		Approximately 50 feet downstream of confluence of	
Benton (Borough), Columbia County (FEMA Docket No. 7195)		West Fork of East Branch Chester Creek:		Deel Fork	*1,294
Fishing Creek:		At upstream side of Street Road	*258	Garden Creek:	
Approximately 50 feet downstream of dam, which is located approximately 450 feet upstream of State Route 487	* 766	Approximately 150 feet downstream of Westbourne Road.	*262	Confluence with Levisa Fork ...	*1,322
At upstream corporate limits ...	*777	Maps available for inspection at the Westtown Township Office, 1081 Wilmington Pike, West Chester, Pennsylvania.		Confluence of Right Fork to Garden Creek	*1,399
Maps available for inspection at the Benton Borough Hall, 3rd and Center Streets, Benton, Pennsylvania.		VIRGINIA		Greenbrier Creek:	
London Grove (Township), Chester County (FEMA Docket Nos. 7140, 7164 and 7187)		Buchanan County (Unincorporated Areas) (FEMA Docket No. 7199)		Approximately 1,100 feet downstream of confluence with Little Greenbrier Creek	*1,424
Middle Branch White Clay Creek:		Dismal Creek:		Approximately 20 feet upstream of State Route 608 bridge	*1,475
Approximately 1,300 feet downstream of Avondale-New London Road	*306	Confluence with Levisa Fork ...	*1,172	Guess Fork:	
Approximately 0.7 mile upstream of Hilton Road	*487	Approximately 1,850 feet downstream of Route 635 bridge	*1,658	Confluence with Knox Creek ..	*963
East Branch White Clay Creek:		Levisa Fork:		Approximately 275 feet upstream of confluence of Left Fork to Guess Fork	*1,100
Approximately 1,000 feet downstream of Newgarden Station Road	*259	Approximately 1,575 feet downstream of State Route 733	*870	Home Creek:	
At State Road 926	*504	At U.S. Route 460 bridge	*1,472	Confluence with Levisa Fork ...	*919
Chatham Run:		Knox Creek:		Approximately 350 feet upstream of State Route 650 bridge	*1,275
Approximately 350 feet downstream of Pomeroy Street ...	*283	Approximately 1,000 feet downstream of State Route 697 bridge	*923	Hurricane Creek:	
At State Road 926	*504	Approximately 2.23 miles upstream of State Route 652 ..	*1,272	Confluence with Russell Fork	*1,456
		Russell Fork:		Approximately 3,080 feet upstream of State Route 600 bridge	*1,515
		Approximately 1.15 miles downstream of State Route 80 bridge	*1,430	Indian Creek:	
				Confluence with Russell Fork	*1,440
				Approximately 50 feet upstream of State Route 601 bridge	*1,501
				Left Fork to Guess Fork:	
				Confluence with Guess Fork ...	*1,099
				Approximately 630 feet upstream of Route 646 bridge	*1,121
				Little Greenbrier Creek:	
				Confluence with Greenbrier Creek	*1,430
				Approximately 1,565 feet upstream of State Route 714 bridge	*1,488
				Little Prater Creek:	
				Confluence with Levisa Fork ...	*1,090
				Approximately 90 feet upstream of the third stream crossing of State Route 617 bridge	*1,262
				Lester Fork:	
				Confluence with Knox Creek ..	*976
				Approximately 30 feet upstream of State Route 650 bridge	*1,288

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
<i>Looney Creek:</i> Confluence with Levisa Fork ... Approximately 0.6 mile up-stream of Route 656 bridge	*1,002 *1,146	Confluence with Levisa Fork ... Approximately 0.64 mile up-stream of Route 1002 bridge	*1,053 *1,112
<i>PawPaw Creek:</i> At confluence with Knox Creek Approximately 200 feet up-stream of confluence of Rockhouse Fork	*928 *1,071	Maps available for inspection at Grundy Town Hall, 127 Main Street, Grundy, Virginia.	
<i>Race Fork:</i> Confluence with Knox Creek .. Approximately 0.6 mile up-stream of driveway bridge to Race Fork Coal Corporation	*951 *1,019	(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance") Dated: April 2, 1997. Richard W. Krimm, <i>Executive Associate Director, Mitigation Directorate.</i>	
<i>Right Fork to Garden Creek:</i> Confluence with Garden Creek Approximately 1,500 feet up-stream of Mine Access Road	*1,399 *1,552	[FR Doc. 97-9210 Filed 4-9-97; 8:45 am] BILLING CODE 6718-04-P	
<i>Right Fork to Knox Creek:</i> Confluence with Knox Creek .. Approximately 1.09 miles up-stream of State Route 643 ..	*1,078 *1,230	FEDERAL COMMUNICATIONS COMMISSION 47 CFR Parts 0 and 97 [WT Docket No. 95-57; FCC 97-99]	
<i>Rockhouse Fork:</i> Confluence with PawPaw Creek	*1,069	Amateur Service Rules	
Approximately 270 feet up-stream of State Route 643 bridge	*1,072	AGENCY: Federal Communications Commission. ACTION: Final rule.	
<i>Russell Prater Creek and War Creek:</i> Approximately 0.66 mile down-stream of State Route 606 bridge (Dickenson/Buchanan County line)	*1,417	SUMMARY: This action amends the amateur service rules to improve eligibility standards for a club station license, recognizes the role of volunteer examiner (VE) teams and session managers, establishes a special event call sign system, and authorizes a self-assigned indicator in the station identification announcement. The Commission declined to allow examination credit for licenses formerly held. The amendments are necessary in order to serve the amateur service licensees more effectively. The effect of this action is to improve license processing, increase operational flexibility, and minimize regulation.	
Approximately 1.49 mile up-stream of confluence with Russell Prater Creek	*1,542	EFFECTIVE DATE: May 12, 1997. FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Federal Communications Commission, Washington, D.C. 20554, (202) 418-0690.	
<i>Rocklick Creek:</i> Confluence with Levisa Fork ... Approximately 2,500 feet up-stream of State Route 691 bridge	*904 *1,001	SUPPLEMENTARY INFORMATION: This is a summary of the Commission's <i>Report and Order</i> adopted March 20, 1997, and released April 1, 1997. The complete text of this Commission action, including the amended rules, is available for inspection and copying during normal business hours in the FCC Reference Center (Room 230), 1919 M Street, N.W., Washington, D.C. The	
<i>Slate Creek:</i> Approximately 0.64 mile up-stream of Route 1002	*1,112		
Approximately 1,550 feet up-stream of State Route 640 bridge	*1,538		
Maps available for inspection at the Buchanan County Courthouse, Main Street, Grundy, Virginia.			
Grundy (Town), Buchanan County (FEMA Docket No. 7199)			
<i>Levisa Fork:</i> Approximately 1.9 feet down-stream of confluence of Slate Creek	*1,028		
Approximately 0.61 mile down-stream of State Route 617 ..	*1,075		
<i>Watkins Branch:</i> Confluence with Levisa Fork ... Approximately 1,890 feet up-stream of State Route 661 bridge	*1,071 *1,182		
<i>Slate Creek:</i>			

complete text of this *Report and Order* may also be ordered from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037, telephone (202) 857-3800.

Summary of Report and Order

1. The amended rules respond to petitions filed by the American Radio Relay League, Inc., and the National Conference of Volunteer-Examiner Coordinators. The amended rules also reflect action on proposals made by the Commission on its own motion.

2. The amended rules increase the eligibility requirement for an amateur service club station license to four persons in order to improve the effectiveness of the amateur service licensing process.

3. The amended rules permit a VE team to select a VE session manager to organize activities at an examination session and to conduct liaison functions with the coordinating VEC.

4. In order to provide greater operational flexibility for amateur radio operators, the amended rules allow the station identification to include a self-assigned indicator before, after, or both before and after, the assigned call sign.

5. Finally, the amended rules authorize the licensee of an amateur station operating in conjunction with a self-determined special event to substitute for its assigned call sign a self-selected call sign from the block of one-by-one call signs.

6. In view of the opposition expressed in the comments, the Commission declined to give examination credit for licenses formerly held.

7. The amended rules are set forth below.

8. Pursuant to Section 605(b) of the Regulatory Flexibility Act (RFA) the Commission certifies that the amended rules will not have a significant economic impact on a substantial number of small entities because the amateur stations that are the subject of this proceeding are not authorized to transmit communications for a pecuniary interest.

9. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

10. A copy of the RFA certification will be provided to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 97

Radio, Volunteers.

Federal Communications Commission

William F. Caton,*Acting Secretary.***Rule Changes**

Parts 0 and 97 of Title 47 of the Code of Federal Regulations are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

2. Section 0.131 is amended by adding new paragraph (p) to read as follows:

§ 0.131 Functions of the Bureau.

* * * * *

(p) Certifies, in the name of the Commission, volunteer entities to coordinate, maintain and disseminate a common data base of amateur station special event call signs, and issues Public Notices detailing the procedures of amateur service call sign systems.

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 97.3(a)(11)(iii) is added to read as follows:

§ 97.3 Definitions.

(a) * * *

(11) * * *

(iii) *Special event call sign system.*

The call sign is selected by the station licensee from a list of call signs shown on a common data base coordinated, maintained and disseminated by the amateur station special event call sign data base coordinators. The call sign must have the single letter prefix K, N or W, followed by a single numeral 0 through 9, followed by a single letter A through W or Y or Z (for example K1A). The special event call sign is substituted for the call sign shown on the station license grant while the station is transmitting. The FCC will issue public announcements detailing the procedures of the special event call sign system.

* * * * *

3. Section 97.5(b)(2) is revised to read as follows:

§ 97.5 Station license required.

* * * * *

(b) * * *

(2) A club station license. A club station license is granted only to the person who is the license trustee designated by an officer of the club. The trustee must be a person who has been granted an Amateur Extra, Advanced, General, Technician Plus, or Technician operator license. The club must be composed of at least four persons and must have a name, a document of organization, management, and a primary purpose devoted to amateur service activities consistent with this part. The club station license document is printed on FCC Form 660.

* * * * *

4. Section 97.119 is amended by revising paragraph (c), redesignating paragraphs (d) through (f) as paragraphs (e) through (g), and adding new paragraph (d) to read as follows:

§ 97.119 Station identification.

* * * * *

(c) One or more indicators may be included with the call sign. Each indicator must be separated from the call sign by the slant mark (/) or by any suitable word that denotes the slant mark. If an indicator is self-assigned, it must be included before, after, or both before and after, the call sign. No self-assigned indicator may conflict with any other indicator specified by the FCC Rules or with any prefix assigned to another country.

(d) When transmitting in conjunction with an event of special significance, a station may substitute for its assigned call sign a special event call sign as shown for that station for that period of time on the common data base coordinated, maintained and disseminated by the special event call sign data base coordinators. Additionally, the station must transmit its assigned call sign at least once per hour during such transmissions.

* * * * *

5. Section 97.509 (a) and (i) are revised to read as follows:

§ 97.509 Administering VE requirements.

(a) Each examination element for an amateur operator license must be administered by a team of at least 3 VEs at an examination session coordinated by a VEC. Before the session, the administering VEs or the VE session manager must ensure that public announcement is made stating the location and time of the session. The number of examinees at the session may be limited.

* * * * *

(i) When the examinee is credited for all examination elements required for the operator license sought, 3 VEs must certify on the examinee's application document that the applicant is qualified for the license and that they have complied with these administering VE requirements. The certifying VEs are jointly and individually accountable for the proper administration of each examination element reported on the examinee's application FCC Form 610. The certifying VEs may delegate to other qualified VEs their authority, but not their accountability, to administer individual elements of an examination.

* * * * *

6. New Section 97.513 is added to read as follows:

§ 97.513 VE session manager requirements.

(a) A VE session manager may be selected by the VE team for each examination session. The VE session manager must be accredited as a VE by the same VEC that coordinates the examination session. The VE session manager may serve concurrently as an administering VE.

(b) The VE session manager may carry on liaison between the VE team and the coordinating VEC.

(c) The VE session manager may organize activities at an examination session.

7. Section 97.519(b) is revised to read as follows:

§ 97.519 Coordinating examination sessions.

* * * * *

(b) At the completion of each examination session, the coordinating VEC must collect the FCC Form 610 documents and test results from the administering VEs. Within 10 days of collecting the FCC Form 610 documents, the coordinating VEC must:

(1) Screen each FCC Form 610 document; (2) Resolve all discrepancies appearing on the FCC Form 610 documents and verify that the VEs' certifications are properly completed; and

(3) For qualified examinees, forward electronically the data contained on the FCC Form 610 documents, or forward the FCC Form 610 documents to: FCC, 1270 Fairfield Road, Gettysburg, PA 17325–7245. When the data is forwarded electronically, the coordinating VEC must retain the FCC Form 610 documents for at least 15 months and make them available to the FCC upon request.

* * * * *

[FR Doc. 97–9159 Filed 4–9–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 961107312-7021-02; I.D. 040797A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1997 total allowable catch (TAC) of Pacific ocean perch in this area.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), April 7, 1997, until 2400 hrs, A.l.t., December 31, 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 the Groundfish Fishery 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.

The TAC of Pacific ocean perch for the Western Aleutian District was established by the Final 1997 Harvest Specifications of Groundfish for the BSAI (62 FR 7168, February 18, 1997) as 6,390 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20 (d)(1), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the TAC for Pacific

ocean perch specified for the Western Aleutian District will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,790 mt, and is setting aside the remaining 1,600 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at §§ 679.20(e) and (f).

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: April 7, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
[FR Doc. 97-9324 Filed 4-7-97; 4:58 pm]

BILLING CODE 3510-22-F

Proposed Rules

Federal Register

Vol. 62, No. 69

Thursday, April 10, 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

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV-97-981-2 PR]

Almonds Grown in California; Interhandler Transfers of Reserve Obligation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites comments on implementing regulations to authorize interhandler transfers of reserve obligations. This rule also announces the Agricultural Marketing Service's (AMS) intention to request a revision to the currently approved information collection requirements issued under the marketing order. The almond marketing order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule would allow the Board to implement authority contained in the marketing order to authorize handlers to transfer reserve withholding obligations to other handlers. It would provide handlers with an additional option to satisfy reserve obligations. If implemented, this rule would enhance the utility and flexibility of the volume control regulations while benefiting producers, handlers, and consumers.

DATES: Comments must be received by June 9, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC 20090-6456, Fax (202) 720-5698. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in

the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Kathleen M. Finn, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2530-S, P.O. Box 96456, Washington, DC 20090-6456; telephone: (202) 720-1509, Fax (202) 720-5698; or Martin Engeler, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487-5901, Fax (209) 487-5906. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525-S, P.O. Box 96456, Washington, DC, 20090-6456, telephone: (202) 720-2491 or Fax (202) 720-5698.

SUPPLEMENTARY INFORMATION: This proposal is issued under Marketing Agreement and Order No. 981 (7 CFR part 981), both as amended, regulating the handling of almonds grown in California, hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601-674), hereinafter referred to as the "Act."

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

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This proposal will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an

inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after date of the entry of the ruling.

This proposal invites comments on implementing regulations authorizing interhandler transfers of reserve obligations. Sections 981.45 through 981.60 set forth the authority to implement volume control regulations under the order by establishing salable and reserve percentages of almonds. Annually, the Board meets to review projected crop estimates and marketing conditions for the coming season. Variations in production can cause wide fluctuations in prices. These swings in supplies and price levels can result in market instability and uncertainty for growers, handlers, buyers, and consumers.

If it is determined a reserve is warranted, the Board recommends to the Secretary the salable and reserve percentages to be placed on the almond crop. If a reserve is established, handlers are required to refrain from selling to normal market outlets a quantity of almonds equal to the reserve percentage. This percentage becomes the handlers' reserve withholding obligation. Handlers must either maintain product in inventory for possible release at a later date or dispose of product to secondary reserve outlets to satisfy their reserve obligation. The last season a reserve was in effect was during the 1994-95 crop year.

Section 981.55 of the order was amended by final order dated June 26, 1996 (61 FR 32917) to include a provision that allows handlers to transfer reserve withholding obligation to other handlers. Prior to the amendment to the order, § 981.55 authorized only the transfer of almonds (not reserve almonds) or reserve credits to other handlers. Reserve credits are issued to handlers when they dispose of almonds to secondary outlets in satisfaction of their reserve obligation. Handlers can transfer excess credits to other handlers. The receiving handler can use the credit to meet all or a portion of its reserve obligation. This section of the order further states that the terms and conditions implementing the provision must be recommended by the Board and approved by the Secretary. Adding a third option by

amendment to the order was intended to provide more flexibility for handlers in satisfying their reserve obligation.

At a Board meeting held on February 18, 1997, the Board unanimously recommended implementing the third option under Section 981.55 concerning reserve withholding obligation transfers by making appropriate changes to the rules and regulations. This proposal would enhance the utility and flexibility of the volume control regulations. It would provide handlers with an additional method of satisfying reserve obligations.

Currently, § 981.455 contains three paragraphs setting forth rules and regulations regarding interhandler transfers of almonds. These paragraphs set forth procedures for: (1) Transferring non-reserve almonds; (2) transferring reserve credits; and (3) transferring inedible almond obligations. The Board's proposal recommends adding a new paragraph including procedures for transferring reserve withholding obligations.

This rule would expand the options available to handlers in the event a reserve is implemented. The ability to transfer reserve obligations would particularly benefit those handlers who do not stay in business all year and do not have facilities for storage of reserve almonds. Such handlers are traditionally the smaller handlers in the industry. Storage and other costs associated with maintaining reserve inventory or disposing of product to secondary outlets could be reduced. This rule would provide another option for handlers to choose from in satisfying their reserve obligations that may better suit their operation.

The objective of the reserve provisions is to keep a certain quantity of almonds off the market in order to maintain market stability. The additional flexibility in the reserve provisions is expected to improve compliance among handlers, which in turn would maintain the integrity of the volume control regulations.

In order to ensure that adequate procedures are in place to monitor transfer of reserve obligations among handlers, the Board recommended modifying ABC Form 11 which currently covers interhandler transfers of reserve credits. New information would be added to the form to properly document reserve obligation transfers. Almond handlers wanting to transfer their reserve obligation to another handler would complete one portion of revised Form 11 and forward the form to the receiving handler. The receiving handler would complete their portion of the form and submit it to the Board.

Authorized Board personnel would review, and if appropriate, approve the transfer. The Board would then submit copies of the forms to involved parties.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 97 handlers of California almonds who are subject to regulation under the marketing order and approximately 7,000 almond producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than \$5,000,000, and small agricultural producers are defined as those having annual receipts of less than \$500,000.

Currently, about 58 percent of the handlers ship under \$5 million of almonds and 42 percent ship over \$5 million on an annual basis. In addition, based on acreage, production, and grower prices reported by the National Agricultural Statistics Service, and the total number of almond growers, the average annual grower revenue is approximately \$156,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of California almonds may be classified as small entities.

Sections 981.45 through 981.60 of the almond marketing order provide authority to implement volume control regulations by establishing salable and reserve percentages of almonds. If it is determined a reserve is warranted, the Board recommends to the Secretary the salable and reserve percentages to be placed on the almond crop. If a reserve is established, handlers are required to not sell to normal market outlets a quantity of almonds equal to the reserve percentage. Handlers must either maintain product in inventory for possible release at a later date or dispose of product to lower value reserve outlets to satisfy their reserve obligation. These lower value outlets are primarily crushing for oil and animal feed.

Section 981.55 of the order provides authority for the interhandler transfer of almonds and reserve credits. This section was recently amended to include authority for interhandler transfer of reserve obligations. This proposed rule would implement the authority to transfer reserve withholding obligations by revising § 981.455 of the administrative rules and regulations accordingly. This proposal would provide another option, in addition to those that appear in that section, for handlers to satisfy their reserve obligations. The ability to transfer reserve obligations would particularly benefit those handlers who do not stay in business all year and do not have facilities for storage of reserve almonds. Such handlers are traditionally the smaller handlers in the industry. Storage and other costs associated with maintaining reserve inventory or disposing of product to secondary outlets could be reduced. This rule would provide another option for handlers to choose from in satisfying their reserve obligations that may better suit their operation.

In past years, handlers either had to maintain product in inventory or dispose of it in approved reserve outlets to satisfy their withholding obligation, as discussed earlier. Those handlers choosing to maintain product in inventory must locate storage facilities and incur storage costs they may not otherwise incur, until the reserve is lifted. Storage costs vary, depending upon factors such as the type of facilities utilized and quantities involved. These costs are generally in the range of one cent per pound per month, with additional charges for moving product into and out of storage facilities. These costs could be incurred for approximately six months to a year and a half depending on the ultimate disposition of the reserve.

Those handlers choosing to dispose of their reserve to approved outlets may save on storage costs, but receive a lower return on the sales than they may receive if sold in normal market channels if the reserve is ultimately released. Price levels for almonds used for crushing into oil are in the range of 28 to 35 cents per pound, while animal feed brings about two to three cents per pound. Price levels for sales to normal market outlets vary significantly from year to year depending on available supplies and market conditions. The additional option that would be provided by this proposal would allow handlers to make arrangements to transfer their reserve obligation to other handlers. Handlers could choose the most cost effective method of satisfying

their reserve obligations that best suits their operations. This proposed rule would provide more flexibility if volume control regulations under the almond marketing order are issued.

A current form is being revised for handlers to supply the transfer information to the Board for its approval. The current form (ABC Form 11) provides for handlers to transfer reserve credits. Information would be added to this form to collect information on transfers of withholding obligation. No additional burden would be added to the form because handlers would choose one of the options on the form. The forms current burden time of 5 minutes would not be changed. This action would not impose any significant additional reporting or recordkeeping requirements on either small or large almond handlers. The benefits of providing another tool to the industry to assist them in making business decisions far outweigh the estimated 5 minutes it would take to complete the form. Further, any additional reporting may be offset by reduced reporting for those handlers choosing to utilize this option in lieu of other options available for satisfying reserve obligations. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

The Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this proposed rule. Information generated by State, Federal, and private sector reports pertains to almonds in general and does not contain specific producer and handler information. Therefore, such information would not be detailed enough to be used for the specific purposes required under the order.

The amendment to the marketing order was voted on in a referendum and was overwhelmingly supported by almond growers. This proposal would establish procedures to implement the amendment that authorized transfers of reserve obligations. There are no alternatives that would result in the additional flexibility sought by the industry.

In addition, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in committee deliberations on all issues. Like all Board meetings, the February 18, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on this issue. The Board itself is composed of ten

members, of which five are handlers and five are growers, the majority of whom are small entities. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS announces its intention to request a revision to a currently approved information collection for almonds grown in California.

Title: Almonds Grown in California, Marketing Order 981.

OMB Number: 0581-0071.

Expiration Date of Approval: August 31, 1999.

Type of Request: Intent to extend and revise a currently approved information collection.

Abstract: The information collection requirements in this request are essential to carry out the intent of the AMAA, to provide the respondents the type of service they request, and to administer the California almond marketing order program, which has been operating since 1950.

Several provisions of the marketing order were amended as a result of extensive formal rulemaking proceedings, including a referendum of growers. Section 981.55 of the Order was amended to authorize handlers to transfer reserve withholding obligations during the effective period of a reserve. On February 18, 1997, the Board unanimously recommended implementing accompanying regulations to correspond with this amendment. This notice entails modifying ABC Form 11, which covers reserve credit transfers, to include transfers of reserve withholding obligation.

Handlers are already required to complete the form only during reserve years if they transfer reserve credits. This modification would authorize another option for handlers to dispose of their reserve obligation. This rule would necessitate adding data to this form requiring information from handlers on reserve obligation transfers. Almond handlers wanting to transfer their reserve obligation to another handler would complete their portion of the revised ABC Form 11. The initiating handler would forward the partially completed Form 11 to the handler agreeing to assume the obligation. When the receiving handler completes their portion of the form, it would transfer the form to authorized Board personnel for approval of the transfer. Following the

authorization, the transfer would be deemed complete. Only handlers wanting to transfer reserve or reserve credits would be required to complete the form.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Division regional and headquarters staff, and authorized employees of the Board. Authorized Board employees and the industry are the primary users of the information and AMS is the secondary user.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.083 hours per response.

Respondents: California almond growers, handlers and accepted users of inedible almonds.

Estimated Number of Respondents: 7,658.

Estimated Number of Responses per Respondent: 6,022.

Estimated Total Annual Burden on Respondents: 2,512 hours.

Comments: Comments are invited on: (1) 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) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581-0071 and the California Almond Marketing Order No. 981, and be sent to USDA in care of Kathleen Finn at the address above. All comments received will be available for public inspection during regular business hours at the same address.

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.

A 60-day comment period is provided to allow interested persons to respond to this proposal.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 981.455 [Amended]

2. In § 981.455, paragraph (c) is redesignated as paragraph (d) and a new paragraph (c) is proposed to be added to read as follows:

§ 981.455 Interhandler transfers.

* * * * *

(c) *Transfers of reserve withholding obligation.* A handler may transfer reserve withholding obligation to other handlers pursuant to § 981.55 after having filed with the Board an ABC Form 11 executed by both handlers. The Board shall approve the transfer upon receipt of the properly completed form.

* * * * *

Dated: April 4, 1997.

Sharon Bomer Lauritsen,

Deputy Director, Fruit and Vegetable Division.
[FR Doc. 97–9187 Filed 4–9–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–246018–96]

RIN 1545–AU49

Recomputation of Life Insurance Reserves; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the definition of life insurance reserves.

DATES: The public hearing originally scheduled for April 17, 1997, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Evangelista C. Lee of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–7190 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed amendments to the Income Tax Regulations under sections 816 and 801

of the Internal Revenue Code. A notice of proposed rulemaking and public hearing appearing in the **Federal Register** on Thursday, January 2, 1997 (62 FR 71), announced that a public hearing would be held on Thursday, April 17, 1997, beginning at 10 a.m., in room 3313, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC 20224.

The public hearing scheduled for Thursday, April 17, 1997, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 97–9112 Filed 4–9–97; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–1–FRL–5801–8]

Approval and Promulgation of Air Quality Implementation Plans; Vermont; Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides and Volatile Organic Compounds Not Covered By Other Category-Specific Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State implementation plan (SIP) revision submitted by the State of Vermont. This revision establishes and requires Reasonably Available Control Technology at major stationary sources of nitrogen oxides and major stationary sources of volatile organic compounds (VOC) which are not covered by other category-specific VOC regulations. In the Final Rules Section of this **Federal Register**, 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 that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before May 12, 1997.

ADDRESSES: Comments may be mailed to Susan Studien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA 02203–2211 and, the Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

FOR FURTHER INFORMATION CONTACT:

Steven A. Rapp, (617) 565-2773, or Rapp.Steve@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: March 10, 1997.

John P. DeVillars,

Regional Administrator Region I.

[FR Doc. 97–9013 Filed 4–9–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7215]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT:

Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet

the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the National Flood Insurance Program. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Illinois	Lake In the Hills (Village) McHenry County.	Woods Creek	From Randall Road To Huntley Algonquin Road.	None	*831
				None	*848

Maps available for inspection at the Lake In The Hills Village Hall, 1211 Crystal Lake Road, Lake In The Hills, Illinois.

Send comments to Mr. Joe Murawski, Lake In The Hills Acting Village President, 1211 Crystal Lake Road, Lake In The Hills, Illinois 60102.

Minnesota	Winona (City) Winona County.	Gilmore Creek	Approximately 380 feet downstream of U.S. Highway 14.	None	*667
		County Ditch Number 3	Approximately 50 feet upstream of St. Mary's College Bridge.	*688	*687
			At confluence with Lake Winona	*655	*649
			At upstream corporate limits	*662	*658
		Lake Winona	Approximately 30 feet upstream of Mankato Avenue Drive.	*655	*648
			At confluence of County Ditch Number 3	*655	*649

Maps available for inspection at the Winona City Hall, 207 Lafayette Street, P.O. Box 378, Winona, Minnesota.

Send comments to Mr. Eric Sorenson, Winona City Manager, Winona City Hall, 207 Lafayette Street, P.O. Box 378, Winona, Minnesota 55987.

New York	Sea Cliff (Village) Nassau County.	Long Island Sound: Hempstead Harbor	Approximately 250 feet west of intersection of 15th Avenue and Bay Avenue	*17	*14
			At the intersection of Littleworth Lane and Prospect Avenue.	*15	*14

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified

Maps available for inspection at the Sea Cliff Village Hall, Sea Cliff Avenue, Sea Cliff, New York.

Send comments to the Honorable Charles Blackburn, Mayor of the Village of Sea Cliff, Sea Cliff Avenue, Sea Cliff, New York 11579.

Ohio	Franklin County (Unincorporated Areas).	Georges Creek Overland Flow.	At confluence with Georges Creek	None	*747
			Approximately 2,080 feet upstream of confluence with Georges Creek.	None	*752

Maps available for inspection at the Franklin County Zoning Department, 373 South High Street, 15th Floor, Columbus, Ohio.

Send comments to Mr. George Kinney, Franklin County Development Director, 373 South High Street, 15th Floor, Columbus, Ohio 43215.

Pennsylvania	Castanea (Township) Clinton County.	West Branch Susquehanna River.	At confluence of Bald Eagle Creek	*653	*564
			Approximately 140 feet upstream of Constitution Street.	*564	*566
		Bald Eagle Creek	At confluence with West Branch Susquehanna River.	*563	*564
			Approximately 1,750 feet upstream of upstream CONRAIL bridge.	*566	*567
		Ponding Areas	On west side of U.S. Highway 220 approximately 0.5 mile south of U.S. Highway 220 overpass over Jay Street. Approximately 2,000 feet northeast of the CONRAIL crossing over Bald Eagle Creek.	*563	*550
				None	*564

Maps available for inspection at the Castanea Municipal Building, 347 Nittany Road, Castanea, Pennsylvania.

Send comments to Ms. Rita L. O'Brien, Township of Castanea Secretary Treasurer, 13 Quiggle Avenue, Castanea, Pennsylvania 17745.

Tennessee	Jackson (City) Madison County.	South Fork of Forked Deer River.	Approximately 1,200 feet downstream of U.S. Route 70.	*345	*346
			Approximately 1,200 feet upstream of the confluence of Jones Creek.	*359	*357
		Cane Creek	At the confluence with South Fork of Forked Deer River.	*351	*356
			Approximately 200 feet downstream of Hicks Street.	*355	*356
		Anderson Branch	At the confluence with South Fork of Forked Deer River.	*355	*356
			Approximately 0.9 mile upstream of Lexington Street.	None	*414
		Bond Creek	At the confluence with South Fork of Forked Deer River.	*355	*356
			Approximately 375 feet downstream of Perry Switch Road.	*355	*356
		Meridian Creek	At the confluence with South Fork of Forked Deer River.	*356	*357
			Approximately 250 feet downstream of Illinois Central Railroad.	*356	*357
		Moize Creek	Approximately 900 feet upstream of Old Humboldt Road.	*401	*402
			Approximately 0.78 mile upstream of Glen Echo Road.	None	*436
		Bayberry Creek	Approximately 0.5 mile upstream of the confluence with South Fork of Forked Deer River.	*344	*345
			At Old Hickory Boulevard	None	*424

Maps available for inspection at Jackson City Planning Department, 111 North Church Street, Jackson, Tennessee.

Send comments to The Honorable Charles Farmer, Mayor of the City of Jackson, Jackson City Hall, P.O. Box 2508, Jackson, Tennessee 38302.

Tennessee	Madison County (Unincorporated Areas).	Matthews Creek	At confluence with Middle Fork of Forked Deer River.	*343	*344
			Approximately 0.61 mile upstream of John Smith Road.	None	*410
		Deloach Creek	Approximately 250 feet downstream of Illinois Central Railroad.	*347	*346
			At McClellan Road	None	*416

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
		Moize Creek	Approximately 250 feet downstream of Illinois Central Railroad.	*349	*350
			At the upstream side of Old Humboldt Road.	*400	*399
		Turkey Creek	Approximately 700 feet downstream of Mason Road.	None	*356
			At county boundary 2.2 miles upstream of U.S. Road 45E.	None	*393
		Dyer Creek	Approximately 0.84 mile downstream of the Florida Steel Railroad.	*358	*359
			At Christmasville Road	None	*444
		South Fork of Forked Deer River.	At Westover Road	*347	*348
			Approximately 1.1 miles upstream of U.S. Route 45 (South Highland Avenue).	*356	*357
		Johnson Creek (South Fork Basin).	Approximately 950 feet downstream of Lower Brownsville Road.	*344	*343
			At downstream side of Mt. Pinson Road	*425	*424
		North Fork of South Fork of Forked Deer River.	Approximately 350 feet downstream of Range Road (State Route 824).	*377	*389
			At county boundary	*389	*388
		Jones Creek	Approximately 1,500 feet downstream of Illinois Central Railroad.	None	*367
			Approximately 650 feet downstream of Bendix Drive.	None	*367
		Dry Branch	Entire shoreline of impoundment behind Johnson Creek Watershed Dam No. 5.	None	*476
		Little Johnson Creek	Entire shoreline of impoundment behind Johnson Creek Watershed Dam No. 10.	None	*478
		Hart Creek	Entire shoreline of impoundment behind Johnson Creek Watershed Dam No. 4.	None	*465
		Lahey Creek	Entire shoreline of impoundment behind Johnson Creek Watershed Dam No. 7.	None	*436
		Sandy Creek	At county boundary	*390	*396
			Approximately 1.86 miles upstream of Bowman-Collins Road.	*495	*492
		Brown Creek	At the confluence with North Fork of South Fork of Forked Deer River.	*368	*367
			Approximately 1.14 miles upstream of Beech Bluff Road.	None	*382
		Sandy Creek Tributary	At the confluence with Sandy Creek	*430	*432
			Approximately 850 feet upstream of Collins Road.	*452	*455

Maps available for inspection at the Office of the Director of The Emergency Management Agency, 234 Institute, B-280, Jackson, Tennessee.

Send comments to The Honorable J. Alex Leech, Mayor of Madison County, 100 East Main Street, Jackson, Tennessee 38301.

Tennessee	Medon (Town) Madison County.	Sandy Creek	Approximately 375 feet downstream of the confluence of Sandy Creek Tributary.	None	*430
			Approximately 1,375 feet upstream of Bowman Collins Road.	None	*434

Maps available for inspection at the Medon Town Hall, 20 College Street, Medon, Tennessee.

Send comments to The Honorable James Maroney, Mayor of the Town of Medon, P.O. Box 23, Medon, Tennessee 38356.

Wisconsin	Chippewa County (Unincorporated Areas).	Chippewa River	Downstream county boundary	*805	*804
			At toe of Wissota Dam	None	*853

Maps available for inspection at the Chippewa County Courthouse, 711 North Bridge Street, Chippewa Falls, Wisconsin.

Send comments to Mr. Thomas Goettl, Chairman of the Chippewa County Board of Supervisors, 711 North Bridge Street, Chippewa Falls, Wisconsin 54729.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)	
				Existing	Modified
Wisconsin	Chippewa Falls (City) Chippewa County.	Chippewa River	Approximately 1 mile downstream of U.S. Highway 53.	*822	*821
			Approximately 2.4 miles upstream of Soo Line Railroad.	None	*852

Maps available for inspection at the Chippewa Falls City Hall, Inspection Department, 30 West Central Street, Chippewa Falls, Wisconsin.

Send comments to The Honorable Virginia Smith, Mayor of the City of Chippewa Falls, 30 West Central Street, Chippewa Falls, Wisconsin 54729.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: April 2, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97-9207 Filed 4-9-97; 8:45 am]

BILLING CODE 4718-04-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 033197B]

New England Fishery Management Council; Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, April 16, 1997, at 10 a.m. and on Thursday, April 17, 1997, at 8:30 a.m.

ADDRESSES: The meeting will take place at the Providence Biltmore Hotel, 11 Dorrance Street, Kennedy Plaza, Providence, RI; telephone (401) 421-0700. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1036; telephone: (617) 231-0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New

England Fishery Management Council, (617) 231-0422.

SUPPLEMENTARY INFORMATION:

April 16, 1997

The April 16 session will begin with reports from the Council Chairman; Executive Director; Regional Administrator, Northeast Region, NMFS; representatives from the Northeast Fisheries Science Center; Atlantic States Marine Fisheries Commission (ASMFC); U.S. Coast Guard; and the Mid-Atlantic Fishery Management Council liaison. The Director of the Office of Sustainable Development will brief the Council on possible financial assistance to help address the issue of latent fishing capacity in the New England groundfish fishery. A report from the Scallop Committee will follow. The Scallop Committee will review proposals for inclusion in a public hearing document for Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan (FMP). The proposals address the transfer of days-at-sea (DAS) and the disposition of vessels after DAS are sold. The Herring Committee will review the discussions of its joint meeting with the ASMFC Herring Board on annual herring specifications for domestic fishing, joint ventures, and internal waters processing. The Large Pelagics Committee will discuss its draft comments on Amendment 1 to the Atlantic Swordfish FMP and on Amendment 1 to the Atlantic Shark FMP.

April 17, 1997

The April 17 session will begin with a report from the Mid-Atlantic Plans Committee. Several provisions of Amendment 10 to the Summer Flounder, Scup, and Black Sea Bass

FMP will be discussed. The Monkfish Committee will summarize the comments received at the recent public hearings on Amendment 9 to the Northeast Multispecies FMP. The Responsible Fishing Committee will update the Council on its efforts to develop comments on the NMFS draft Implementation Plan for the Code of Conduct for Responsible Fisheries. There will be an update on Essential Fish Habitat requirements for FMPs. The Groundfish Committee intends to propose initial action on a framework adjustment to the Multispecies FMP under the framework for abbreviated rulemaking procedure contained in 50 CFR 648.82. This action would allow fishing in the North Atlantic Fisheries Organization regulated area without using multispecies DAS allocations. The Council meeting will conclude with a report from the Interspecies Committee on eliminating inconsistencies in the vessel permit, upgrading, and replacement provisions in various FMPs, and the development of overall fisheries management policies and objectives.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: April 4, 1997.

Bruce Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97-9160 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-22-F

Notices

Federal Register

Vol. 62, No. 69

Thursday, April 10, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 4, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250-7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720-6204 or (202) 720-6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it

displays a currently valid OMB control number.

National Agricultural Statistics Service

Title: Aquaculture Survey.

OMB Control Number: 0535-0150.

Summary: Information is collected for catfish and trout inventory, acreage and sales, and pounds and volume of catfish processed.

Need and Use of the Information: The information is used by growers as a basis for contract negotiations and by government agencies to help carry out import/export programs, monitor disease problems, and measure growth and importance of the industry.

Description of Respondents: Farms.

Number of Respondents: 2,646.

Frequency of Responses: Reporting: Quarterly; Monthly; Annually.

Total Burden Hours: 1,409.

National Agricultural Statistics Service

Title: Milk and Milk Products.

OMB Control Number: 0535-0020.

Summary: This information collection provides data to estimate total milk production, number of cows, amounts and value of feed fed to milk cows, and production of manufactured dairy products.

Need and Use of the Information: This information collection produces statistics that are used to establish monthly estimates of stocks, shipments, and selling prices. The information is used in price support programs for milk and to appraise supplies, prices, and trends in the dairy industry.

Description of Respondents: Business or other for-profit.

Number of Respondents: 44,518.

Frequency of Responses: Reporting: Quarterly; Weekly; Monthly; Annually.

Total Burden Hours: 20,886.

Rural Business-Cooperative Service

Title: 7 CFR 1942-G, Rural Business Enterprise Grants and Television Demonstration Grants.

OMB Control Number: 0575-0132.

Summary: Information collected includes an application for assistance, evidence of experience, scope of work, project performance, evidence of improved employment and budget details.

Need and Use of the Information: The information is used to facilitate the development of small and emerging private businesses, industry, and related employment for improving the economy in rural communities.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; State, Local or Tribal Government.

Number of Respondents: 495.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Quarterly; Monthly.

Total Burden Hours: 30,364.

Food and Consumer Service

Title: Evaluation of SSI/FSP Joint Processing Alternatives Demonstration.

OMB Control Number: 0584-New.

Summary: This study evaluates an alternative method for processing applications from Supplemental Security Income recipients for eligible Food Stamp Program benefits.

Need and Use of the Information: The information will be used to implement and test effectiveness of using a single application and automated information source to increase (1) The participation of Supplemental Security Income clients in the Food Stamp Program; and (2) their satisfaction with the services received.

Description of Respondents: Individuals or household; Federal Government; State, Local or Tribal Government.

Number of Respondents: 1,712.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 908.

Agricultural Marketing Service

Title: Grapes Grown in a Designated Area of Southeastern California, Market Order No. 925.

OMB Control Number: 0581-0109.

Summary: Information collected from growers and handlers includes referendum ballots, marketing agreements, acreage report and crop estimates.

Need and Use of the Information: The information is used to regulate the provisions of Marketing Order in 925.

Description of the Respondents: Business or other for-profit.

Number of Respondents: 37.

Frequency of Responses: Recordkeeping; Reporting: On occasion; Weekly; Monthly; Annually.

Total Burden Hours: 39.

Farm Service Agency

Title: Request for Aerial Photography.

OMB Control Number: 0560-New.

Summary: Customers who want to order aerial photography products and

services from the USDA Aerial Photography Field office must supply identifying information.

Need and Use of the Information: This information provides a uniform method of collecting customer ordering information. The customer can obtain the products they want in an efficient manner.

Description of the Respondents: Farms; Federal Government.

Number of Respondents: 8,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 2,000

Emergency Processing of this Submission has been Requested by April 18, 1997.

Farm Service Agency

Title: Offer Forms and Shipment Information Log—7 CFR 1400 Subchapter C.

OMB Control Number: 0560—New.

Summary: The forms in this collection are used by vendors to submit offers for agricultural commodities bags and twine, and survey services to meet export program needs.

Need and Use of the Information: It is necessary to collect the information to purchase products and services for use in several export programs.

Description of Respondents: Business or other for-profit; Not-for-profit institutions; Federal Government; State, Local or Tribal Government.

Number of Respondents: 1,049.

Frequency of Responses: Recordkeeping; Third party disclosure; Reporting: On occasion; Weekly; Monthly; Quarterly; Biweekly.

Total Burden Hours: 4,626.

Emergency Processing of this Submission has been Requested by April 4, 1997.

Forest Service

Title: Small Business Timber Sale Set-Aside Program: Appeal Procedures on Recomputation of Shares.

OMB Control Number: 0596—New.

Summary: The Conference Report accompanying the 1997 Omnibus Appropriation Act (Public Law 104-208) requires that the agency establish a process by which purchasers may appeal decisions concerning recomputations of SBA shares, structural recomputations of SBA shares or changes in policies importing the Timber Sale Set-Aside Program.

Need and Use of the Information: The information collected is submitted to a Forest Service Officer to review any appeal of decisions related to recomputation of timber sale share to be set aside for small business timber purchasers.

Description of the Respondents: Business or other for-profit.

Number of Respondents: 40.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 320.

Larry Roberson,

Deputy Departmental Clearance Officer.

[FR Doc. 97-9248 Filed 4-9-97; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Oregon Coast Provincial Advisory Committee (PAC) will meet on April 24, 1997, in Newport, Oregon, at the Hatfield Marine Science Center (Meeting Room 9/Fireside Room), 2030 S. Marine Science Drive, Newport, OR. The meeting will begin at 9:00 a.m. and continue until 3:00 p.m. Agenda items to be covered include: 1) Salmon (the Governor's plan and effects of listing/nonlisting), 2) BLM/FS response to two Adaptive Management Area (AMA) issues (land exchanges and road management), 3) new issues recommended by AMA Subcommittee (salvage in LSR, OHVs, recreation sites in reserves), 4) future priorities, and 5) open public forum. All Oregon Coast Provincial Advisory Committee meetings are open to the public. An "open forum" is scheduled at 1:30 p.m. Interested citizens are encouraged to attend. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT:

Direct questions regarding this meeting to Trish Hogervorst, Public Affairs Officer, Bureau of Land Management, at (503) 375-5657, or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, Oregon 97339.

Dated: April 2, 1997.

James R. Furnish,

Forest Supervisor.

[FR Doc. 97-9171 Filed 4-9-97; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the District of Columbia Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and

regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:30 p.m. on June 4, 1997, at the JC Penney, Government Relations Office, Board Room, Suite 1015, 1156 15th Street NW, Washington, DC 20036. The purpose of the meeting is to receive updates from government officials and community leaders on issues raised by the Commission's Mt. Pleasant report and the Committee's mortgage lending report. The Committee will continue to develop a project concept for Fiscal Year 1997.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Steven Sims, 202 862-4815, or Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 2, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97-9226 Filed 4-9-97; 8:45 am]

BILLING CODE 6335-01-P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Montana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 8:45 a.m. and adjourn at 8:00 p.m. on Thursday, April 24, 1997, at the Red Lion Village Inn, 100 Madison, Missoula, Montana 59802. The purpose of the meeting is to hold a second factfinding meeting on equal educational opportunity for Native American students in the Montana public schools. The first factfinding meeting was held in Billings, Montana on December 10, 1996.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Phillip Caldwell, 406-452-4345, or John Dulles, Director of the Rocky Mountain Regional Office, 303-866-1400 (TDD 303-866-1049). Hearing-impaired

persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 2, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.
[FR Doc. 97-9228 Filed 4-9-97; 8:45 am]

BILLING CODE 6335-01-P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:30 p.m. on May 13, 1997, at the Sheraton Hotel and Conference Center, 870 Williston Road, Burlington, Vermont 05403. The purpose of the meeting is to receive updates from speakers on racial harassment in Vermont public schools and to continue work on a project proposal for a Committee activity in late fall 1997.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kimberly B. Cheney, 802-229-0334, or Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 2, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.
[FR Doc. 97-9227 Filed 4-9-97; 8:45 am]

BILLING CODE 6335-01-P

DEPARTMENT OF COMMERCE

Bureau of the Census

Shipper's Export Declaration Program

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 9, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Jerome M. Greenwell, U.S. Bureau of the Census, Room 2176, Federal Office Building #3, Washington, DC 20233-0001, (301) 457-2238.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Shipper's Export Declaration (SEDs), Forms 7525-V, 7525-V Alternate (Intermodal), and their electronic equivalents are the basis for the official U.S. export statistics compiled by the Bureau of the Census (Census). The SED for In-transit Goods and Form 7513 serves as the source document from which Census collects and compiles the official U.S. statistics on outbound in-transit shipments. Title 13, United States Code, Chapter 9, Sections 301-307 authorizes the collection of all these data. The official export statistics provide a basic component for the compilation of the U.S. position on merchandise trade. These data is an essential component of the monthly totals on U.S. overall trade in goods and services, a leading economic indicator.

The statistical information on the SED shows what is being exported (description and commodity classification number), how much (quantity, gross weight and value), how it is being exported (mode of transportation, exporting carrier and whether containerized), from where (state of origin and port of export), to where (port of unloading and country of ultimate destination), and when (date of exportation). The identification of the exporter, forwarding agent, and consignee provide contacts for verification of the statistical information. The Government uses every data element on the SED for (1)

statistical purposes, (2) export control, and/or (3) to obtain information to avoid additional surveys.

The SEDs also are export control documents under Title 50, United States Code and are used to detect and prevent the export of certain commodities (for example, high technology or military goods) to unauthorized destinations or end users. The SEDs as official documents of export transactions, enable the U.S. Customs Service (Customs) and the Bureau of Export Administration to enforce the Export Administration Regulations and thereby detect and prevent the export of high technology commodities to unauthorized destinations. The Department of State uses the SED to enforce the International Traffic in Arms Regulations to detect and prevent the export of arms and ammunition to unauthorized destinations.

In the past, each different type of paper SED form was cleared separately. In recent years the number of submissions via automated programs, the Automated Export Reporting Program (AERP) operated by Census and the new Automated Export System (AES) operated by Customs, have grown rapidly and must now be considered as part of the SED submissions. With this submission we will combine the various types of SEDs, both paper and electronic, under one OMB clearance submission to better reflect reporting burden and streamline the clearance process.

II. Method of Collection

The SEDs are required for virtually all export shipments valued over \$2500 from the United States, Puerto Rico, and the U.S. Virgin Islands. The SED program is unique among Census statistical collections since it is not sent to respondents soliciting responses as is the case in surveys. Filing the SED information is mandatory under Title 13, Chapter 9 of the United States Code and over 5.6 million paper SEDs and over 53 million automated records were submitted in 1996. Exporters can purchase the paper SEDs or they may have them privately printed. In addition, over 300 automated exporters or exporter agents submit data using prescribed automated formats. For this reason Census attempts to avoid frequent changes in data content and format. The paper SEDs and automated formats in their present form have been in continuous use since 1985 with minor revisions in 1988. Once again for this submission, there has been no change in these formats.

Exporters or their agents file individual paper SEDs with the

exporting carriers at the time that each export shipment leaves the United States. The carriers submit the documents to Customs officials when the carrier departs the United States and Customs then transmits the SEDs to Census on a flow basis for statistical processing. For exports to Canada, the United States is substituting Canadian import statistics for U.S. exports to Canada in accordance with a Memorandum of Understanding (MOU) signed by both the Customs and statistical agencies in both countries. Similarly, under this MOU, Canada is substituting U.S. import statistics for Canadian exports to the United States. These data exchange eliminates the requirement for U.S. exporters to file any information with the U.S. government. This results in the elimination of over three million SEDs annually.

The Census also allows monthly reporting of export information directly to Census via its AERP in lieu of filing individual SEDs for transactions submitted by automated exporters, freight forwarders, and exporting carriers. Information for over 5.3 million export transactions were reported through the AERP program during calendar year 1996.

In addition, Census is participating with Customs in implementing and expanding the new AES. The new AES, provides a voluntary automated alternative to filing the paper SED. As the new AES grows, AERP will be phased out with planned termination for the AERP program targeted for 1999. The AES is currently available for export transactions shipped by vessel and is expected to be made available for reporting transactions shipped via air and overland modes of transport in the near future. The AES is being developed in accordance with the National Performance review with the aim of bringing total automation to the export process by promoting a paperless environment. Currently, Census has extracted information on approximately 8500 export transactions since the AES began operation in late 1996.

In summary, information on 60 percent of export transactions are reported via automated formats and 40 percent of export transactions continue to be reported via paper SEDs.

III. Data

OMB Number: 0607-0001 (SED forms are currently also cleared under 0607-0018 and 0607-0152. This submission will combine all forms and eliminate these two other clearances.)

Form Number: 7525V, 7525V Alternate, 7513, AERP and AES submissions.

Type of Review: Regular Submission.

Affected Public: Exporters, Freight Forwarders, Export Carriers.

Estimated Number of Responses: 11,052,902: 7525V—3,711,470; 7525V Alt—1,855,735; 7513—144,080; AERP—5,332,717; AES—8,900;

Estimated Time Per Response: 11.166 minutes for 7525V, 7525V Alt and 7513; 3 minutes for AERP and AES submissions.

Estimated Total Annual Burden Hours: 1,329,951: 7525V—690,705; 7525V Alt—345,352; 7513—26,813; AERP—266,636; AES—445;

Estimated Total Annual Cost: 1,329,951 @ \$10/hour=\$13,299,510.

Respondent's Obligation: Mandatory.

Legal Authority: Chapter 9, Title 13, United States Code.

IV. Request for 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 4, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97-9176 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-07-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[DOCKET 8-97]

Foreign-Trade Zone 82—Mobile, AL; Application for Subzone Status, Coastal Mobile Refining Co (Oil Refinery Complex), Mobile County, AL; Correction

The **Federal Register** notice (62 FR 8422, 2/25/97) describing the

application submitted to the Foreign-Trade Zones Board (the Board) by the City of Mobile, Alabama, grantee of FTZ 82, requesting special-purpose subzone status for the oil refinery complex of Coastal Mobile Refining Company (wholly-owned subsidiary of Coastal Corporation), located in Mobile County, Alabama, is corrected as follows for clarification:

Paragraph 4, Sentence 2, should read, "On domestic sales, the company would be able to choose the Customs duty rate that applies to certain finished products such as asphalt (duty-free) by admitting incoming foreign crude oil in non-privileged foreign status."

Dated: April 2, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97-9262 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 874]

Grant of Authority; Establishment of a Foreign-Trade Zone Yuma, Arizona Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, Yuma County Airport Authority, Inc., an Arizona non-profit civic corporation, (the Grantee) has made application to the Board (FTZ Docket 10-96, 61 FR 6972, 2/23/96), requesting the establishment of a foreign-trade zone at the Yuma International Airport in Yuma County, Arizona, within the San Luis Customs port of entry; and,

Whereas, notice inviting public comment has been given in the **Federal Register**, and the Board adopts the findings and recommendations of the examiner's report and finds that the requirements of the Act and the Board's regulations are satisfied, and that

approval of the application is in the public interest;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing a foreign-trade zone, designated on the records of the Board as Foreign-Trade Zone No. 219, at the site described in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 2nd day of April 1997.

Foreign-Trade Zones Board.

William M. Daley,

Secretary of Commerce, Chairman and Executive Officer.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97-9261 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[DOCKET 25-97]

Foreign-Trade Zone 202, Los Angeles, CA; Proposed Foreign-Trade Subzone, Chevron U.S.A. Inc. (Oil Refinery Complex) El Segundo, CA

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Los Angeles Board of Harbor Commissioners, grantee of FTZ 202, requesting special-purpose subzone status for the oil refinery complex of Chevron U.S.A. Inc., located in El Segundo, California. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on March 31, 1997.

The refinery complex (256,000 BPD, 1,200 employees) is located on a 1,000-acre site at 324 W. El Segundo Boulevard, in El Segundo (Los Angeles County), California, some 19 miles south of Los Angeles. The refinery is used to produce fuels and petrochemical feedstocks. Fuel products include gasoline, jet fuel, distillates, residual fuels, naphthas and motor fuel blendstocks. Petrochemical feedstocks and refinery by-products include methane, ethane, propane, propylene, butane, petroleum coke and sulfur. Some 19 percent of the crude oil (92 percent of inputs), and some motor fuel blendstocks are sourced abroad.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On domestic sales, the company would be able to choose the

Customs duty rates that apply to certain petrochemical feedstocks and refinery by-products (duty-free) by admitting incoming foreign crude oil and natural gas condensate in non-privileged foreign status. The duty rates on inputs range from 5.25¢/barrel to 10.5¢/barrel. The application indicates that the savings from zone procedures would help improve the refinery's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is June 9, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to June 24, 1997.

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 11000 Wilshire Blvd., Room 9200, Los Angeles, California 90024

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: April 2, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97-9263 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-201-802]

Gray Portland Cement and Clinker From Mexico; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On May 14, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on gray

portland cement and clinker from Mexico. The review covers one manufacturer/exporter, CEMEX, S.A. (CEMEX), and the period August 1, 1993, through July 31, 1994. We gave interested parties an opportunity to comment.

For our final results, we have determined that CEMEX failed to cooperate with the Department. As a result, we have assigned CEMEX a margin based upon the best information available (BIA) in accordance with section 776(c) of the Tariff Act of 1930, as amended (the Act). Specifically, when a company refuses to cooperate with the Department or otherwise significantly impedes the proceedings, we assign as BIA the higher of: (a) The highest rate found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair value (LTFV) investigation or a prior administrative review, or (b) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin. For purposes of the instant review, the margin applied is the highest rate found for any firm in the second administrative review, i.e., CEMEX's margin, as amended pursuant to court-ordered remand proceedings, 109.43 percent. See *CEMEX, S.A. v. United States*, Slip Op. 96-179 (CIT Oct. 24, 1996), *appeal pending*, Appeal No. 97-1151 (Fed. Cir.) The "All Others" rate for this order is 61.35 percent.

EFFECTIVE DATE: April 10, 1997.

FOR FURTHER INFORMATION CONTACT:

Nithya Nagarajan or Kristen Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230; telephone: (202) 482-3793.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

The Department is conducting this review in accordance with section 751(a) of the Act. Unless otherwise indicated, all citations to the statute and the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

Background

On May 14, 1996, the Department published in the **Federal Register** (59 FR 2884) the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (55 FR 35371). The Department has now completed this review in accordance with section 751(a).

Scope of the Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than being ground into finished cement. Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29 and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as "other hydraulic cements." The HTS subheadings are provided for convenience and U.S. Customs Service purposes only. Our written description of the scope remains dispositive.

Analysis of Comments Received

The Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement and the National Cement Company of California (Petitioners) and CEMEX submitted case briefs on June 13, 1996, and rebuttal briefs on June 20, 1996. A public hearing was held on July 9, 1996.

Comment 1

CEMEX contends that the antidumping duty order should be revoked and considered void *ab initio* due to the Department's alleged failure to investigate Petitioners' standing in the original LTFV investigation. Specifically, CEMEX argues that "[a]t the time of the original investigation, the relevant U.S. statute that prescribed the requirement to establish standing to file an antidumping petition contained no express language addressing the degree of support necessary for a petition to be filed in a regional industry case . . . the statute simply required that the petition be filed 'on behalf of' an industry but provided no express guidance on how compliance with this criterion was to be determined." Faced with this lacuna in the statute, CEMEX asserts, the Department is compelled by the decision in *Murray v. Schooner Charming Betsy*, 6 U.S. 64, 2 Cranch 64 (1804), to reinterpret U.S. law in accordance with the international obligations of the United States. In the opinion of CEMEX, this means that the Department is required (in the fourth review) to revisit the issue of initiation in the original investigation and abide by a July 9, 1992 ruling by a three-member panel convened under the auspices of the 1947 General Agreement on Tariffs and Trade ("1947 GATT").

See Report of the Panel, *United States—Anti-Dumping Duties on Gray Portland Cement and Cement Clinker From Mexico*, GATT Doc. ADP/82 (July 9, 1992) ("GATT Report"). According to CEMEX, this panel held that the initiation of the original investigation contravened the requirements of the 1979 GATT Antidumping Code ("GATT AD Code") because the Department "failed properly to ascertain" that "all or almost all" of the regional industry supported the original petition. If the Department revisited the issue of initiation in light of the GATT Report, CEMEX maintains, it would revoke the order *ab initio*, terminate all proceedings, and refund "at the very least, all cash deposits posted during the POR."

CEMEX further maintains that the Department has the authority to revoke the antidumping order at this stage of the proceeding. Citing *Gilmore Steel Corporation v. United States*, 583 F. Supp. 607 (CIT 1984), CEMEX argues that government agencies (like the Department) have the authority to correct "jurisdictional defects" at any time. CEMEX also argues that the decision in *Ceramica Regiomontana S.A. v. United States*, 64 F.3d 1579 (Fed. Cir. 1995) provides "specific legal precedent to revoke the order in this case" and that its failure to challenge the Department's determination on industry support for the petition during the original LTFV investigation should be excused given the "exception to the doctrine of exhaustion of administrative remedies upheld in *Rhone Poulenc v. United States*, 583 F. Supp. 607 (CIT 1984)."

The Petitioners claim, in response, that these are the same arguments the Department considered and rejected in the third administrative review of this order. Since "CEMEX has presented no new arguments or information about any change in circumstances that would justify a departure from the Department's reasoning in the third administrative review," Petitioners assert that the Department should reject CEMEX's arguments in this review.

Petitioners note that the GATT Report was never adopted by the GATT Antidumping Code Committee. Therefore, given the legal framework of the 1947 GATT, it imposed no international legal obligation upon the United States which might trigger the doctrine of statutory construction articulated in the *Charming Betsy* case.

Petitioners also contend that U.S. law takes precedence over the 1947 GATT. "Accordingly, even adopted GATT panel decisions are not binding on the United States to the extent that such

decisions are inconsistent with U.S. law or with the intent of Congress."

Petitioners further note that the Department initiated the antidumping investigation in accordance with U.S. law. According to Petitioners, neither the courts nor the Congress have required the Department to affirmatively establish prior to the initiation of regional-industry cases that the petition is supported by all or almost all of the relevant industry. Indeed, Petitioners assert, the Department's longstanding practice of presuming industry support for a petition in the absence of evidence to the contrary has been upheld by numerous courts, including the Court of Appeals for the Federal Circuit ("Federal Circuit") in *Suramerica de Aleaciones Laminadas, C.A. v. United States*, 966 F.2d 660, 663 (Fed. Cir. 1992).

Finally, Petitioners assert that the Department lacks the authority to revoke the order or otherwise rescind its 1989 initiation of the LTFV investigation. Quoting from the final results of the third administrative review, the Petitioners argue that CEMEX failed to challenge the Department's determination on industry support for the petition before the Court of International Trade ("CIT") and, accordingly, under sections 514(b) and 516A(c)(1) of the Act, "that determination is final and binding on all persons, including the Department."

Department's Position

For the following reasons, CEMEX's arguments are without merit. First, like the GATT itself, panel reports under the 1947 GATT are not self-executing and thus have no direct legal effect under U.S. law.

Second, neither the 1947 GATT nor the GATT AD Code obligates the United States to affirmatively establish prior to the initiation of a regional-industry case that all or almost all of the producers in the region support the petition. There certainly is no suggestion in either instrument that the standing requirements in regional-industry cases are any more rigorous than the standing requirements in national-industry cases.

Furthermore, a GATT panel report, such as the present one, has no legal effect or formal status unless and until it is adopted by the GATT Council or, in the case of antidumping actions, the GATT Antidumping Code Committee. This follows from the fact that the 1947 GATT has, throughout its history, operated on the basis of consensus for purposes of decision-making in general and the resolution of disputes in particular. In the present case, it is undisputed that the GATT Report has

never been adopted by the Antidumping Code Committee. Thus, the recommendations contained in the report are not binding, do not impose any international obligations upon the United States, and do not trigger the rule of statutory construction set forth in the *Charming Betsy* case.

Third, the object of CEMEX's comment is not the preliminary results of this review. Rather, CEMEX complains about an event which occurred over six years ago—the initiation of the original LTFV investigation. The time to voice such objections before the Department was *during* the investigation. Instead, CEMEX, as well as the other Mexican cement producers that participated in the original investigation (Apasco, S.A. de C.V. and Cementos de Chihuahua ("CdC")), sat silent before the Department. See Final Determination of Sales at Less Than Fair Value, *Gray Portland Cement and Clinker From Mexico*, 55 FR 29244 (1990) (hereinafter "*Final LTFV Determination*"). Moreover, neither CEMEX nor any other party appealed the agency's final affirmative LTFV determination (including the decision to initiate) to the appropriate court, and the statute of limitations for doing so has long expired. See 19 U.S.C. § 1516a(a)(2)(A).

The only one who appealed the Department's Final LTFV Determination was the Petitioners. They challenged certain aspects of the Department's final determination before the CIT and the Federal Circuit. See *Ad Hoc Committee Of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States*, Slip Op. 94-152 (CIT), *aff'd*, 68 F.3d 487 (Fed. Cir. 1995). CEMEX participated in that litigation as an intervenor on the side of the Department. On October 10, 1995, the Federal Circuit issued an opinion which disposed of the last issue in this case.

Therefore, even if the Department, of its own volition, were to reinterpret U.S. law in light of the GATT Report, it lacks the legal authority in this review to revoke the order or otherwise rescind the initiation of the underlying investigation. As we stated in the final results of the third administrative review and reaffirm here:

* * * the Department has no authority to rescind its initiation of the LTFV investigation. Under sections 514(b) and 516A(c)(1) of the Act, a LTFV determination regarding initiation becomes final and binding unless a court challenge to that determination is timely initiated under 516A. Even if judicial review of a determination is timely sought, the Department's determination continues to control until there is a resulting court decision "not in

harmony with that determination." See 19 U.S.C. 1516a(c)(1). *In this case, no one challenged the Department's determination on standing before the CIT. Therefore, that determination is final and binding on all persons, including the Department.*

Gray Portland Cement and Clinker from Mexico; Final Results Third Review, 60 FR 26865 (1995) (emphasis added).

Fourth, no court, including the court in *Gilmore Steel*, has ever held that the Department has the authority, in an administrative review under section 751(a) of the Act, to reach back more than six years and reexamine the issue of industry support for the original petition. *Gilmore Steel* involved a challenge to the termination of a pending investigation based upon information obtained in the course of that investigation. In particular, the petitioner contended that the Department lacked the authority to rescind the investigation based upon insufficient industry support for the petition after the 20-day period provided for in section 732(c) of the Act (19 U.S.C. 1673a(c)) had elapsed. 585 F. Supp. at 673. In upholding the Department's determination, the court recognized that administrative officers have the authority to correct errors, such as "jurisdictional defects," at anytime during the proceeding. *Id.* at 674-75. The court did not state or imply that a change in legal interpretation (in this case a non-binding one) authorizes administrative officers to reopen prior agency decisions which are otherwise final. The court simply held that the administering authority may, in the context of the original investigation, rescind an ongoing proceeding after expiration of the 20-day initiation period.

Similarly, in *Ceramica Regiomontana, S.A. v. United States*, 64 F.3d 1579 (Fed. Cir. 1995), the respondent did not ask the Department to reconsider and rescind a decision made in a prior proceeding. Indeed, the court's entire analysis was based upon the belief that the prior decision—the issuance of a countervailing duty order under former section 303(a)(1) of the Act against ceramic tile from Mexico—was in accordance with law (i.e., "properly issued"). *Ceramica Regiomontana* concerned the authority of the Department to assess duties pursuant to a valid order *after* Mexico became a "country under the Agreement" which entitled it to an injury test under section 701 of the Act. The court held that the Department lacked such authority and ordered the agency, on remand, to revoke the order as to all unliquidated

entries occurring after this date. *Id.* at 1583.

CEMEX also errs when it relies on *Rhone Poulenc v. United States* to support its claim that "an exception to the doctrine of exhaustion of administrative remedies" permits the "retroactive application of the 1992 GATT decision." 583 F. Supp. 607 (CIT 1984) (a party may raise a new issue on appeal if the applicable law has changed due to a judicial decision that arose after the lower court or agency issued the contested determination). First of all, whether CEMEX's claim is barred by the doctrine of exhaustion of administrative remedies is a matter more properly decided by a reviewing court or binational panel under Chapter 19 of the North American Free Trade Agreement. Secondly, even if the issue is timely, the exception claimed by CEMEX does not apply. The GATT Report is not a judicial decision and it did not change U.S. law. In fact, as we explain above, it did not even effect a change in the law on the international plane (i.e., as between Mexico and the United States).

Finally, we note, as we did in the final results of the third review, that numerous courts have upheld the Department's practice of assuming, in the absence of evidence to the contrary, that a petition filed on behalf of a regional or national industry is supported by that industry. See, e.g., *NTN Bearing Corp. v. United States*, 757 F. Supp. 1425, 1427-30 (CIT 1991); *Citrosuco Paulista v. United States*, 704 F. Supp. 1074, 1085 (CIT 1988); *Comeau Seafoods v. United States*, 724 F. Supp. 1407, 1410-12 (CIT).

Indeed, the very issue raised by CEMEX in this review was before the Federal Circuit in the *Suramerica* case. 966 F.2d at 665 & 667. In *Suramerica* the appellees challenged the Department's interpretation of the phrase "on behalf of" which applies to both national- and regional-industry cases. Specifically, the appellees argued that the Department's practice of presuming industry support for a petition was contrary to the statute and an unadopted GATT panel report involving the U.S. antidumping order on certain stainless steel hollow products from Sweden. In affirming the Department's practice, the Federal Circuit observed that the phrase "on behalf of" was not defined in the statute. *Id.* at 666-67. The statute was, in fact, open "to several possible interpretations." In the opinion of the court, the Department's practice with regard to standing and industry support for a petition reflected a reasonable "middle position." 966 F.2d at 667. While there was a gap in the statute, the

court stated, "Congress did make [one thing] clear—Commerce has broad discretion in deciding when to pursue an investigation, and when to terminate one." *Id.*

The court then dismissed the argument that the gap in the statute must be interpreted in a manner that is consistent with the 1947 GATT or the GATT panel ruling:

Appellees next argue that the statutory provisions should be interpreted to be consistent with the obligations of the United States as a signatory country of the GATT. Appellees argue that the legislative history of the statute demonstrates Congress's intent to comply with the GATT in formulating these provisions. Appellees refer also to a GATT panel—a group of experts convened under the GATT to resolve disputes—which "recently rejected [Commerce's] views on the meaning of 'on behalf of.'"

We reject this argument. First, the GATT panel itself acknowledged and declared that its examination and decision were limited in scope to the case before it. The panel also acknowledged that it was not faced with the issue of whether, even in the case before it, Commerce had acted in conformity with U.S. domestic legislation.

Second, even if we were convinced that Commerce's interpretation conflicts with the GATT, *which we are not*, the GATT is not controlling. *While we acknowledge Congress's interest in complying with U.S. responsibilities under the GATT, we are bound not by what we think Congress should or perhaps wanted to do, but by what Congress in fact did.* The GATT does not trump domestic legislation; if the statutory provisions at issue here are inconsistent with the GATT, it is matter for Congress and not this court to decide and remedy. *See* 19 U.S.C. § 2504(a); *Algoma Steel Corp. v. United States*, 865 F.2d 240, 242 * * * (Fed. Cir. 1989).

Id. at 667–68 (emphasis added).

Comment Two

CEMEX believes that the Department improperly applied BIA to it in the current review. Specifically, CEMEX argues that the Department abused its administrative discretion by refusing to accept requested information on home market sales of Type I bulk cement once it became available. In making this argument, CEMEX recognizes that it did not provide data on its home market rates of Type I bulk cement within the time limits set by the Department. It also recognizes that the Department's regulations specify that factual information submitted in the context of an administrative review must normally be submitted within 180 days of the initiation of the review. However, CEMEX maintains, the Department has the authority to request a party to submit information at any time during a proceeding and has done so on two prior occasions within the course of this

review (August 23, 1995, supplemental questionnaire and August 23, 1995, request for cost of production/constructed value response.) Pursuant to this authority, CEMEX claims, the Department should have "re-requested" and accepted a complete home market sales listing for Type I cement.

CEMEX also argues that the Department's application of BIA was "premature." In particular, CEMEX claims that the missing home market sales listing "was not 'essential' to the [Department's] review at the time that the [Department] applied BIA." CEMEX asserts that "the application of BIA by reason of the absence of a home market sales listing of Type I cement would be justified under the statute only if the [Department] had determined * * * that home market sales of merchandise identical to that sold in the United States (Type II and Type V cement) could not be used in the calculation of FMV." According to CEMEX, the statute permits the Department to base foreign market value on home market sales of merchandise similar to merchandise sold in the United States only if home market sales of identical merchandise do not exist, or if the Department determines that sales of identical merchandise must be disregarded because they are either (1) Insufficient in volume to form a fair basis of comparison with U.S. sales; (2) sold at prices below the cost of production; (3) made to a fictitious market; or, (4) made outside the ordinary course of trade. In making this argument, CEMEX maintains that the purpose behind the BIA provision is to prevent a "hindrance of the proceedings." In the current review, CEMEX contends that it has not in any way hindered the Department's investigation with respect to the calculation of FMV and that the determination of whether home market sales were made within the ordinary course of trade could have been made without the requested information.

In the current review, CEMEX contends, the Department was provided with complete sales and cost information on merchandise identical to that sold in the United States during the POR—Type II and Type V cement. Despite having this information, CEMEX argues, the Department failed either to use it to make an FMV calculation or to prove that this information must be disregarded. Therefore, CEMEX concludes, the Department's application of BIA was inappropriate since "CEMEX should have only been 'at risk' for use of BIA in the event that the Department determined Type II cement could not be used as a basis for FMV and that data on Type I cement was required."

Petitioners counter that CEMEX's refusal to report home market sales of Type I cement requires the Department to use BIA. Quoting the statute, Petitioners assert that the Department "[s]hall, whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise impedes an investigation, use the best information otherwise available." 19 U.S.C. 1677e(b). The purpose behind this statutory provision, Petitioners maintain, is to ensure that the Department, not the respondent, controls the antidumping proceeding.

Additionally, Petitioners submit that CEMEX selectively withheld Type I sales data for tactical reasons. Indeed, Petitioners allege, CEMEX's suggestion that the Department request CEMEX to report its Type I sales data after it refused to comply with earlier requests was merely designed to influence an appeal to a NAFTA binational panel. In making this assertion, Petitioners maintain that CEMEX was fully aware of its obligation to report home market sales of Type I cement even before the review was initiated. Moreover, Petitioners argue "[e]ven if it were truly difficult for CEMEX to provide Type I information, it was incumbent upon CEMEX to demonstrate that fact at a far earlier stage of this review, not to belatedly offer to provide the information months after its responses to the Department's information requests were due."

In the current review, Petitioners argue that the Department was justified in requesting sales information on Type I cement. This is because, Petitioners contend, the Department is in the best position to know what information it requires to make its dumping determination. Therefore, Petitioners state, "CEMEX's assertion that the Department did not need Type I sales information because its sales of Type II cement were within the ordinary course of trade prejudices the outcome of an issue that only the Department can decide and in no way excuses CEMEX's refusal to supply the Type I information."

Moreover, Petitioners continue, the Department is not obligated to continuously solicit information from CEMEX after the company repeatedly failed to cooperate with information requests. The Department, Petitioners assert, has the discretion to set and enforce its own deadlines. Citing *Mantex, Inc. v. United States*, 841 F. Supp. 1290 (CIT 1993), Petitioners note that a respondent's "consistent failure to provide Commerce with complete and

timely submissions provided Commerce with ample reason to resort to BIA."

Department's Position

The Department agrees with Petitioners that the application of BIA in the current review was consistent with the law. Section 776 of the Act and § 353.37 of the regulations provide that where a respondent does not furnish requested information in a timely manner, a determination will be made based on BIA. Generally, the Department will assign BIA based on the following two-tier methodology: (1) When a company refuses to cooperate with the Department or otherwise significantly impedes the proceedings, we use as BIA the higher of (a) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the LTFV investigation or prior administrative review or (b) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin, and (2) when a company substantially cooperates with our requests for information, but fails to provide the information requested in a timely manner or in the form required, we use as BIA the higher of (a) the highest rate (including the "all others" rate) ever applicable to the firm for the same class or kind of merchandise from either the LTFV investigation or a prior administrative review, or (b) the highest calculated rate in this review for any firm for the class or kind of merchandise from the same country of origin.

In the current review, we have found that CEMEX has significantly impeded the proceeding by failing to provide data pertaining to sales of Type I cement in the home market in a timely manner. As we explained in our preliminary results "given the Department's determination that CEMEX's sales of Type II and Type V cement in the home market were outside the ordinary course of trade during the second administrative review, we believe that it is necessary (as the case in the second administrative review) to address the same issue in the fourth administrative review." Preliminary Results of Antidumping Duty Administrative Review, Gray Portland Cement and Clinker from Mexico 61 FR 24284. An ordinary course of trade determination requires evaluation of each review on an individual basis taking into account the relevant facts of each case. *Nachi-Fujikishi Corp. v. United States*, 798 F. Supp. 7716,719 (CIT 1992). This means that the Department must review all circumstances particular to the sales in question. For this reason, we requested

information on Type I merchandise in order to conduct the same type of analysis that we conducted in earlier reviews to determine whether CEMEX's home market sales of Type II and Type V cement had been made in the ordinary course of trade. As detailed below, this information was requested numerous times. First, the Department sent CEMEX a standard antidumping questionnaire on September 30, 1994, instructing CEMEX to report all U.S. and home market sales of subject merchandise, including sales of Type I cement in Mexico. On November 22, 1994, CEMEX responded to the questionnaire. However, as in its response in the third review, CEMEX limited its reporting to Type II sales in the U.S. and home market, and failed to report sales of Type I cement in the home market. At this time, CEMEX claimed that its home market sales of Type II cement were made in the ordinary course of trade, and that it was unnecessary to report home market sales of Type I cement.

Next, on August 23, 1995, the Department issued a supplemental questionnaire which indicated that CEMEX must submit, *inter alia*, home market sales of Type I cement in bulk form. The questionnaire warned CEMEX that a failure to submit the requested information could result in the application of BIA. The Department also asked CEMEX to respond to the cost of production/constructed value (COP/CV) section of the questionnaire at this time. The due date for the supplemental information and the Type I sales data and the COP/CV data, was September 14, 1995, and September 30, 1995, respectively—a full year after the review was initiated.

CEMEX requested, in a September 5, 1995 letter, an extension of two weeks for its response to the Department's August 23, 1995, supplemental questionnaire and an additional four-week extension for the submission of Type I sales data. In that letter CEMEX also requested a six-week extension for the submission of COP/CV data. CEMEX expressed that an extension was required due to the "enormous burden related to the collection and preparation of sales and cost data for Type I cement." On September 6, 1995, the Department notified CEMEX that its request to extend the deadline for submitting the supplemental response (including the information on Type I cement) was denied, but that it was granted a three-week extension regarding the COP/CV submission.

CEMEX submitted its supplemental questionnaire response on September 14, 1995. In its response, CEMEX failed

to include the required information pertaining to Type I sales. On October 5, 1995, CEMEX submitted its COP/CV questionnaire and again failed to include information pertaining to sales of Type I cement. In both cases, the explanation for the lack of information on home market sales of Type I cement was the size of the reporting burden; in both cases CEMEX claimed that the Type I information would be forthcoming as soon as possible.

Four months later, on February 8, 1996, CEMEX advised the Department that it was prepared to provide a listing of its home market sales of Type I cement in bulk form. In a letter dated February 15, 1996, the Department informed CEMEX that the administrative record was closed and that no new information would be accepted.

As the case history detailed above demonstrates, CEMEX has consistently failed to cooperate with the Department despite repeated requests for Type I sales information. This lack of cooperation significantly impeded the Department's review. Given the Department's determination that CEMEX's home market sales of Type II and Type V cement were outside the ordinary course of trade in the second administrative review, we believe that it is necessary (as in the third administrative review) to review the ordinary course of trade issue in this fourth administrative review. Gray Portland Cement and Clinker from Mexico: Final Results of Antidumping Duty Administrative Review, 58 FR 47283 (1993). In the second review, CEMEX also sold Types II and V cement in the United States, and Types I, II, and V in Mexico. Unlike the current review, however, CEMEX cooperated with the Department's requests for information in the second review, and supplied information for all home market sales, including Type I cement. Having access to this data, the Department agreed with Petitioner's allegation that CEMEX's Type II and V sales were outside the ordinary course of trade. *Ibid.*, at 47255. In a ruling issued on April 24, 1995, the CIT sustained the Department's determination. *CEMEX, S.A. v. United States*, Slip Op. 95-72 at 14 (CIT April 24, 1995).

In the second review, the Department's determination that CEMEX's Type II and V sales were outside the ordinary course of trade hinged on a comparison between home market sales of Type I cement and Type II and V cement. Specifically, the Department analyzed five factors: the volume of home market sales, sales patterns, shipping arrangements,

profitability, and corporate image. Given the Department's analysis in the second review, and the CIT's subsequent ruling, the Department acted reasonably in requesting similar information (*i.e.*, a complete home market sales listing of Type I cement) in the fourth review. Had CEMEX cooperated with the Department's request in a timely fashion, the Department could have fully analyzed the factors focused upon in the second review, and possibly other factors as well. Transaction-specific data on home market sales of Type I cement would have enabled the Department to fully examine the sizes of the transactions, the number of customers, customer identities, category of customers, terms of sale, the freight expenses incurred, and the distances shipped. A detailed sales listing would also have helped the Department to confirm the accuracy of the aggregate sales volume information provided by CEMEX. Therefore, we do not agree with CEMEX's assertion that it was not required to provide Type I cement sales data because the Department has allegedly not demonstrated the relevance of this information to its ordinary course of trade determination.

In addition, we note that, as the Department stated in the final results of the third review, it is not incumbent upon the Department to demonstrate to CEMEX's satisfaction the relevance of any given information sought. In the conduct of an administrative review, the Department is routinely confronted with voluminous data and various possible interpretations of these data. It would be impossible to state with complete confidence, at the outset of a proceeding, precisely what information will eventually be deemed relevant in arriving at the final results of a review. This presumes a level of prescience neither the Department, nor respondents themselves, can legitimately claim. Therefore, the Department must frame its request for information after considering all the facts at its disposal at the time the information requests are made. At times, subsequent requests for information may be issued as the Department interprets the data that it has received. Generally, however, the statutory and regulatory deadlines of antidumping proceedings often do not allow the Department to use such a staggered approach. This is especially true where the subsequently requested data would be voluminous or itself capable of various reasonable interpretations which might require further clarifications. Moreover, even if the Department had been able, using the information supplied by CEMEX in this

review, to determine whether the Types II and V cement sales were outside the ordinary course of trade, we would still require Type I data to conduct our antidumping duty analysis.

For all of the foregoing reasons, CEMEX's failure to provide timely information regarding its Type I home market sales prevents the Department from determining whether CEMEX's home market sales of Type II cement were made in the ordinary course of trade. As a result of this failure to cooperate, the Department finds it necessary to apply first-tier BIA of 109.43, the margin for the second administrative review, as affirmed by the CIT on October 24, 1996.

In addition, the Department does not agree with CEMEX's assertion that the Department abused its discretion when it refused to reopen the record and issue yet another request for the Type I sales information. Throughout the course of the review CEMEX was on notice that this information was important to the Department's analysis and that a failure to cooperate might result in the application of adverse BIA. Despite repeated requests from the Department and the extension of numerous deadlines, CEMEX failed to provide the Department with the requested information. Its belated offer in February of 1996, to provide the requested data came one full year after the original deadline for submission of factual information and four months after the record has closed.

The Department's practice not to accept new data after a particular deadline ensures timely reporting of data to be considered in the administrative process. All parties to antidumping proceedings must be given the opportunity to comment on all submitted information. Without adhering to deadlines on the submission of new information, the Department is unable to ensure that parties have been allotted time to review submissions and is unable to perform comprehensive analysis on a timely basis. As we noted above, had CEMEX cooperated with the Department's request in a timely fashion, the Department could have fully analyzed the factors focused upon in the second review, and possibly other factors as well. Furthermore, to allow CEMEX to submit new information at such a late date would undermine Department procedures and would hinder the administration of future administrative reviews.

Comment Three

CEMEX contends that the Department erroneously determined that the absence of a home market sales listing for Type

I cement prevented the Department from determining whether CEMEX's home market sales of Type II cement were made within the ordinary course of trade. Rather, CEMEX argues that it provided sufficient information to make an ordinary course of trade determination with respect to CEMEX's home market sales of Type II and Type V cement. Specifically, CEMEX notes that the type of information relied upon by the Department to determine whether CEMEX's home market sales of identical merchandise were outside the ordinary course of trade in the second administrative review period was on the record during the present review.

Pursuant to the Department's August 23, 1995 request, CEMEX argues that it submitted information addressing all five factors specified by the Department, as well as additional information demonstrating that there was a bona fide home market demand for Type II and Type V cement in Mexico and that sales of Type II and Type V cement were not extraordinary sales of obsolete or sample merchandise, but rather, sales meeting the specified needs of its home market customers. In particular, CEMEX claims its submissions to the administrative record provide information as to whether: (1) CEMEX incurred greater expenses in shipping Type II and Type V cement as compared to Type I cement; (2) CEMEX shipped Type II and Type V cement over greater distances as compared to Type I cement; (3) CEMEX sold Type II and Type V cement to a niche market; (4) the relative volume of Type II and Type V cement was small as compared to Type I cement; and (5) the profit on sales of Type I cement was abnormal relative to the profit it earned on sales of Type II and V cement. No additional information relevant to the ordinary course of trade issue, CEMEX asserts, would be obtained by submission of a sales listing of Type I cement. Therefore, CEMEX argues, the Department should have reached a definitive decision regarding the ordinary course of trade issue.

Petitioners also object to the Department's conclusion that CEMEX's refusal to report home market sales of Type I cement "prevents the Department from determining whether CEMEX's sales of Type II cement in the home market were made in the ordinary course of trade." Rather, Petitioners maintain, the Department should affirmatively determine that Type II sales were *outside* the ordinary course of trade. Specifically, Petitioners argue that the evidence of record for this review, and the adverse inference resulting from CEMEX's lack of

compliance with the Department's repeated requests for Type I sales data relevant to the ordinary course of trade issue, compel such a determination.

To support their claim, Petitioners note that CEMEX's September 26, 1996 submission demonstrates that the five factors the Department relied upon in the second administrative review to determine that sales of Type II cement were outside the ordinary course of trade continue to be present in the current review. According to Petitioners, CEMEX concedes that (1) CEMEX "ships Type II cement over greater distances than Type I cement" and that differences in shipping distances are the result of the locations of the plants which produce each type of cement; (2) the differences in profit between Type I and Type II cement result from "the higher costs involved to transport cement to customers"; (3) there was a promotional quality to CEMEX's sale of Type II cement; (4) Type II cement represented a "specialty market"; and (5) CEMEX only began to sell Type II cement in Mexico when it began production for export in the mid-1980s despite the fact that there had been small domestic demand for the product.

Petitioners also argue that the determination that sales of Type II cement were outside the ordinary course of trade is justified by the adverse inference created by CEMEX's refusal to report Type I sales. Petitioner's note that the Department made it clear to CEMEX that it wanted Type I sales data to use as a benchmark for determining whether Type II sales were outside the ordinary course of trade. Based on CEMEX's failure to report this data, Petitioners argue, the Department should have inferred that the Type I information would have been adverse to CEMEX's claim that Type II sales were in the ordinary course of trade.

Department's Position

The Department is not able to conclude whether sales of Type II and Type V cement were made within the ordinary course of trade because CEMEX failed to supply the requested information on home market Type I sales. As the Department stressed in the third review, "[a]bsent some benchmark (i.e., home market sales of similar merchandise, such as Type I cement) against which to measure the Type II and Type V sales in question, the Department is unable to determine whether sales of Type II and Type V cement during this review period were made within the ordinary course of trade." Had CEMEX cooperated with the

Department's request in a timely fashion, the Department could have fully analyzed the factors focused upon in the second review, and possibly other factors as well. Therefore, as CEMEX's actions prevented the Department from making an important determination in this review, our resort to BIA is justified.

Comment Four

Petitioners argue that the Department's preliminary results unjustifiably rely on the "first-tier" BIA rate applied to uncooperative respondents under the Department's standard two-tier methodology. Specifically, Petitioners insist that the presumption that the first-tier BIA rate (i.e., 61.85 percent) is adverse to CEMEX (and thus serves the compliance-inducing purposes of BIA) has been completely rebutted. To support this claim, Petitioners contend that the Department's practice in similar cases, as well as the evidence of record, mandate the use of a higher BIA rate that is truly adverse to CEMEX.

Accordingly, Petitioners demand that the Department select a BIA rate which will (1) encourage future cooperation with the Department's information requests, and (2) enable the Department to accurately determine dumping margins. To ensure these goals, Petitioners note that the Department applies a rule of reasonable inference where the Department infers that the respondent would have complied with information requests if it had been advantageous for the respondent to do so. Thus, Petitioners conclude, the Department uses as BIA a dumping margin that is unfavorable to the noncompliant respondent which ensures that the respondent does "not find itself in a better position as a result of its noncompliance than it would have had it provided * * * complete, accurate and timely data." Petitioners' Case Brief at 47 citing *Silicon Metal From Argentina*, 58 FR At 65,338.

Generally, Petitioners acknowledge, the Department relies on its standard two-tier methodology in choosing BIA and applies the highest prior margin to a noncompliant respondent. However, Petitioners explain, both the Department and the courts have emphasized that this standard methodology "merely establishes a *presumption* that the highest prior margins are the best information available" which can be rebutted by evidence demonstrating that the margin would be higher had the respondent complied with the Department's information requests. Petitioners' Case Brief at 48 citing *Allied-Signal Aerospace Co. v. United*

States, 996 F.2d 1185,1191 (Fed. Cir. 1993).

Pointing to evidence on the record, Petitioners insist that they have "unequivocally" demonstrated that the 61.85 percent first-tier BIA rate is not adverse to CEMEX and, therefore, the presumption that the highest prior margin is the best information available has been rebutted. To support this claim, Petitioners refer to the third administrative review where the Department relied on a first-tier BIA rate of 61.85 percent, the same rate used in the preliminary results for this review. In the third review, Petitioners note, the Department stated that "[w]e do not believe that the revised margin of 61.85 percent is insufficient to induce cooperation in a future proceeding." However, Petitioners insist, this is exactly what happened; CEMEX continued to defy the Department's requests for home market sales data for Type I cement.

Based on pricing information supplied in a September 14, 1994 CEMEX offering circular for the sale of certain securities in the United States, Petitioners calculated a dumping margin of 83.35 percent. Petitioners argue that this information is at least as reliable, if not more so, than any pricing data reported by CEMEX in the course of the administrative review, since both CEMEX and its underwriters and outside counsel were under a legal obligation to accurately report pricing data in the offering circular.

Additionally, Petitioners point to administrative and case law where they claim the Department, in factually similar cases, has found that the presumption in favor of the two-tier methodology has been rebutted and has applied a BIA rate higher than the first-tier rate. See *Certain Malleable Cast Iron Pipe Fittings From Brazil*, 60 FR 41,876 (1995); *Cold-Rolled Stainless Steel Sheet From Germany*, 59 FR 15,888 (1994), *aff'd*, *Krupp Stahl A.G. v. United States*, 822 F. Supp. 789 (CIT 1993); *Silicon Metal From Argentina*, FR 65,336 (1993). In particular, Petitioners cite *Steel Wire Rope From the Republic of Korea*, 60 FR 63,499 (1995), where, according to Petitioners, the Department recognized that in reviews involving a limited number of participants and, therefore, a small number of rates available for BIA, the standard first-tier methodology may not induce respondents to cooperate. Petitioners maintain that the concern in such cases with respect to the two-tiered methodology is that the lack of past rates, as well as the small number of participants in the current review, could allow a respondent to manipulate the

proceeding by choosing not to comply with the Department's requests for information. In such cases the cooperation-inducing function of the BIA provision of the Act may not be achieved by use of the two-tiered BIA methodology, in which case the Department will resort to alternative sources in determining the BIA rate for uncooperative respondents. Specifically, Petitioners argue that no respondent other than CEMEX has participated in the first three administrative reviews on gray portland cement and, therefore, the highest previous margin was CEMEX's own margin. This enabled CEMEX, Petitioners argue, to compare the first-tier rate to the rate it would have received on a price-to-price comparison and, as a result, manipulate the outcome by choosing not to cooperate.

Petitioners offer two alternatives to the Department's preliminary results. First, Petitioners urge the Department to use as total BIA the highest margin from the petition—111 percent. The resulting higher margin, argue Petitioners, would have the added effect of inducing CEMEX to comply fully in future administrative reviews.

Alternatively, Petitioners argue that the Department should conduct a price-to-price comparison using public home market pricing data and CEMEX's reported U.S. prices. As noted above Petitioners calculated a rate of 83.35 percent using this approach. Petitioners claim that this approach is consistent with other cases in which the Department used a respondent's publicly available information when use of the standard two-tier methodology would reward the respondent for its refusal to cooperate.

CEMEX, in turn, argues that the Department's analysis of its standard two-tier BIA methodology and the application of this methodology, as set forth in the preliminary results, was in accordance with law. CEMEX argues that under the Department's standard two-tier BIA policy for respondents that have been determined to be uncooperative or who have impeded the investigation, the Department will apply first-tier BIA, namely, the higher of: (1) The highest rate found for any firm in the original investigation or in any subsequent administrative review of that case; or (2) the highest rate found for any firm in the original investigation or in any subsequent administrative review of that case. This methodology, CEMEX points out was reviewed by the Federal Circuit in *Allied Signal Aerospace Co. v. United States*, 996 F.2d 1185 (Fed. Cir. 1993) and found to be fully in accordance with the law.

In the current review, CEMEX continues, the Department used as first-tier BIA the highest margin found for any company in the original investigation or subsequent administrative review that was in effect as of the date of the Department's preliminary results in the fourth review, the 61.85 percent margin assigned to CEMEX in the final remand results of the original investigation which was issued by the DOC on May 12, 1994 and affirmed by the CIT on September 26, 1994 in *Ad Hoc Committee of AZ-NM-TX-FL Producers of Gray Portland Cement v. United States*, Slip Op. 94-152 (September 26, 1994). Since the above-referenced rate was sufficiently adverse to CEMEX and determined using methodology confirmed by the Federal Circuit, CEMEX concludes that in the event that the Department decides to continue using BIA for the final results, the Department's BIA methodology was appropriate and should be incorporated into the final results.

In addition, CEMEX asserts that the purpose of BIA is not to obtain the highest possible margin, but rather, to use an adverse margin to encourage future cooperation. In the current case, CEMEX argues, the Department's application of first-tier BIA in the third administrative review successfully induced CEMEX to cooperate with the Department's information requests in the present and subsequent administrative reviews. In this regard, CEMEX references its February 8, 1996 offer to submit a sales listing covering Type I cement in the present review and its complete "cooperation."

Department's Position

We disagree with Petitioners. As in the third review, the Department sees no grounds for departing from our well-established first-tier BIA methodology of selecting the highest margin found for any firm either in the LTFV investigation or in a subsequent review. Currently, the highest rate found in any prior review or the investigation is the 109.43 percent assigned to CEMEX in the second court ordered remand of the second administrative review. Because this is a higher rate than the 83.35 percent rate proposed by Petitioners, and comparable to the 111.11 percent rate also proposed by petitioners, we do not need to address Petitioners' argument that the rate used in the preliminary result is insufficient to induce cooperation.

We also reject CEMEX's argument that the rate assigned to it in the preliminary results of this review "successfully induced" it to cooperate with the

Department's information requests. The central purpose of the BIA rule, as CEMEX concedes, is to induce respondents, in the absence of any subpoena power vested in the Department, to provide the necessary factual information so that the investigating authority can achieve the fundamental purpose of the Act—namely, "determining current margins as accurately as possible." *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1191 (Fed. Cir. 1990). In the present case, however, CEMEX did not provide the necessary factual information. It significantly impeded the progress of the review and only offered to provide requested information one full year after the original deadline for submission of factual information and four months after the record had closed.

Petitioners argue that CEMEX's belated offer of cooperation only came after the Department issued its February 1, 1996 remand results in connection with the second administrative review. See *CEMEX, S.A. v. United States*, Slip Op. 96-132 (CIT Aug. 13, 1996). These results, Petitioners assert, put CEMEX "at risk" of a higher BIA rate—82.86, (the rate from the first court remand of the second administrative review,) as opposed to 61.85 percent. They may be right; however, the important point is that CEMEX did not cooperate with the Department's administrative review. Therefore, under these circumstances, we are justified in relying upon BIA and in relying upon our two-tier BIA methodology.

Comment Five

Petitioners argue that if BIA is based on the first-tier rate, the Department must use the rate calculated on remand in the second administrative review. This is because, Petitioners contend, this margin is based on a price-to-price comparison of Type II cement sales in the United States to Type I cement sales in Mexico, the same comparison CEMEX has thwarted in the current review by refusing to supply requested information. In making this claim, Petitioners insist that nothing in the statute bars the Department from using the margin from the second review remand proceeding as BIA simply because that margin has not been finally approved by the courts or published by the Department in the **Federal Register**.

CEMEX counters that the use of the 82.86 percent margin, (the first court ordered remand results of the second administrative review,) would be contrary to law. According to CEMEX, the remand results in the second review have no legal effect until they are

affirmed by the CIT. Therefore, CEMEX argues, a margin established by the Department in remand results may not serve as the basis for first or second-tier BIA unless they are affirmed. CEMEX asserts that the Department's use of the 61.85 percent rate continues to be the appropriate margin upon which to base first-tier BIA.

Department's Position

We agree with Petitioners and CEMEX. As noted in our response to comment four, the Department is applying a first-tier BIA rate of 109.43 percent, (the results from the second court ordered remand). This rate has been approved by the CIT. See *CEMEX, S.A. v. United States*, Slip Op. 96-179 (CIT Oct. 24, 1996), *appeal pending*, Appeal No. 97-1151 (Fed. Cir.)

Final Results of Review

As a result of our review, we determine the weighted-average dumping margin for CEMEX, S.A. for the period August 1, 1993, through July 31, 1994, to be 109.43 percent and the all other rate to be 61.35. The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisal instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will be 61.35 percent (LFTV remand results). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

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 the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APT materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APT is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: April 2, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97-9258 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-834-802, A-835-802, A-844-802]

Agreement Suspending the Antidumping Investigation on Uranium from Kazakhstan, Kyrgyzstan and Uzbekistan

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

ACTION: Notice of price determination on Uranium from Kazakhstan, Kyrgyzstan and Uzbekistan.

SUMMARY: Pursuant to Section IV.C.1. of the antidumping suspension agreement on uranium from Kazakhstan, Kyrgyzstan, and Uzbekistan, the Department of Commerce (the Department) calculated a price for uranium of \$15.34/lb. On the basis of this price, the export quota for uranium pursuant to Section IV.A. of the Kazakstani agreement, as amended on March 27, 1995, is 700,000 lbs. for the period April 1, 1997, through September 30, 1997. The export quota for uranium pursuant to Section IV.A. of the Uzbek agreement, as amended on October 13, 1995, remains 940,000 lbs. for the period October 13, 1996, through October 12, 1997. Exports pursuant to other provisions of these agreements are not affected by this price.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT:

Alexander Braier or Cindy Sonmez, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482-3818 or (202) 482-0961, respectively.

PRICE CALCULATION:

Background

Section IV.C.1. of the antidumping suspension agreements on uranium from Kazakhstan, Kyrgyzstan, and Uzbekistan specifies that the Department will issue its observed market price on April 1, 1997, and use it to determine the quota applicable to exports from Kazakhstan and Kyrgyzstan during the period April 1, 1997, to September 30, 1997 and from Uzbekistan during the period of October 13, 1996 to October 12, 1997. Consistent with the February 22, 1993, letter of interpretation, the Department provided interested parties with the preliminary price determination on March 12, 1997.

Calculation Summary

Section IV.C.1. of these agreements specifies how the components of the market price are reached. In order to determine the spot market price, the Department utilized the monthly average of the Uranium Price Information System Spot Price Indicator (UPIS SPI) and the weekly average of the Uranium Exchange Spot Price (Ux Spot). In order to determine the long-term market price, the Department utilized the weighted-average long-term price as determined by the Department on the basis of information provided by market participants and a simple average of the UPIS U.S. Base Price for the months in which there were new contracts reported. The Department's letters to market participants provided a contract summary sheet and directions requesting the submitter to report his/her best estimate of the future price of merchandise to be delivered in accordance with the contract delivery schedules (in U.S. dollars per pound U₃O₈ equivalent). Using the information reported in the proprietary summary sheets, the Department calculated the present value of the prices reported for any future deliveries assuming an annual inflation rate of 2.34 percent, which was derived from a rolling average of the annual GDP Implicit Price Deflator index from the past four years. The Department used the base quantities reported on the summary sheet for the purpose of weight-averaging the prices of the long-term

contracts submitted by market participants. The Department then calculated a simple average of the UPIS U.S. Base Price and the long-term price as determined by the Department.

Weighting

The Department used the average spot and long-term volumes of U.S. utility and domestic supplier purchases, as reported by the Energy Information Administration (EIA), to weight the spot and long-term components of the observed price. We have continued to use data which reflects the period from 1992-1995, as no more recent data is available. During this period, the spot market accounted for 73.74 percent of total purchases, and the long-term market for 26.26 percent. As in previous determinations, the Department used the Energy Information Administration's (EIA) Uranium Industry Annual to determine the available average spot- and long-term volumes of U.S. utility purchases. We have continued to use data which reflects the period 1992 through 1995. The EIA has withheld certain contracting data from the public versions of the Uranium Industry Annual 1993, Uranium Industry Annual 1994, and the Uranium Industry Annual 1995 (the most recent edition) because this data was business proprietary. The EIA, however, provided this data to the Department and the Department has used it to update its weighting calculation. Accordingly, it may only be released under Administrative Protective Order.

Calculation Announcement

The Department determined, using the methodology and information described above, that the observed market price is \$15.34. This reflects an average spot market price of \$14.97, weighted at 73.74 percent, and an average long-term contract price of \$16.38, weighted at 26.26 percent. The decrease in the observed market price from our preliminary determination reflects the correction of clerical errors, as discussed below, and our inclusion in the calculation of one other contract that was received after our preliminary price calculation. Since this price is between \$15.00/lb and \$15.99/lb expressed in Appendix A of the suspension agreement with Kazakhstan, as amended, Kazakhstan receives a quota of 700,000 lbs for the period April 1, 1997, to September 30, 1997. The suspension agreement with Uzbekistan, as amended, specifies that Uzbekistan shall have access to its Appendix A quota of 940,000 lbs for the period of October 13, 1996 to October 12, 1997,

provided that the calculated price is at or above \$12.00 per pound.

Comments

Consistent with the February 22, 1993, letter of interpretation, the Department provided interested parties the preliminary price determination for this period on March 12, 1997. One interested party submitted comments.

UPIS Index Used

Comment 1: The Ad Hoc Committee of Domestic Uranium Producers (the producers) request that the Department correct a minor data error in its spot price segment of the calculation. According to the producers, the Department inadvertently used the UPIS Short-Term Price Indicator data rather than the UPIS Spot Price Indicator data, which is consistent with previous calculations.

Department's Position: The Department agrees with the producers and has corrected the data error.

Long-Term UPIS Indicators

Comment 2: The producers claimed that the Department erred in its calculation of the simple average of the long-term UPIS indicators.

Department's Position: The Department agrees with the producers and has corrected the clerical error in question.

Long-Term Contract

Comment 3: The producers request that the Department carefully review its calculation of the price for contract #2 because the reported price is higher than prices seen in the UPIS indicator and other similar transactions. The producers request the Department to review the terms of the contract to determine whether the contract is a renegotiated contract, whether the transaction was part of or related to another transaction which was not reported, and whether the reported contract is between related parties. The Department was also asked to verify whether an appropriate deflator has been used in reporting prices with respect to this particular transaction.

Department's Position: In response to the producers' comments, the Department contacted the respondent and confirmed that the survey response contained accurate information, that the contract in question was not a renegotiated contract, was not part of or related to another transaction, did not involve related parties, and that an industry standard deflator was used. Therefore, the Department continues to use price-related information regarding

contract #2 in its long-term price determination.

Finally, the Department corrected a clerical error regarding a delivery year in its calculation of the long-term price for contract #3. The Department notes that its response to the producer's third comment applies to this contract as well.

After the analysis of the above comments, the Department has determined that the observed market price for uranium, effective April 1, 1997, is \$15.34/lb.

Dated: April 1, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for Antidumping Countervailing Duty—Group III.

[FR Doc. 97-9259 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-549-502]

Certain Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review; Certain welded carbon steel pipes and tubes from Thailand.

SUMMARY: In response to requests by Thai Union Steel Co., Ltd. ("Thai Union"), Saha Thai Steel Pipe Co., Ltd. ("Saha Thai") and its affiliated exporter, S.A.F. Pipe Export Co., Ltd., ("SAF"), respondents, and two importers, Ferro Union Inc. ("Ferro Union"), and ASOMA Corp. ("ASOMA"), the Department of Commerce ("the Department") is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipes and tubes from Thailand. This review covers the following manufacturers/exporters of the subject merchandise to the United States: Saha Thai/SAF and Thai Union. The period of review (POR) is March 1, 1995 through February 29, 1996.

We have preliminarily determined that respondents sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results, we will instruct U.S. Customs to assess antidumping duties equal to the differences between the export price and NV.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding should also submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: John Totaro or Dorothy Woster, AD/CVD Enforcement Group III, Office VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3362 or (202) 482-1398, respectively.

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 (hereinafter, "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).

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department published in the **Federal Register** an antidumping duty order on welded carbon steel pipes and tubes from Thailand (51 FR 8341). On March 4, 1996, the Department published a notice of opportunity to request an administrative review of this order covering the period March 1, 1995 through February 29, 1996 (61 FR 8238). Timely requests for an administrative review of the antidumping order with respect to sales by Saha Thai/SAF and Thai Union during the POR were filed by Thai Union, and jointly by Saha Thai, SAF, Ferro Union, and ASOMA. The Department published a notice of initiation of this antidumping duty administrative review on April 25, 1996 (61 FR 18378).

On May 14, 1996, Saha Thai, SAF, Ferro Union, and ASOMA sought to withdraw their request for review and requested that the Department terminate the review with respect to sales by Saha Thai/SAF during the POR. The domestic interested parties, Allied Tube & Conduit Corporation, Laclede Steel Company, Sawhill Tubular Division of Armco, Inc., and Wheatland Tube Company, ("petitioners"), objected to partial termination of the review on the grounds that, on March 29, 1996, they had submitted to the Department a

timely request for review of sales by these companies and served Saha Thai with a copy of this request. Although there is no official record of petitioners' request, given the remedial nature of the antidumping law and the fact that Saha Thai received notice of petitioners' request, the Department elected to continue the ongoing review of these sales. See Memorandum to Robert S. LaRussa from Stephen J. Powell, July 11, 1996.

On May 24, 1996, the petitioners requested that the Department verify the responses of both Saha Thai and Thai Union.

Because the Department determined that it was not practicable to complete this review within statutory time limits, on November 1, 1996, we published in the **Federal Register** our notice of extension of time limits for this review (61 FR 56512). As a result, we extended the deadline for these preliminary results. The deadline for the final results will continue to be 120 days after publication of these preliminary results.

Scope of the Review

The products covered by this administrative review are certain welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as "standard pipe" or "structural tubing," are hereinafter designated as "pipe and tube." The merchandise is classifiable under the Harmonized Tariff Schedule (HTS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive. This review covers sales by Saha Thai/SAF and Thai Union, during the period March 1, 1995 through February 29, 1996. In addition, based on our analysis, we have found that Thai Tube Co. Ltd. ("Thai Tube"), a producer of subject merchandise, for which we did not initiate an administrative review, is affiliated to Saha Thai.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondents, Saha Thai and Thai Union, using standard verification procedures, including onsite inspection of the manufacturers' facilities, examination of relevant financial records, and analysis of original documentation used by Saha Thai and

Thai Union to prepare responses to requests for information from the Department. Our verification results are outlined in the public versions of the verification reports (Memorandum to Roland L. MacDonald from Theresa L. Caherty, John B. Totaro and Dorothy A. Woster, March 31, 1997 ("Saha Thai Verification Report"), Memorandum to Roland L. MacDonald from Theresa L. Caherty, John B. Totaro and Dorothy A. Woster, March 31, 1997 ("Thai Union Verification Report"), and Memorandum to the File from Steven Presing, January 30, 1997).

Duty Absorption

On May 24, 1996, the petitioners requested a duty absorption review of Saha Thai/SAF and Thai Union pursuant to section 751(a)(4) of the Act. Section 751(a)(4) requires the Department, if requested, to determine during an administrative review initiated two years or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order, if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. For transition orders as defined in section 751(c)(6)(C) of the Tariff Act, i.e., orders in effect as of January 1, 1995, section 351.213(j)(2) of the Department's proposed antidumping regulations provide that the Department will make a duty absorption determination, if requested, for any administrative review initiated in 1996 or 1998. See Notice of Proposed Rulemaking, 61 FR 7308, 7366 (February 27, 1996).

Because the order on certain welded carbon steel pipes and tubes from Thailand has been in effect since 1986, this qualifies as a transition order. Therefore, the Department will first consider a request for an absorption determination during a review initiated in 1996. This being a review initiated in 1996, the Department considered the petitioners' request.

The statute provides for a determination on duty absorption if the subject merchandise is sold in the United States through an affiliated importer. In the previous administrative review of sales by Saha Thai/SAF, we determined that Saha Thai/SAF was not affiliated with its two U.S. distributors. See Certain Welded Carbon Steel Pipes and Tubes From Thailand: Preliminary Results of Antidumping Duty Administrative Review, 61 FR 21159 (May 9, 1996); Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review, 61 FR 56515

(Nov. 1, 1996). Because we find no evidence on the record of this review to change this previous determination we do not consider Saha Thai/SAF to be affiliated with any U.S. importer. During the POR, Thai Union made all U.S. sales through a trading company (July 10, 1996 Sect. A Quest., at 11). We find no evidence on the record that demonstrates an affiliation between Thai Union and this company. Therefore, because neither Saha Thai/SAF and Thai Union are making sales in the United States through affiliated importers, we preliminarily find that the statutory prerequisite for conducting a duty absorption inquiry is not met.

Use of Facts Available

Saha Thai

We preliminarily determine that the use of total adverse facts available is appropriate with respect to Saha Thai's submitted data in accordance with section 776(a)(2)(C) and section 776(b) of the Act because we find that Saha Thai has significantly impeded this review by failing to comply with our requests for complete information on affiliates. In response to the Department's requests that Saha Thai list all affiliated companies pursuant to section 771(33), Saha Thai failed to disclose its affiliation with Thai Tube, a producer of subject merchandise, and two resellers of subject merchandise and members of the Siam Steel Group. (See Memorandum to Robert S. LaRussa from Joseph A. Spetrini, March 31, 1997 on file in the Central Records Unit, Room B099 of the main Commerce Building)

On December 12, 1996, in advance of the scheduled cost verification of Saha Thai, the Department issued a verification agenda. The agenda stated that the Department would review Saha Thai's list of affiliated parties from its questionnaire responses and would obtain a diagram describing the relationship between these parties and Saha Thai. (Verification Agenda at 4). The agenda also stated that the Department would try to obtain a published list of affiliated parties to compare with Saha Thai's submitted list, and would document any previously unidentified affiliated companies.

At verification, the Department learned that members of Saha Thai's board of directors, who are also shareholders of Saha Thai, have ownership interests in two of Saha Thai's home market customers. We also determined that these two customers are resellers of subject merchandise. The information obtained at verification indicates an affiliation between Saha

Thai and these resellers under section 771(33)(F) through common control of the identified directors. Sales to these resellers represent a significant portion of Saha Thai's home market sales and the Department's analysis of Saha Thai's home market sales data indicates that these sales failed the "arm's length" test. However, because the information that identified this potential affiliation was received late in the proceeding, we were unable to fully explore the nature of the affiliation between Saha Thai and the two resellers and to make a timely determination of whether Saha Thai is affiliated with these two resellers. If Saha Thai had properly disclosed this information during the information gathering phase of this proceeding, the Department would have requested downstream sales data of these resellers and calculated normal value for these sales based on downstream prices pursuant to section 773(a)(5).

In response to the Department's inquiries into Saha Thai's affiliation with the Siam Steel Group, an organization of Thai steel companies of which Saha Thai is a member, Saha Thai provided the Department with additional information concerning affiliations and affiliated party transactions. Saha Thai informed the Department that Siam Steel International, a member of the Siam Steel Group, had become Saha Thai's largest shareholder. Saha Thai's managing director is also chairman of Siam Steel International. By virtue of Siam Steel's equity interest and common management, Saha Thai and Siam Steel International are affiliated under section 771(33) (E) and (F). Saha Thai also provided the Department with information demonstrating that Siam Steel International had a substantial ownership interest in one of Saha Thai's home market customers.

The Department also found evidence that, contrary to Saha Thai's statement, one of the members of the Siam Steel Group may be a producer of subject merchandise. Moreover, this information indicated additional potential affiliations among the members of the Siam Steel Group by virtue of common management by two related families. Saha Thai had failed to disclose this information in response to the Department's questionnaires. Because complete information regarding the Siam Steel Group was not disclosed in a timely manner, the Department was prevented from further exploring the nature of the interrelationships and sales transactions between members of the Siam Steel Group. (For a more detailed discussion of issues raised at

verification, *See* the Cost Verification Reports.)

At verification, Saha Thai confirmed the identity of the chairman of Saha Thai's board of directors. (Saha Thai Verification Report at 3). Following verification of Saha Thai, the Department obtained public information which indicated that members of the chairman's family manage Thai Tube, another Thai producer of welded carbon steel pipes and tubes, and that a family member is the managing director of Thai Tube. The existence of this familial relationship between Saha Thai's Chairman and Thai Tube's managing director, as indicated in a March 27, 1997 letter from Saha Thai's counsel, is a strong indication of affiliation between Saha Thai and Thai Tube under section 771(33)(F). (A complete discussion of post-verification findings, some of which is proprietary, is contained in Memorandum from Joseph A. Spetrini to Robert S. LaRussa, March 31, 1997.) We were unable to pursue the issue of affiliation in a timely manner because the Department did not receive the information indicating affiliation between Saha Thai and Thai Tube until a few weeks before the deadline for the preliminary results. Therefore, because Saha Thai impeded our investigation of this issue by failing to provide complete information on affiliated parties as requested by the Department, an adverse inference is warranted under section 776(b). As adverse facts available, we determine that Saha Thai and Thai Tube are affiliated.

Under Department practice, the affiliation between Saha Thai and Thai Tube, both producers of subject merchandise, would invoke an inquiry to determine whether they should be treated as a single entity for purposes of calculating a dumping margin. See section 351.401(f) of the Proposed Regulations, 61 FR 7308, 7381 (Feb. 27, 1996); *Certain Fresh Cut Flowers From Colombia*; *Final Results of Antidumping Duty Administrative Reviews*, 61 FR 42833, 42853 (Aug. 19, 1996). However, because Saha Thai failed to identify its affiliation with Thai Tube in response to the Department's questionnaires, the Department did not learn of this affiliation until shortly before the deadline for the preliminary results. Therefore, the Department was prevented from requesting additional information from both Saha Thai and Thai Tube necessary to complete the collapsing analysis in a timely manner. Therefore, as adverse facts available, we preliminarily find that Saha Thai and Thai Tube constitute a single enterprise for margin calculation purposes.

Saha Thai's failure to report complete information on affiliated parties prevented the Department from: (1) further exploring the nature of the affiliation with the resellers to determine whether it was necessary to receive downstream sales data; (2) further exploring the nature of affiliations and affiliated party transactions between members of the Siam Steel Group; and (3) determining whether Saha Thai and Thai Tube should be treated as a single entity for purposes of calculating a dumping margin. We must therefore consider whether Saha Thai's submitted sales and cost data is usable under section 782(e) of the Act.

Section 782(e) provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet the applicable requirements established by the Department if: (1) The information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) can be used without undue difficulties.

When examined in light of the requirements of section 782(e), the facts of this review demonstrate that Saha Thai's sales data is substantially incomplete and unusable and leaves the Department with no reasonable basis upon which to calculate a dumping margin. The verification disclosed evidence of affiliations that Saha Thai failed to provide in response to the Department's questionnaires.

Information obtained during and after verification demonstrates that Saha Thai failed to submit this information within the established deadlines as required by subsection (e)(1). Given the affiliation between Saha Thai and Thai Tube, there is no assurance that the Department has reviewed the entire, rather than merely a part, of the producer. When the Department collapses affiliated producers, it calculates a dumping margin by merging the sales data of the producers into a consolidated response. See Notice of Final Determination of Sales at Less than Fair Value: Certain Pasta from Italy, 61 FR 30326 (June 14, 1996). Because Saha Thai failed to disclose its affiliation with Thai Tube in a timely manner, the Department is unable to request necessary sales data

from Thai Tube. Moreover, given the evidence of additional affiliated party transactions in the home market, there is no assurance that the Department has complete information on which to calculate NV. Thus, we find that Saha Thai's submitted sales data is so fundamentally flawed that it cannot serve as a reliable basis on which to calculate EP and NV as required by section 782(e)(3). Because we find the sales data to be unusable, the reliability of the cost data is irrelevant because at a minimum the Department needs reliable U.S. sales data to calculate an accurate dumping margin. Therefore, Saha Thai's sales and cost data cannot be used without undue difficulties as required by subsection (e)(5). On this basis, we determine that it is appropriate to resort to total facts available.

The Department finds that Saha Thai did not act to the best of its ability to comply with requests for information on affiliates. Saha Thai demonstrated an understanding of the affiliated party definition under section 771(33) by identifying companies affiliated by virtue of stock ownership and common management. Its failure to provide complete responses to our affiliation inquiries despite numerous opportunities to do so can only be viewed as a failure to cooperate with our requests for information. The failure to identify an affiliated producer further evidences its lack of cooperation. Saha Thai failed to fully disclose its affiliates in a timely manner. It is therefore appropriate, under section 776(b) of the Act, for the Department to use an inference adverse to the interests of Saha Thai in selecting from the facts available. Because Saha Thai did not act to the best of its ability to comply with the Department's requests, the requirement of section 782(e)(4) is not met.

Section 776(b) states that adverse facts available information may be derived from the petition, the final determination in the LTFV investigation, a previous administrative review under section 751 or determination under section 753, or other information placed on the record. See also Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 316, Vol. 1, 103d Cong., at 829-831 (1994) ("the SAA"). The SAA notes that the Department may employ an adverse inference "to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully." *Id.* at 870. Thus, "[i]n employing adverse inferences, one factor the [Department] will consider is

the extent to which a party may benefit from its own lack of cooperation." *Id.* To ensure that Saha Thai does not benefit from failing to cooperate with the Department's requests for information on affiliates, we will employ an adverse inference in selecting from the facts available and treat Saha Thai and Thai Tube as a single entity. We will continue to explore the affiliation issue for purposes of the final results.

We determine that the highest calculated margin from any prior administrative review, 29.89 percent, is appropriate for our total adverse facts available margin. This rate was calculated in the 1987-88 administrative review of this proceeding, for another respondent, Thai Union Steel Co., Ltd. See Circular Welded Carbon Steel Pipes and Tubes from Thailand; Notice of Amendment to Final Results of Antidumping Administrative Review, 59 FR 65753 (December 21, 1994). As information derived from a previous review under section 751 concerning the subject merchandise, this margin constitutes "secondary information" under section 776(c). Section 776(c) provides that the Department shall, to the extent practicable, corroborate "secondary information" used for facts available by reviewing independent sources reasonably at its disposal. The SAA provides that to "corroborate" means simply that the Department will satisfy itself that the secondary information to be used has probative value. SAA at 870. As noted in Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 57391, 57392 (November 6, 1996), to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other types of information, such as input costs or selling expenses, there are no independent sources from which the Department can derive calculated dumping margins; the only source for margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period.

As to the relevance of the margin used for adverse facts available, the Department stated in the Tapered Roller Bearings determination that it will "consider information reasonably at its disposal as to whether there are circumstances that would render a margin irrelevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin." *Id.*; see also *Fresh Cut Flowers from Mexico*; Preliminary Results of Antidumping Duty Administrative Review, 60 FR 49567. We have examined the history of this case and determined that 29.89 percent, the rate the Department calculated for Thai Union in the 1987–88 administrative review, is the highest calculated rate for any prior segment of the proceeding. In addition, the Court of International Trade (CIT) affirmed the Department's calculation of the 29.89 percent rate for Thai Union (a recalculation pursuant to a remand order from the CIT, Slip Op. 94–7, (January 14, 1994)). In these preliminary results, we have determined that there is no evidence on the administrative record for the 1987–88 review which indicates that this rate is irrelevant or inappropriate as a total facts available rate for Saha Thai.

Thai Union

We preliminarily determine that the use of total adverse facts available is appropriate with respect to Thai Union's submitted data in accordance with section 776(a)(2)(D) and section 776(b) of the Act because we find that Thai Union provided cost of production (COP) data that could not be verified and because Thai Union failed to reconcile its reported costs with its normal books and records. The last administrative review that included Thai Union as a respondent (1987–88) found that Thai Union sold substantial quantities of the subject merchandise in the home market at prices below production costs (See *Certain Circular Welded Carbon Steel Pipe and Tube from Thailand* Preliminary Results of Antidumping Administrative Review, 55 FR 42596 (Oct. 22, 1990)). For this reason, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department initiated a COP investigation of Thai Union in the instant administrative review.

In the initial questionnaire, the Department instructed Thai Union to report COP and constructed value (CV) figures based on the actual costs incurred by Thai Union during the POR as recorded in its normal accounting system. Thai Union was also requested

to describe how these figures reconciled to the actual costs reported in its cost accounting system and used by the company to prepare its financial statements. Thai Union provided contradictory explanations of its cost and financial accounting systems and failed to provide the Department with copies of its original cost accounting sheets despite repeated requests to do so. Thai Union never informed the Department that it used a process other than its normal accounting system and normal cost allocation methods to prepare its COP/CV responses.

Thai Union's responses contained substantial omissions and incomplete responses to the Department's requests for clarification of its submitted cost data. Thai Union failed to provide supporting documentation for its reported production yield data, reconciliation of its inventory expenses, calculation of general and administrative expenses, methodology for allocation of costs, and explanation of its chart of accounts. Thai Union also failed to report its subject merchandise using the Department's model match methodology and did not provide an explanation for its refusal to do so. (For a more detailed discussion of the deficiencies in Thai Union's questionnaire responses, see Memorandum to Robert S. LaRossa from Joseph A. Spetrini, March 31, 1997.)

On January 14, 1997, in advance of the scheduled COP/CV verification of Thai Union, the Department issued a verification agenda which stated that Thai Union's reported cost data must be reconciled to the company's general ledger, cost accounting system, and financial statements. The agenda indicated specific steps that would be followed at verification to reconcile the submitted cost data to the normal accounting books and records, and instructed Thai Union to contact the Department if it had any questions concerning the agenda or if it determined that any of the verification procedures could not be performed. Thai Union did not contact the Department regarding the verification agenda prior to verification. In accordance with section 782(i) of the Act, from January 20 through January 24, 1997, the Department conducted a verification of Thai Union's submitted cost data.

At verification, Thai Union was unable to reconcile its submitted cost data to its books and records or financial statements. (A detailed discussion of the Department's verification of Thai Union's cost data is not possible in a public notice due to the proprietary nature of such information.) Because the

company was unable to reconcile its submitted costs to its normal accounting books and records and was unable to tie its books and records to its financial statements, the verification could not proceed in an orderly and timely manner. Thai Union was unable to demonstrate to the Department that the submitted COP and CV data was based on the company's actual production experience and could not be verified using the Department's standard verification procedures.

Because Thai Union submitted COP data that could not be verified, it is appropriate to use facts available in accordance with section 776(a)(D) of the Act. As discussed above, we must therefore consider whether Thai Union's submitted cost data is usable under section 782(e) of the Act. When examined in light of these requirements, the facts in this case indicate that Thai Union's cost data is so fundamentally flawed as to render it unusable. First, because Thai Union repeatedly failed to provide the Department with requested information such as worksheets to support its calculated COP/CV figures, the requirement of 782(e)(1) that information be submitted within the established deadline is not met. Second, Thai Union was unable to reconcile its submitted costs to its normal accounting books and records at verification. The COP and CV data submitted to the Department by Thai Union was not based on the company's actual production experience and could not be verified as required by section 782(e)(2).

Third, because of the extensive defects in its cost data, Thai Union's submitted COP data is unusable and cannot serve as a reliable basis for reaching the applicable determination as required by section 782(e)(3). Insofar as the Department can only make price-to-price comparisons (normal value to export price) using those home market sales that pass the cost test under section 773(b) of the Act, the systematically flawed nature of Thai Union's COP data prevents the Department from making this determination and thus from making proper price-to-price comparisons. Also, the Department is unable to calculate reliable difference in merchandise figures (DIFMERs) using Thai Union's unverified COP data. When comparing normal value to export price, the Department is required to account for the effect of physical differences between the merchandise sold in each market. See, section 773(a)(6)(C) of the Act. In this case DIFMERs would have been required for a majority of the United States and home market sales matches. However, because DIFMER

data is based on COP information from Thai Union's questionnaire responses, which as discussed above could not be verified, the Department is unable to determine the effect of physical differences in making sales comparisons.

In the absence of home market sales data (i.e., when the home market is viable but there are insufficient sales that pass the cost test to compare with U.S. sales), the Department would normally resort to the use of CV to calculate NV under section 773(a)(4). However, the CV data reported by Thai Union includes the unverifiable cost data. Therefore, the use of facts available for COP data precludes the use of the submitted CV data. In addition, although the Department elected not to verify Thai Union's sales data, the Department determines that it is not appropriate to accept Thai Union's sales data because its cost data could not be verified. The Department has declined to use a respondent's sales data when its cost data is unverifiable to avoid manipulation of the margin calculation. See *Certain Pasta from Italy*, 61 FR 30326. Based on these circumstances, we find it appropriate to resort to total facts available.

We find that Thai Union did not act to the best of its ability to comply with the Department's requests for information. As detailed above, Thai Union failed to provide complete responses to the Department's numerous requests for information. Despite our instructions to do so, Thai Union was unable to reconcile its reported cost data with its normal books and records kept in the ordinary course of business. Also, Thai Union never informed the Department of any difficulties it encountered in complying with the Department's requests for information prior to verification. It is therefore appropriate, according to section 776(b) of the Act, for the Department to use an inference adverse to the interests of Thai Union in selecting from the facts available. Because Thai Union has not acted to the best of its ability to comply with our requests for information, we find that section 782(e)(4) provides a further basis for declining to use Thai Union's submitted cost and sales data.

Section 776(b) states that adverse facts available information may be derived from the petition, the final determination in the LTFV investigation, a previous administrative review under section 751 or determination under section 753, or other information placed on the record. See also SAA at 829-31. For a total adverse facts available margin for Thai Union, we considered both the highest

calculated margin from this proceeding, 29.89 percent, (the margin calculated for Thai Union in the 1987-88 administrative review) and the average of the estimated margins in the petition, 37.55 percent.

Because the highest calculated margin from this proceeding is the rate currently assigned to Thai Union, we find that this rate is not adverse to Thai Union. Accordingly, consistent with section 776(b)(1) of the Act, to ensure that Thai Union does not benefit from failing to cooperate with our requests for information, we conclude that the average of the estimated margins in the petition is the most appropriate information on the record to form the basis for an adverse facts available margin. 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).

As information derived from the petition, this margin constitutes "secondary information" under section 776(c). Section 776(c) of the Act provides that where the Department relies on "secondary information," the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The SAA, accompanying the URAA, clarifies that information from the petition is "secondary information." SAA at 870. The SAA also clarifies that "corroborate" means to determine that the information used has probative value. *Id.* However, where corroboration is not practicable, the Department may use uncorroborated information. See Notice of Final Determination of Sales at Less Than Fair Value: *Certain Pasta From Turkey*, 61 FR 30309, 30312 (June 14, 1996).

To corroborate the data contained in the petition we examined the basis for the estimated margins. To calculate United States price, the petitioners were unable to obtain price information for U.S. sales. Therefore, they calculated United States price based on a quote from a U.S. importer and the U.S. Customs value for Thailand imports of the subject merchandise during November 1984. The petitioners were also unable to secure home market or third country prices for the merchandise subject to this investigation, therefore, they used CV as the basis for foreign market value. To calculate CV, the petitioners applied U.S. industry cost of manufacturing data, adjusted for Thailand wage rates. Thailand wage rates were based upon an average industrial wage taken from the United Nations Statistical Yearbook. The cost of

hot-rolled coil was calculated from Japanese export statistics on coil shipments to Thailand for September 1994. Adjustments were made to the coil price for freight, insurance and delivery charges from Japan to Thailand. For galvanized products, estimates of zinc costs were obtained from price quotes of zinc traders in Thailand. *Certain Circular Welded Carbon Steel Pipes and Tubes From Thailand; Initiation of Antidumping Duty Investigation*, 50 FR 12068, 12068 (March 27, 1985); *Antidumping Duty Petition*, February 28, 1985; *Memorandum for Alan F. Holmer from Gilbert B. Kaplan*, March 20, 1985. Petitioners based United States price on a price quote confirmed by an independent public source (i.e., import statistics). Further, the CV methodology was reasonable and based on available information including public data. Therefore, we find that the margins in the petition have probative value. See, *Steel Pipe from South Africa* 61 FR at 24273; *Pasta from Turkey*, 61 FR at 30312.

Accordingly, we have corroborated, to the extent practicable, the data contained in the petition and have relied upon this information for the adverse facts available rate in this review. We have assigned to Thai Union a margin of 37.55 percent, the average of the margins calculated in the petition on subject merchandise.

Preliminary Results of the Review

As a result of our application of total adverse facts available to Saha Thai and Thai Union, we preliminarily determine that the following weighted-average dumping margins exist:

Manufacturer/exporter	Period	Margin
Saha Thai/SAF	3/1/95-2/29/96	29.89
Thai Union ...	3/1/95-2/29/96	37.55

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter. Case briefs and/or other written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication of this notice. The Department will publish the final

results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days from the date of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between export price and NV may vary from the percentage stated above. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon the publication of the final results of these administrative reviews for all shipments of welded carbon steel pipes and tubes from Thailand entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by Section 751(a)(2)(c) of the Act: (1) The cash deposit rate for the reviewed companies will be that established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.67 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of review are published pursuant to Section 751(a)(1) of the Act and 19 CFR 353.22.

Dated: April 1, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97-9260 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 970404079-7079-01]

RIN 0651-09

Secretarial Business Development Missions to Brazil, Argentina, and Chile

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice serves to inform the public of Secretarial Business Development Missions to Brazil, May 12-13, and Argentina and Chile, May 15-19, 1997 ("the missions" or "trade missions") and the opportunity to apply for participation in the missions; sets forth objectives, procedures, and participation criteria for the missions; and requests applications.

DATES: Applications should be submitted to Cheryl Bruner by April 25, 1997, in order to ensure sufficient time to obtain in-country appointments for applicants selected to participate in the mission. Applications received after that date will be considered only if space and scheduling constraints permit. The missions are scheduled for: Brazil—May 12-13, and Argentina and Chile, May 15-19, 1997.

ADDRESSES: Request for and submission of applications—Applications are available from: Cheryl Bruner, Project Officer and Director of the Office of Business Liaison or Katy Ruth at 202-482-1360 or via facsimile at 202-482-4054. Numbers listed in this notice are not toll-free. An original and two copies of the required application materials should be sent to the Project Officer noted above. If a party is interested in both missions, an application must be submitted for each mission. Applications sent by facsimile must be immediately followed by submission of the original application to Ms. Bruner at the following address: Office of Business Liaison, Room 5062, U.S. Department of Commerce, 14th and Constitution, N.W., Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Cheryl Bruner or Katy Ruth at 202-482-1360. Information is also available via the International Trade Administration's

(ITA) Internet home page at "http://www.ita.doc.gov/uscs/doctm".

SUPPLEMENTARY INFORMATION:

Trade Mission Description

Secretary of Commerce, William M. Daley, will lead two trade missions to Latin America in May, each with a U.S. business delegation. The Mission to Brazil will include stops in Rio de Janeiro and Sao Paulo. While in Brazil, the Secretary will attend the Americas Business Forum in Belo Horizonte, an event separate from the trade mission. Members of the U.S. private sector delegation on the Brazil Trade Mission are encouraged to attend the Forum at their option. After the Brazil trade mission, the Secretary will meet another U.S. business delegation in Argentina which will participate in the trade mission there and in Chile. The overall focus of the trip will be the commercial opportunities, including joint ventures, presented by the development and liberalization in Brazil's, Argentina's and Chile's infrastructure and other economic sectors, and the promotion of the United States as a destination for foreign tourists. Specific sectors to be highlighted include electric power generation, information technologies (including telecommunications and computers), environmental technologies, transportation infrastructure and infrastructure finance. The United States and Foreign Commercial Service will provide logistical support for these activities at each stop.

The itinerary of the Brazil Mission will be as follows:

May 11 (Sun):
Leave United States
May 12 (Mon):
Arrive Rio de Janeiro
Leave Rio de Janeiro
Arrive Sao Paulo
May 13 (Tues):
Depart Sao Paulo
Arrive Belo Horizonte (Belo Horizonte portion of trip at participant's option)
May 14 (Wed):
Belo Horizonte (Americas Business Forum)
May 15 (Thurs):
Depart Belo Horizonte

The itinerary for the Argentina and Chile Mission will be as follows:

May 15 (Thurs):
Arrive Buenos Aires
May 16 (Fri):
Buenos Aires
May 17 (Sat):
Leave Buenos Aires
Arrive Santiago
May 18 (Sun):
Santiago
May 19 (Mon):
Santiago
May 20 (Tues):

Return United States

The goals for the missions are:

- Reaffirm President Clinton's commitment to hemispheric free trade, energize the U.S. private sector in its support for USG free trade initiatives and raise awareness of how the U.S. can benefit from further liberalization and commercial integration. In this context, the mission will highlight the upcoming Summit of the Americas that will occur in Santiago, Chile in March, 1998.

- Seek resolution of outstanding bilateral commercial issues and advocate U.S. interests regarding specific projects.

- Increase sales of U.S. products and services to Brazil, Argentina and Chile, particularly to the infrastructure sectors of these countries.

- Highlight the opening of the Brazilian, Argentine and Chilean markets.

- Increase joint ventures and investments by U.S. companies in Brazil, Argentina and Chile, especially those likely to result in U.S. exports.

A full description of the missions is set forth in the Mission Statement, which is available from Cheryl Bruner, Project Office and Director of the Office of Business Liaison, at the above address.

Trade Mission Participation Criteria

The recruitment and selection of private sector participants in the missions will be conducted according to the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daley on March 3, 1997 and reflected herein. For the Brazil and Argentina/Chile business development missions, individuals must be a level of executive seniority appropriate to the goals of the mission. Company participation will be determined on the basis of:

- Consistency of the company's goals with the scope and desired outcome of the missions as described herein;
- Relevance of a company's business line to the plan for the missions;
- Past, present and prospective business activity in Latin America, and particularly Brazil, Argentina and Chile, as applicable; and
- Diversity of company size, type, location, demographics and traditional under-representation in business.

An applicant's partisan political activities (including political contributions) are irrelevant to the selection process. An interested party must fill out an application to be considered for participation in a mission.

Endorsements/Referrals

Third parties may nominate or endorse potential applicants, but companies that are nominated or endorsed must themselves submit an application to be eligible for consideration. Referrals from political organizations will not be considered.

Costs

The fees to participate in the missions have not yet been determined, and will be based on the number of participants. The fees will not cover travel or lodging expenses.

Authority: 15 U.S.C. 1512.

Dated: April 4, 1997.

Walter Bastian,

Director, Office of Latin America, Market Access and Compliance, International Trade Administration, Department of Commerce.

[FR Doc. 97-9161 Filed 4-9-97; 8:45 am]

BILLING CODE 3510-DA-P

COMMISSION OF FINE ARTS**Notice of Meeting**

The Commission of Fine Arts' next meeting is scheduled for 17 April 1997 at 10:00 AM in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001 to discuss various projects affecting the appearance of Washington, D.C., including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call (202) 504-2200.

Dated in Washington, D.C. 3 April 1997.

Charles H. Atherton,

Secretary.

[FR Doc. 97-9229 Filed 4-9-97; 8:45 am]

BILLING CODE 6330-01-M

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

[OMB Control No. 9000-0006]

Proposed Collection; Comment Request Entitled Subcontracting Plans/Subcontracting Report for Individual Contracts (Standard Form 294)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding a revision to an existing OMB clearance (9000-0006).

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 a revision of a currently approved information collection requirement concerning Subcontracting Plans/Subcontracting Reporting for Individual Contracts (Standard Form 294).

DATES: *Comment Due Date:* June 9, 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. 9000-0006, Subcontracting Plans/Subcontracting Reporting for Individual Contracts (Standard Form 294), in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Linda Klein, Office of Federal Acquisition Policy, GSA (202) 501-3775.

SUPPLEMENTARY INFORMATION:**A. Purpose**

In accordance with the Small Business Act (15 U.S.C. 631, *et seq.*), contractors receiving a contract for more than \$10,000 agree to have small business, small disadvantaged business, and women-owned small business concerns participate in the performance of the contract as far as practicable. Contractors receiving a contract or a modification to a contract expected to

exceed \$500,000 (\$1,000,000 for construction) must submit a subcontracting plan that provides maximum practicable opportunities for small, small disadvantaged business concerns, and women-owned small businesses. Specific elements required to be included in the plan are specified in section 8(d) of the Small Business Act and implemented in FAR subpart 19.7.

In conjunction with these plans, contractors must submit semiannual reports of their progress on Standard Form 294, Subcontracting Report for Individual Contracts.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 8 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, 1,625; responses per respondent, 36.4; total annual responses, 59,200; preparation hours per response, 10; and total response burden hours, 597,580.

Dated: April 4, 1997.

Sharon A. Kiser,
FAR Secretariat.

[FR Doc. 97-9188 Filed 4-9-97; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0076]

Clearance Request Entitled Novation/ Change of Name Requirements

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for an extension to an existing OMB clearance (9000-0076).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Novation/Change of Name Requirements. A request for public

comments concerning this burden estimate was published at 62 FR 4261, January 29, 1997. No comments were received.

DATES: Comment Due Date: May 12, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Copies of the justification may be obtained from the FAR Secretariat. Please cite OMB Control No. 9000-0076, Novation/Change of Name Requirements, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Federal Acquisition Policy Division, GSA (202) 501-3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

When a firm performing under Government contracts wishes the Government to recognize (1) a successor in interest to these contracts or (2) a name change, it must submit certain documentation to the Government.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 27.5 minutes 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, 1,000; responses per respondent, 1; total annual responses, 1,000; preparation hours per response, .458; and total response burden hours, 458.

Dated: April 1, 1997.

Sharon A. Kiser,
FAR Secretariat.

[FR Doc. 97-9234 Filed 4-9-97; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Environmental Response Task Force (DERTF)

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security).

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Public Law 92-463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force (DERTF). The DERTF is charged with studying and providing findings and recommendations on environmental response actions at military installations being closed or realigned. This meeting is a follow-up to the January 8-9, 1997 meeting. The DERTF will discuss issues related to unexploded ordnance, groundwater remediation, Superfund reform, other matters related to cleanup at closing military installations, and its 1997 Report to Congress. The DERTF will also be briefed on the cleanup program at Fort McClellan, Alabama. The business meeting and hearing will be open to the public. Public witnesses desiring to speak before the DERTF should contact Shah Choudhury, Executive Secretary, and prepare a written statement that can be summarized orally before the DERTF at the time to be fixed for public witnesses. Written statements must be received by the close of business, May 20, 1997, at the Office of the Under Secretary of Defense (Environmental Security).

DATES: June 17, 1997—9:00 a.m. to 8:00 p.m.; June 18, 1997—9:00 a.m. to 8:00 p.m.; June 19, 1997—8:00 a.m. to 4:00 p.m.

PUBLIC COMMENT PERIOD: June 18, 1997—7:00 p.m. to 8:00 p.m.

ADDRESSES: Anniston Meeting Center, 1615 Noble Street, Anniston, AL.

FOR FURTHER INFORMATION CONTACT: Mr. Shah Choudhury, Executive Secretary, Office of the Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301-3400; telephone (703) 697-7475; e-mail choudhsa@acq.osd.mil.

Dated: April 4, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 97-9218 Filed 4-9-97; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on May 6, 1997; May 13, 1997; May 20, 1997; and May 27, 1997; at 10:00 a.m. in Room A105, The Nash

Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92-463, the Department of Defense has determined that the meetings meet the criteria to closed meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301-4000.

Dated: April 7, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97-9219 Filed 4-9-97; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Community College of the Air Force Meeting

The Community College of the Air Force (CCAF) Board of Visitors will hold a meeting on May 6, 1997 at 8:00 a.m. in the Wing Conference Room, Building 2484, 1701 Kenly Avenue, Suite 242, Lackland Air Force Base, Texas. The meeting will be open to the public.

The purpose of the meeting is to review and discuss academic policies and issues relative to the operation of the CCAF. Agenda items include a review of the operations of the CCAF, an update on the status of the reaffirmation of accreditation by the Commission on Colleges, Southern Association of Colleges and Schools, an update on the activities of the CCAF Policy Council, a report on plans for hiring instructors for the College, and the election of officers for the next year.

Members of the public who wish to make oral or written statements at the meeting should contact Captain Kyle C. Monson, Designated Federal Officer for the Board, at the address below no later than April 24, 1997. The request may be made by mail or electronic mail. Telephone requests will not be honored. The request should identify the name of

the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of the presentation materials must be given to Captain Monson no later than the time of the meeting for distribution to the Board and interested members of the public. Visual aids must be submitted to Captain Monson on a 3-1/2" computer disc in Microsoft PowerPoint 4.0 format no later than 4:00 p.m. on April 24, 1997 to allow sufficient time for virus scanning and formatting of the slides.

For further information, contact Captain Kyle Monson, (334) 953-7937, Community College of the Air Force, Maxwell Air Force Base, Alabama 36112-6613, or through electronic mail at kmonson@ccaf.au.af.mil.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97-9215 Filed 4-9-97; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96-517, the Department of the Air Force announces its intention to grant Cornell Research Foundation, Inc., a corporation of the State of New York, an exclusive license under United States Patent Application Serial No. 08/617,001 filed in the name of Michael A. Parker for Vertical Cavity Surface Emitting Lasers with Optical Gain Control (V-LOGIC).

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Copies of the patent application may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to: Mr. Samuel B. Smith, Jr., Chief, Intellectual Property Branch, Commercial Litigation Division, Air Force Legal Services Agency, 1501 Wilson Boulevard, Suite 805, Arlington VA 22209-2403, telephone (703) 696-9033.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97-9224 Filed 4-9-97; 8:45 am]

BILLING CODE 3910-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Scientific Advisory Board Closed Meeting

AGENCY: Department of Defense, Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92-463, as amended by Section 5 of Public Law 94-409, notice is hereby given that a closed meeting of the DIA Scientific Advisory Board has been scheduled as follows:

DATES: April 24, 1997 (800 am to 1600 pm).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340-5100.

FOR FURTHER INFORMATION CONTACT:

Maj Michael W. Lamb, USAF, Executive Secretariat, DIA Scientific Advisory Board, Washington, D.C. 20340-1328 (202) 231-4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: April 7, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97-9220 Filed 4-9-97; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF EDUCATION

Notice of Waivers Granted by the U.S. Secretary of Education Under the Authority of the Elementary and Secondary Education Act and Notice of States Selected for Participation in the Education Flexibility Partnership Demonstration Program

SUMMARY: Three major education laws, the Elementary and Secondary Education Act (ESEA) (Pub. L. 103-382), the Goals 2000: Educate America Act (Pub. L. 103-227), and the School-to-Work Opportunities Act (Pub. L. 103-239), provide States, school districts, and schools with expanded opportunities to use Federal education funds in order to improve school effectiveness and academic achievement. These acts authorize the

Secretary of Education to grant waivers of certain requirements of Federal programs in cases where a waiver will likely contribute to improved teaching and learning.

As of December 31, 1996, the U.S. Department of Education (Department) had approved 142 waiver requests under the waiver authorities identified above. This notice identifies the 26 waiver requests approved by the Department from July 1, 1996 through December 31, 1996. This notice also identifies the two States selected for participation in the Education Flexibility Partnership Demonstration Program (Ed-Flex) under the Goals 2000: Educate America Act during this time period.

Waivers listed in this notice include waivers of statutory provisions governing the poverty threshold for implementing schoolwide programs under Title I of the ESEA, the proportion of funds devoted to professional development in mathematics and science and other core subject areas under Title II of the ESEA, and coordinated services projects under Title XI of the ESEA. This notice is published as provided for in section 14401(g) of the ESEA and section 311(g) of Goals 2000. The Department reviews and evaluates each waiver application based on its individual merits in accordance with the statutory criteria.

Requests for waivers that would be implemented at the beginning of the 1997-98 school year and affect school-level activities must be submitted in substantially approvable form no later than May 1, 1997.

(A) Waivers Approved Under the General Waiver Authority in Section 14401 of the ESEA

(1) *Name of Applicant:* Palm Beach County School District, West Palm Beach, FL.

Requirement Waived: Section 1113(a)(4)(B) of the ESEA.

Duration of Waiver: One year.

Date Granted: July 6, 1996.

(2) *Name of Applicant:* Dade County Public Schools, Miami, FL.

Requirement Waived: Section 1113(a)(3)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: July 7, 1996.

(3) *Name of Applicant:* Virginia Department of Education, Richmond, VA.

Requirement Waived: Section 2206(b) of the ESEA.

Duration of Waiver: Three years.

Date Granted: July 7, 1996.

(4) *Name of Applicant:* Oil City School District, Oil City, PA.

Requirement Waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: Two years.

Date Granted: July 28, 1996.

(5) *Name of Applicant:* Yadkin County Schools, Yadkinville, NC.

Requirement Waived: Section 1113(c)(2) of the ESEA.

Duration of Waiver: Three years.

Date Granted: August 1, 1996.

(6) *Name of Applicant:* California Department of Education, Sacramento, CA.

Requirement Waived: Section 11004(a) of the ESEA.

Duration of Waiver: Three years.

Date Granted: August 2, 1996.

(7) *Name of Applicant:* Evergreen Park Elementary School District, Evergreen Park, IL.

Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.

Duration of Waiver: Three years.

Date Granted: August 2, 1996.

(8) *Name of Applicant:* Pinellas County Schools, Largo, FL.

Requirement Waived: Section 1113(a)(4)(B) of the ESEA.

Duration of Waiver: One year.

Date Granted: August 24, 1996.

(9) *Name of Applicant:* South Carolina Department of Education, Columbia, SC.

Requirement Waived: Section 1114(a)(1)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: August 29, 1996.

(10) *Name of Applicant:* Currituck County Public Schools, Currituck, NC.

Requirement Waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: August 30, 1996.

(11) *Name of Applicant:* Fayette County Public Schools, Lexington, KY.

Requirement Waived: Section 1114(a)(1)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: August 30, 1996.

(12) *Name of Applicant:* Central Greene School District, Waynesburg, PA.

Requirement Waived: Section 1113(c)(1) of the ESEA.

Duration of Waiver: One year.

Date Granted: September 3, 1996.

(13) *Name of Applicant:* Boyertown Area School District, Boyertown, PA.

Requirements Waived: Sections 1113(a)(2)(B) and 1113(a)(4) of the ESEA.

Duration of Waiver: Three years.

Date Granted: September 6, 1996.

(14) *Name of Applicant:* Cumberland County Schools, Fayetteville, NC.

Requirement Waived: Section 1114(a)(1)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: September 11, 1996.

(15) *Name of Applicant:* Baraboo School District, Baraboo, WI.

Requirement Waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: September 12, 1996.

(16) *Name of Applicant:* Mendota Community Consolidated School District 289, Mendota, IL.

Requirements Waived: Section 1113(a)(2)(B) and 1113(c)(2) of the ESEA.

Duration of Waiver: Three years.

Date Granted: September 12, 1996.

(17) *Name of Applicant:* Moscow School District No. 281, Moscow, ID.

Requirements Waived: Section 1113(a)(2)(B) and 1113(c)(1) of the ESEA.

Duration of Waiver: One year.

Date Granted: September 15, 1996.

(18) *Name of Applicant:* Jackson County School System, Scottsboro, AL.

Requirement Waived: Section 1114(a)(1)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: September 23, 1996.

(19) *Name of Applicant:* Riverview School District, Oakmont, PA.

Requirement Waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: October 4, 1996.

(20) *Name of Applicant:* Wyoming Department of Education, Cheyenne, WY.

Requirement Waived: Section 2206(b) of the ESEA.

Duration of Waiver: Two years.

Date Granted: October 9, 1996.

(21) *Name of Applicant:* Palisades School District, Kintnersville, PA.

Requirement Waived: Section 1113(a)(2)(B) of the ESEA.

Duration of Waiver: One year.

Date Granted: November 1, 1996.

(22) *Name of Applicant:* Clover Park School District, Clover Park, WA.

Requirement Waived: Section 1114(a)(1)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: November 12, 1996.

(23) *Name of Applicant:* Kent School District, Kent, WA.

Requirement Waived: Section 1114(a)(1)(B) of the ESEA.

Duration of Waiver: Three years.

Date Granted: November 12, 1996.

(24) *Name of Applicant:* Indian Springs School, Justice, IL.

Requirements Waived: Section 1113(c)(1) and 1113(c)(2) of the ESEA.

Duration of Waiver: Three years.

Date Granted: December 20, 1996.

(25) *Name of Applicant:* Webster County Board of Education, Webster Springs, WV.

Requirement Waived: Section 1113(c)(1) of the ESEA.

Duration of Waiver: Two years.

Date Granted: December 20, 1996.

(B) Waivers Approved Under the Maintenance of Effort Waiver Authority in Section 14501(c) of the ESEA

(1) *Name of Applicant:* Nebraska Department of Education, Lincoln, NE.
Requirement Waived: Section 14501(a) for Title I, Part A; Title II; and Title IV of the ESEA.

Duration of Waiver: Through the duration of the reauthorization period.
Date Granted: August 19, 1996.

(C) States Selected for Participation in the Education Flexibility Partnership Demonstration Program Under Section 311(e) of the Goals 2000: Educate America Act

(1) *State:* Colorado.
Duration of Ed-Flex Authority: Five years.

Date Granted: July 10, 1996.

(2) *State:* New Mexico.
Duration of Ed-Flex Authority: Five years.

Date Granted: August 30, 1996.

FOR FURTHER INFORMATION CONTACT:

Collette Roney on the Department's Waiver Assistance Line at (202) 401-7801. The Department's Waiver Guidance, which provides examples of waivers, explains the waiver authorities in detail, and describes how to apply for a waiver, is also available at this number. In addition, the guidance and other information on flexibility are available at the Department's World Wide Web site at <http://www.ed.gov/flexibility>.

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.

Dated: March 27, 1997.

Marshall S. Smith,

Acting Deputy Secretary.

[FR Doc. 97-9185 Filed 4-9-97; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.033]

**Office of Postsecondary Education;
Federal Work-Study Programs**

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to submit a request for a waiver of the requirement that an institution shall use at least five percent of the total amount of its Federal Work-Study (FWS) Federal funds granted for the 1997-98 award year to compensate students employed in community service jobs.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to submit a written request for a waiver of the statutory requirement that an institution shall use at least five percent of its total FWS Federal funds granted for the 1997-98 award year (July 1, 1997 through June 30, 1998) to compensate students employed in community service jobs.

DATES: *Closing Date for submitting a Waiver Request and any Supporting Information or Documents.* To request a waiver of the requirement that an institution use at least five percent of the total amount of its FWS Federal funds granted for the 1997-98 award year to compensate students employed in community service jobs, an institution must mail or hand-deliver its waiver request and any supporting information or documents on or before June 20, 1997. The Department will not accept a waiver request submitted by facsimile transmission. The waiver request must be submitted to the Institutional Financial Management Division at one of the addresses indicated below.

ADDRESSES: *Waiver Request and any Supporting Information or Documents Delivered by Mail.* The waiver request and any supporting information or documents delivered by mail must be addressed to Ms. Sandra Donelson, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781 Washington, D.C. 20026-0781.

An applicant must show proof of mailing its waiver request by June 20, 1997. Proof of mailing consist of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If a waiver request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail. Institutions that submit waiver requests and any supporting information or documents after the closing date will not be considered for a waiver.

Waiver Requests and any Supporting Information or Documents Delivered by Hand. A waiver request and any supporting information or documents delivered by hand must be taken to Ms. Sandra Donelson, Campus-Based Financial Operations Branch, Institutional Financial Management Division, Accounting and Financial Management Service, Student Financial Assistance Programs, U.S. Department of Education, Room 4714, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

Hand-delivered waiver requests will be accepted between 8:00 a.m. and 4:30 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays. A waiver request for the 1997-98 award year that is hand-delivered will not be accepted after 4:30 p.m. on June 20, 1997.

SUPPLEMENTARY INFORMATION: Under section 443(b)(2)(A) of the Higher Education Act of 1965, as amended (HEA), an institution must use at least five percent of the total amount of its FWS Federal funds granted for an award year to compensate students employed in community service, except that the Secretary may waive this requirement if the Secretary determines that enforcing it would cause hardship for students at the institution. The institution must submit a written waiver request and any supporting information or documents by the established June 20, 1997 closing date.

The waiver request must be signed by an appropriate institutional official and above the signature the official must include the statement: "I certify that the information the institution provided in this waiver request is true and accurate to the best of my knowledge. I understand that the information is subject to audit and program review by representatives of the Secretary of Education." If the institution submits a waiver request and any supporting information or documents after June 20, 1997 the request will not be considered.

To receive a waiver, an institution must demonstrate that complying with the five percent requirement would cause hardship for students at the institution. To allow flexibility to consider factors that may be valid reasons for a waiver, the Secretary is not specifying the particular circumstances that would support granting a waiver. However, the Secretary does not foresee many instances in which a waiver will be granted. The fact that it may be difficult for the institution to comply with this provision of the HEA is not a basis for granting a waiver.

Applicable Regulations

The following regulations apply to the Federal Work-Study program:

- (1) Student Assistance General Provisions, 34 CFR Part 668.
- (2) Federal Work-Study Programs, 34 CFR Part 675.
- (3) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR Part 600.
- (4) New Restrictions on Lobbying, 34 CFR Part 82.
- (5) Government Debarment and Suspension (Nonprocurement) and Government Requirements for Drug-Free Workplace (Grants), 34 CFR Part 85.
- (6) Drug-Free Schools and Campuses, 34 CFR Part 86.

FOR FURTHER INFORMATION CONTACT: To receive information, contact Ms. Sandra Donelson, Institutional Financial Management Division, U.S. Department of Education, P.O. Box 23781 Washington, D.C. 20026-0781. Telephone (202) 708-9751. 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.

Authority: 42 U.S.C. 2753.

Dated: March 21, 1997.

David A. Longanecker,

Assistant Secretary, for Postsecondary Education.

[FR Doc. 97-9184 Filed 4-9-97; 8:45 am]

BILLING CODE 4000-01-P

Amy Billingsley, White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 600 Independence Avenue, SW, The Portals Building, Suite 605, Washington, DC 20202-5120. Telephone: (202) 708-8667.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities is established under Executive Order 12876 of November 1, 1993. The Board is established to advise on the financial stability of Historically Black Colleges and Universities, to issue an annual report to the President on HBCU participation in Federal programs, and to advise the Secretary of Education on increasing the private sector role in strengthening HBCUs.

The meeting of the Board is open to the public. The agenda includes: discussion of the Board's Report, overview of White House Initiative activities, and discussion on status of Black colleges.

Records are kept of all Board proceedings, and are available for public inspection at the White House Initiative on Historically Black Colleges and Universities at 1250 Maryland Ave. SW, Washington, DC 20224, from the hours of 8:30 am to 5:00 pm.

Dated: April 4, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97-9212 Filed 4-9-97; 8:45 am]

BILLING CODE 4000-01-M

Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)), the Secretary publishes in the **Federal Register** a synopsis of arbitration panel decisions affecting the administration of vending facilities on Federal and other property.

Background

The State of Nevada, Bureau of Services to the Blind, the State licensing agency (SLA), alleged that the Department of Interior, Bureau of Reclamation (Reclamation) violated the Randolph-Sheppard Act (the Act), pursuant to 20 U.S.C. 107 *et seq.* and implementing regulations in 34 CFR Part 395.

The SLA established three vending facilities under permit at the Hoover Dam near Boulder City, Nevada. Two of the vending facilities (the Hoover Dam Snacketeria and the Nevada Lookout Point, which is also known as the Hoover Dam Store) were established in 1981. The third location, known as the Arizona Lookout Point, was established in 1982.

The SLA's allegations are as follows: Reclamation notified the SLA of its intention to terminate the permits of the three facilities. Reclamation then sent the SLA, for its approval, a Special Use Agreement limited to 10 years and requiring the blind vendors to pay a fee of 10 percent of the gross sales in addition to rent.

Subsequently, the SLA was informed by Reclamation that it would solicit open bids for concessions at the Hoover Dam if the SLA did not sign the Special Use Agreement. In addition, the SLA discovered in January 1995 that Reclamation had operated vending machines at the Hoover Dam independently of the blind vendors since January 1, 1975. Reclamation had never paid the SLA vending machine income as required under the Act.

Conversely, Reclamation alleged as follows: The Randolph-Sheppard Act does not require vending facilities in the parking ramp or the Visitors Center and, therefore, the SLA may operate vending facilities at this site only upon terms that are mutually agreeable. Further, the Act does not require Reclamation to pay for alleged relocation and other costs attendant to any move that might occur. In addition, Reclamation is not responsible for more than 30 percent of any vending revenues at the Hoover Dam because the Visitors Center and parking ramp would house fewer than

DEPARTMENT OF EDUCATION**President's Board of Advisors on Historically Black Colleges and Universities; Meeting**

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of the initial meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: Tues. May 6, 1997 from 2:00 pm to 5:00 pm, and Wed. May 7, 1997 from 9:00 am to 5:00 pm.

ADDRESSES: Sheraton City Centre Hotel, 1143 New Hampshire Av. NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

DEPARTMENT OF EDUCATION**Arbitration Panel Decision Under the Randolph-Sheppard Act**

AGENCY: Department of Education.

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on August 30, 1996, an arbitration panel rendered a decision in the matter of *The State of Nevada, Bureau of Services to the Blind v. U.S. Department of Interior, Bureau of Reclamation (Docket No. R-S/95-3)*. This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(b), upon receipt of a complaint filed by the State of Nevada, Bureau of Services to the Blind.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Mary E. Switzer Building, Washington, D.C. 20202-2738.

100 Federal employees during normal working hours.

On March 6, 1996, the SLA filed a request with the Secretary of Education to convene an arbitration panel pursuant to the Act and regulations.

On January 23 and 24, 1996, an arbitration hearing was held concerning the SLA's charges of alleged violations of the Act and regulations by Reclamation. The issues heard by the panel were—(1) Whether Reclamation was responsible for certain relocation costs of two vending facilities at the Hoover Dam; (2) whether Reclamation was required to provide a suitable site to blind vendors in the newly constructed parking garage or Visitors Center at the Hoover Dam and to pay for relocation costs, architectural fees, and other associated costs; (3) whether Reclamation is required to comply with the vending machine income-sharing provisions of the Act and implementing regulations; and (4) whether the SLA lost its right to claim income from vending machines based upon waiver, estoppel, or laches?

Arbitration Panel Decision

The majority of the Arbitration Panel found that, while Reclamation was not responsible for relocation costs, it was nevertheless responsible for providing suitable sites to the blind licensees operating the Hoover Dam Store and the Hoover Dam Snacketeria in the newly constructed facility under the existing indefinite permits, without additional payments of rent and commissions on sales to Reclamation. The panel stated that Reclamation may not require, as a condition of continuing or establishing a vending facility in the parking ramp or at the Arizona Lookout, the payment of commissions on sales, rent, or other charges not included in the indefinite permit, nor can Reclamation require the SLA or the vendors to sign any time-limited contract, special use agreement, or other document of this kind.

The panel concluded that to require the SLA to pay rent and commissions on sales would be a violation of 34 CFR 395.31(d) and would be inconsistent with the ruling in *State of Minnesota, Department of Jobs and Training v. Riley*, 18 Fd.3rd 606 (8th Cir. 1994).

The panel further found that Reclamation will move, at its expense, the stock and equipment owned by the blind licensees operating the Hoover Dam Snacketeria and the Hoover Dam Store from the temporary facilities to the new location in the parking ramp and provide space consistent with discussions held with the SLA. The SLA will bear the responsibility of the cost to complete the internal space.

In addition, the panel ruled that pursuant to 34 CFR 395.32 (a) and (d) Reclamation is liable to the SLA for 30 percent of all vending machine income derived since January 2, 1975, from the machines located inside the Hoover Dam. Therefore, Reclamation will identify and account for the revenues earned since that date that are owed.

One panel member dissented from the majority opinion.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: April 4, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97-9182 Filed 4-9-97; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education.

ACTION: Notice of arbitration panel decision under the Randolph-Sheppard Act.

SUMMARY: Notice is hereby given that on November 20, 1996, an arbitration panel rendered a decision in the matter of *Valerie Hazimeh v. Massachusetts Commission for the Blind (Docket No. R-S/96-1)*. This panel was convened by the U.S. Department of Education pursuant to 20 U.S.C. 107d-1(a), upon receipt of a complaint filed by petitioner, Valerie Hazimeh.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Mary E. Switzer Building, Washington D.C. 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

Ms. Valerie Hazimeh, complainant, operated a concession/vending facility at the Chelsea Soldier's Home in Massachusetts in the Spring of 1995.

The operation of this facility included the selling of lottery tickets.

In May 1995, the Massachusetts Commission for the Blind, the State licensing agency (SLA), advertised an opening of a vending location at the Department of Veterans Affairs (DVA) Medical Center, 7th floor, 251 Causeway Street, Boston, Massachusetts. The advertisement of this location indicated that a lottery license would be required for the sale of lottery tickets.

Subsequently, on June 15, 1995, the SLA awarded the DVA Medical Center vending facility to the complainant. Ms. Hazimeh signed an operator's agreement for this location with the understanding that the sale of lottery tickets was allowed, as she already was a licensed dealer of lottery tickets and had made lottery sales at her former vending facility location.

On June 26, 1995, DVA informed the SLA that it would no longer allow lottery sales at the Medical Center vending facility due to the fact that the Center treated persons with addictive disorders, including gambling.

Following DVA's denial of the lottery sales at the Medical Center, the SLA attempted to persuade the DVA to reverse its decision. However, DVA maintained its June 26, 1995, position suspending lottery sales.

The complainant alleged that the number of persons affected by a gambling addiction was small and that the permit agreement between DVA and the SLA specifically allowed for the sale of Massachusetts lottery tickets. The complainant requested that the SLA file for an arbitration against DVA, alleging failure of DVA to comply with the permit under the provisions of the Randolph-Sheppard Act (the Act), 20 U.S.C. 107 *et seq.* The SLA decided not to file for arbitration against DVA. However, the SLA offered Ms. Hazimeh an opportunity to return to her former vending location, where lottery sales were permitted, and to bid on the next available location that would allow lottery sales.

The complainant rejected the SLA's offer and filed a request for a fair hearing, which was conducted on November 20, 1995, before an impartial hearing officer. The hearing officer's ruling affirmed the SLA's decision not to file for arbitration against DVA. The hearing officer ruled that the complainant failed to sustain the burden of proof that the SLA was obligated to file for an arbitration against DVA on her behalf. Further, the hearing officer ruled that the SLA's decision not to file for arbitration against DVA was within its discretion pursuant to 34 CFR 395.37(a).

On January 17, 1996, the complainant filed a request for Federal arbitration with the Secretary of Education concerning this grievance. An arbitration hearing on this matter was held on September 10, 1996.

Arbitration Panel Decision

The issues before the arbitration panel were—(1) whether the complainant, Valerie Hazimeh, in accordance with the permit between the SLA and DVA, should be permitted to sell lottery tickets at the DVA Medical Center; and (2) whether the SLA should be required to file a complaint with the Secretary of Education against DVA with respect to the restriction on the sale of lottery tickets at the DVA Medical Center.

Regarding the first issue concerning the permit between the SLA and DVA which allowed lottery sales, the arbitration panel stated that the permit for the Medical Center operation, initially signed in 1990, was still valid and had not been modified prior to complainant's filing for grievance. The panel ruled that the existing permit binds the parties to the original agreement. Consequently, when Ms. Hazimeh signed the operator's agreement on June 15, 1995, her contract rights as a third party beneficiary were fixed pursuant to the existing permit. Therefore, by prohibiting the sale of Massachusetts lottery tickets at the Medical Center, DVA violated its contract with the SLA.

The second issue concerned whether the SLA should be required to file a complaint with the Secretary of Education against DVA on behalf of complainant. The panel ruled that 34 CFR 395.37 provides that whenever any State licensing agency determines that any department is failing to comply with the provisions of the Act (here, the terms and conditions of the permit), and all informal attempts to resolve the issues have been unsuccessful, that licensing agency may file a complaint with the Secretary. The arbitration panel concluded that the operative term was the word "may," and, therefore, the SLA had no obligation to file a complaint.

The views and opinions expressed by the panel do not necessarily represent the views and opinions of the U.S. Department of Education.

Dated: April 4, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 97-9183 Filed 4-9-97; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Notice of Competitive Financial Assistance for the Office of Industrial Technologies

AGENCY: U.S. Department of Energy.

ACTION: Notice of Competitive Financial Assistance Solicitation.

SUMMARY: The Department of Energy announces that competitive applications will be solicited for regional field management of the Industrial Assessment Center (IAC) program, formerly the Energy Analysis and Diagnostic Center program. The IAC program provides practical training in industrial energy and waste management generating improvements while giving engineering students and young professionals practical experience in the application of these techniques. Estimated total funding in the amount of \$33,000,000 will be provided over a five year period of performance.

ADDRESSES: Solicitation number DE-PS01-97EE41240 will be available through the Department of Energy's "Current Business Opportunities at Headquarters Procurement Operations" Homepage located at www.pr.doe.gov/solicit.html. Interested applicants that do not have internet access may request a copy of the solicitation by sending a request with a virus-free diskette and diskette mailer to U.S. Department of Energy, Office of Placement and Administration, Attn: Document Control Specialist, HR-562, 1000 Independence Ave., SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Ms. Jackie Kniskern, HR-561.21, Office of Placement and Administration, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585, telephone number (202) 426-0049, e-mail at jacqueline.kniskern@hq.doe.gov.

SUPPLEMENTARY INFORMATION: The IAC program, in operation for twenty years, has been guided by field management working under policy guidelines established by the Department of Energy (DOE). The program has expanded to provide in-depth, on-site energy, waste management and productivity assessments for small- and medium-size manufacturers, followed by recommendations for specific dollar savings. These assessments, conducted by faculty and students of IAC schools, are designed to identify energy, waste, and productivity improvements as assessment recommendations (ARs) throughout the plant, e.g., production-related services, HVAC, and housekeeping. During the 6 to 9 month

period following audit report submission to the client plant, the IAC conducts a survey of the client to determine which ARs have been implemented. This provides a reasonably accurate and on-going measure of the effectiveness of the program.

The Industrial Assessment Center program provides practical training in industrial energy and waste management generating improvements for increased productivity while giving young engineering professionals practical experience in the application of these techniques, in a working manufacturing environment. These young professionals assist senior faculty and professionals in the collection and evaluation of energy, waste and productivity data for client firms. Students with this background are better equipped, upon graduation, to perform energy and waste management responsibilities in the industrial sector. Their employment potential is enhanced because of the practical work experience they have acquired.

Each IAC Region is administered by a Regional Field Manager. IAC field management conducts performance reviews and evaluations and prepares analytical and statistical summaries of all regional data. Schools report assessment data on line to the IAC data base. The directors of all IACs meet annually to review program progress and to exchange information with each other. The field manager should be prepared to provide creative leadership in the area of industrial energy, waste, and productivity management, database management, data aggregation and analysis, and the preparation of information and reports for use in developing training aids and technical assistance documents.

This assistance action provides funding for the ultimate operation of schools participating in the IAC Program. The field management responsibility will be awarded for an eastern field management region and a western field management region of the United States as divided by the Mississippi River. Competitors may receive awards in either field management territory. The purpose of the awards is to provide coordination and management of the schools participating in the IAC Program. In addition, the management of the national database of the audit and assessment data from the IAC program will be awarded.

Pursuant to 10 CFR 600.9, a solicitation, which will include the project objectives, application instructions, evaluation criteria, and a

model grant, is expected to be issued in mid April 1997. The due date for proposals will be indicated in the solicitation; but will not be earlier than 30 days after the issuance of the solicitation. The Department intends to award two cooperative agreements as a result of this solicitation.

Issued in Washington, D.C. on April 3, 1997.

Scott Sheffield,

Director, Headquarters Operations Division B, Office of Headquarters Procurement Operations.

[FR Doc. 97-9199 Filed 4-9-97; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-311-000]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1996, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet to be effective June 1, 1997:

Third Revised Sheet No. 109

ANR submits that the purpose of this filing is to propose a modification to its General Terms and Conditions to permit shippers to make pool-to-pool transfers at the Headstations in its Southeast and Southwest supply areas.

ANR states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9266 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-172-002]

ANR Storage Company; Notice of Compliance Filing

April 4, 1997.

Take notice that on April 1, 1997, ANR Storage Company (ANRS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on the Appendix A to the filing, to be effective June 1, 1997.

ANRS states that the attached tariff sheets are being filed in compliance with the Commission's Order issued on February 13, 1997 in the above captioned docket. The tariff sheets incorporate changes to conform to the standards adopted by the Gas Industry Standards Board at Docket No. RM96-1-000.

ANRS states that copies of the filing were served upon the company's Jurisdictional customers.

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 should be filed on or before April 21, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9267 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-187-003]

Arkansas Western Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Arkansas Western Pipeline Company (AWP) tendered for filing as part of its FERC Gas Tariff, pro forma tariff sheets to become effective June 1, 1997.

AWP states that the filing sets forth the revisions to AWP's tariff sheets that are necessary to comply with Order No. 587 in Docket No. RM96-1-000.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such petitions or protests must be filed on or before April 21, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9268 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-181-002]

CNG Transmission Corporation; Notice of Compliance Tariff Filing

April 4, 1997.

Take notice that on April 1, 1997, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, various tariff sheets listed on Appendix A of CNG's filing. CNG requests an effective date of June 1, 1997, for its proposed tariff sheets.

CNG states that the purpose of this filing is to revise CNG's FERC Gas Tariff, to implement certain business practice standards that have been developed by the Gas Industry Standards Board ("GISB"). These GISB standards have been incorporated by

reference in the Commission's regulations through Order Nos. 587, 587-B, and 587-C. As modified in accordance with the February 13 Order and the Order No. 587 series, CNG's revised FERC Gas Tariff complies with each of the GISB business practice standards that has been adopted by the Commission to date, with the limited exception of Standards 2.3.7 and 2.3.11, for which CNG obtained a partial waiver under the February 13 Order. The table attached as Appendix B to this letter details CNG's compliance with each GISB business practice standard.

CNG states that copies of its filing have been mailed to CNG's customers and interested state commissions, and to parties to the captioned proceeding.

Any person desiring to be heard or to protest this 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 Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 21, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9269 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-145-001]

Crossroads Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Crossroads Pipeline Company (Crossroads) tendered for filing as part of its FERC Gas Tariff, the tariff sheets listed on Appendix A to the filing, with an effective date of June 1, 1997.

Crossroads asserts that this filing is being made to comply with the requirements of the Commission's Order Nos. 587, 587-A, and 587-B issued in Docket No. RM96-1-000, and the Commission's March 6, 1997 letter order on Crossroads' December 2, 1996 compliance filing.

Crossroads states that the purpose of its filing is to reflect changes to its tariff

to implement the standards approved by the Gas Industry Standards Board and incorporated into the Commission's regulations.

Crossroads states further that copies of the filing were served on its current firm and interruptible customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with the Commission's rules and regulations 18 CFR Sections 385.211 and 385.214. All such motions or protests must be filed on or before April 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Crossroads' filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9270 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-314-000]

East Tennessee Natural Gas Company; Notice of Tariff Filing

April 4, 1997.

Take notice that on April 1, 1997, East Tennessee Natural Gas Company (East Tennessee), filed the original and revised tariff sheets listed on Appendix A to the filing, in compliance with the Order on Compliance issued by the Commission on January 8, 1997 in this proceeding requiring East Tennessee to file a pooling proposal. East Tennessee proposes an effective date of no later than August 1, 1997 for the original and revised sheets.

East Tennessee states that the original and revised tariff sheets reflect the changes to East Tennessee's tariff required to establish a supply aggregation service which is consistent with the Gas Industry Standards Board's standards regarding pooling that were adopted by the Commission in Order No. 587.

East Tennessee states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this 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 Sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests must be filed on or before April 21, 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 this proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9271 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-310-000]

Garden Banks Gas Pipeline, LLC.; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the pro forma Tariff sheets set forth on Appendix B to the filing in compliance with the Commission's Order No. 587, to become effective June 1, 1997.

On July 17, 1996, the Commission issued Order No. 587 which revised its regulations governing interstate natural gas pipelines to require such pipelines to follow standardized business practices issued by the Gas Industry Standards Board (GISB) and adopted by the Commission. 18 CFR § 284.10(b). The standards govern certain aspects of the following practices of natural gas pipelines: nominations, allocations, balancing, measurement, invoicing, and capacity release. In Docket Nos. CP96-678-000 and CP96-679-000, GBGP was directed to file GISB complaint pro forma Tariff sheets within 60 days of implementation.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR Sections 385.211 and 385.214 of the Commission's Rules and Regulations.

All such motions and protests must be filed by April 21, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 97-9272 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-141-002]

Great Lakes Gas Transmission Limited Partnership; Notice of Compliance Filing

April 4, 1997.

Take notice that on April 1, 1997, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for consideration as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets to be effective June 1, 1997:

Third Revised Sheet No. 1
Fifth Revised Sheet No. 4
Fourth Revised Sheet No. 4A
Second Revised Sheet No. 8
Fourth Revised Sheet No. 9
Second Revised Sheet No. 10
Original Sheet No. 10A
Second Revised Sheet No. 11
Original Sheet No. 11A
First Revised Sheet No. 12
Third Revised Sheet No. 13
Original Sheet No. 13A
Second Revised Sheet No. 17
Second Revised Sheet No. 20
Second Revised Sheet No. 21
Second Revised Sheet No. 22
First Revised Sheet No. 27
Original Sheet No. 27A
Second Revised Sheet No. 31
Second Revised Sheet No. 33
First Revised Sheet No. 39
Original Sheet No. 39A
Fourth Revised Sheet No. 40
First Revised Sheet No. 40A
First Revised Sheet No. 40B
Third Revised Sheet No. 41
Original Sheet No. 41A
Second Revised Sheet No. 42
Original Sheet No. 42A
Original Sheet No. 42B
Second Revised Sheet No. 43
Second Revised Sheet No. 50C

Great Lakes states that these tariff sheets are being filed in compliance

with an order of Federal Energy Regulatory Commission (Commission) issued February 13, 1997 in the above named proceeding. The order required Great Lakes to file actual tariff sheets reflecting the required modifications to the pro forma tariff sheets filed December 2, 1996 in compliance with Order No. 587, 76 FERC ¶61,042 (1996), issued July 17, 1996, in Docket No. RM96-1/000. In Order No. 587, the Commission adopted the standards proposed by the Gas Industry Standards Board (GISB) to standardize business practices and electronic communications.

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 on or before April 21, 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 in the Commission's Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 97-9273 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[CP96-647-000]

Great Lakes Gas Transmission Limited Partnership; Notice of Site Visit

April 4, 1997.

On April 14, 15, 16, and 17, 1997, the Office of Pipeline Regulation (OPR) staff will inspect, with Great Lakes Gas Transmission Limited Partnership (Great Lakes) personnel, the route of the facilities proposed by Great Lakes in Minnesota and Wisconsin (Great Lakes 1998 Expansion Project). Both aerial and ground inspections will be conducted.

All interested parties may attend. Those planning to attend the site inspections must provide their own transportation.

For additional information, contact Paul McKee at (202) 208-1088.

Robert J. Cupina,

Deputy Director, Office of Pipeline Regulation.

[FR Doc. 97-9274 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-178-000]

Kern River Gas Transmission Company; Notice of Compliance Filing

April 4, 1997.

Take notice that on April 1, 1997, Kern River Gas Transmission (Kern River) tendered for filing as part of its FERC Gas Tariff the tariff sheets identified on Appendix A to the filing, to become effective June 1, 1997.

Kern River states that the purpose of the instant filing is to: (1) Comply with the directives of Order No. 587-B, issued by the Commission on January 30, 1997 in Docket No. RM96-1-003; (2) comply with the Commission's March 6, 1997 order which required certain revisions to Kern River's pro forma tariff sheets filed on December 2, 1996; (3) comply with the Commission's March 28, 1997 order in Docket No. RP97-178-001 which required Kern River to adopt GISB standard 1.3.1 verbatim; and (4) effectuate changes to the General Terms and Conditions, the individual Rate Schedules, and the applicable pro forma service agreements in Kern River's tariff which are necessary to implement the Gas Industry Standards Board (GISB) standards which have been previously approved by the Commission in Kern River's pro forma tariff sheets submitted on December 2, 1996.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 21, 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 in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 97-9275 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP96-320-010]****Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff**

April 4, 1997.

Take notice that on April 1, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing the following revised tariff sheet in its FERC Gas Tariff, Fifth Revised Volume No. 1, to be effective April 1, 1997:

Sixth Revised Sheet No. 29

Koch states that this tariff sheet reflects the necessary reporting requirements as ordered by the Commission for a specific negotiated rate transaction.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's 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 appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,*Secretary.*

[FR Doc. 97-9276 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP97-316-000]****Midwestern Gas Transmission Company; Notice of Tariff Filing**

April 4, 1997.

Take notice that on April 1, 1997, Midwestern Gas Transmission Company (Midwestern), filed the original and revised tariff sheets listed on Appendix A to the filing, in compliance with the Order on Compliance issued by the Commission on January 8, 1997 in this proceeding requiring Midwestern to file a pooling proposal. Midwestern proposes an effective date of August 1, 1997 for the original and revised tariff sheets.

Midwestern states that the revised tariff sheets reflect the changes to Midwestern's tariff required to establish a supply aggregation service which is consistent with the Gas Industry Standards Board's standards regarding pooling that were adopted by the Commission in Order No. 587.

Midwestern states that copies of the filing have been mailed to all affected customers and state regulatory commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Regulations. All such motions or protests must be filed on or before April 21, 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 this proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,*Secretary.*

[FR Doc. 97-9277 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP97-318-000]****NorAm Gas Transmission Company; Notice of Filing**

April 4, 1997.

Take notice that on April 1, 1997, NorAm Gas Transmission Company (NGT) made its annual FT and IT Cash Balancing Revenue Credit filing and its annual IT Revenue Credit filing, pursuant to Sections 5.7(c)(ii)(2)B., 23.2(b)(iv) and 23.7 of the General Terms and Conditions of NGT's FERC Gas Tariff, Fourth Revised Volume No. 1.

NGT states that its filing addresses the period from February 1, 1996 through January 31, 1997. The calculations made in accordance with Section 23.9 of NGT's General Terms and Conditions result in an IT Revenue Credit and FT and IT Cash Balancing Credits of zero. Because the credits reflected in NGT's current tariffs are zero, NGT is making no adjustment to its tariffs as a result of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests should be filed on or before April 11, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,*Secretary.*

[FR Doc. 97-9278 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. TM97-2-31-000]****NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff**

April 4, 1997.

Take notice that on April 1, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volumes No. 1, the following revised tariff sheets to be effective May 1, 1997:

Eighth Revised Sheet No. 5

Eighth Revised Sheet No. 6

NGT states that the revised tariff sheets are being filed to adjust NGT's fuel percentages pursuant to Section 21 of its General Terms and Conditions.

Any person desiring to be heard or to protest the proposed tariff sheets should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9279 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96-200-019]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective April 1, 1997:

Twelfth Revised Sheet No. 7

Fifth Revised Sheet No. 7B

First Revised Sheet No. 7E.02

First Revised Sheet No. 7E.03

NGT states that these tariff sheets are filed herewith to reflect specific negotiated rate transactions for the month of April, 1997.

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 Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9280 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-315-000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 14, 1997.

Take notice that on April 1, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the tariff sheets listed on Appendix A to the filing, to be effective June 1, 1997.

Northwest states that this filing is submitted to propose a number of additions or modifications to its tariff to incorporate changes or to provide new services spawned by adoption of the standards of the Gas Industry Standards Board as reflected in FERC Order Nos. 587 et seq., in Docket Nos. RM96-1-000, et seq. Specifically, Northwest proposes: (1) To implement a procedure for providing pooling services to comply with the Commission's Order on Compliance Filing issued on February 18, 1997, in Docket No. RP97-180-000; (2) to restate Northwest's monthly rates as daily rates; and (3) to add definitions to clarify terms used in the GISB Standards and in Northwest's tariff.

Any person desiring to be heard or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9281 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-180-002]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2, the tariff sheets listed on Appendix A to the filing, to be effective June 1, 1997.

Northwest states that this filing, which relates to standard business practices, is submitted (1) to comply with the Commission's Order on Compliance Filings issued on February 18, 1997 in Docket No. RP97-180-000; and (2) to incorporate additional standards and definitions adopted in Order Nos. 587-B and 587-C in Docket Nos. RM96-1-003 *et al.*

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9262 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97-310-000]

Northwest Pipeline Corporation; Notice of Application

April 4, 1997.

Take notice that on March 27, 1997, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158-0900, filed in Docket No. CP97-310-000, an abbreviated application pursuant to Section 7(b) of the Natural Gas Act, and Part 157 of the Commission's Regulations, requesting permission and approval to abandon its

presently authorized interruptible transportation of natural gas for Chevron Chemical Company (Chevron) under Rate Schedule X-89, in Northwest's FERC Gas Tariff, Original Volume No. 2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that Rate Schedule X-89 currently covers the interruptible transportation of up to 10,000 Dth per day for Chevron from various receipt points on Northwest's system to points of interconnection with Northwest Natural Gas Company near St. Helens, Oregon and Cascade Natural Gas Corporation near Finley, Washington.

Northwest further states that the Transportation Agreement expired by its own terms on July 16, 1996, and that no services have been requested or provided thereunder since April of 1988.

Northwest also states that no abandonment of facilities is proposed in conjunction with the abandonment of this service.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 25, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is

required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9283 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-103-001]

OkTex Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, OkTex Pipeline Company (OkTex) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on the filing, with an effective date of June 1, 1997.

OkTex states that the filing is made to comply with the Federal Energy Regulatory Commission's February 14, 1997 Letter Order, Order No. 587, "Standards for Business Practices of Interstate Natural Gas Pipelines," III FERC Stats. & Regs. Regulations Preambles ¶ 31,039 ("Final Rule"), and Order No. 587-B, "Standards for Business Practices of Interstate Natural Gas Pipelines," 78 FERC ¶ 61,076 (1997), adopting certain standardized business practices and electronic communication practices promulgated by the Gas Industry Standards Board ("GISB") and requiring pipelines to comply with the requirements of the GISB standards by incorporating the GISB standards by reference into the Commission's Regulations. OkTex moved that the Commission permit the tariff sheets to become effective June 1, 1997, as required by the staggered implementation schedule set forth in the Final Rule.

OkTex states that copies of the filing were served upon the official service list compiled by the Secretary in this proceeding.

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 on or before April 21, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties

to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9284 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-313-000]

Ozark Gas Transmission System; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Ozark Gas Transmission System (Ozark) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective May 2, 1997:

Second Revised Sheet No. 88
Original Sheet No. 88A
Original Sheet No. 117A

Ozark states that the purpose of this filing, made in accordance with the provisions of Section 154.204 of the Commission's Regulations, is to establish the flexibility under Ozark's tariff to negotiate rates in accordance with the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines, Docket No. RM95-6-000 and Regulation of Negotiated Transportation Services of Natural Gas Pipelines, Docket No. RM96-7-000 issued January 31, 1996 (Policy Statement).

Ozark proposes to establish a negotiated/recourse rate program applicable to Ozark's Part 284 firm transportation services under Rate Schedules FTS, ITS, and T-1 consistent with the Policy Statement as well as Commission pronouncements respecting negotiated rate filings of other pipelines.

Ozark states that copies of this filing are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this 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 Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the

Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9285 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-134-001]

Pacific Gas Transmission Company; Notice of Compliance Filing

April 4, 1997.

Take notice that on April 1, 1997, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1-A, the tariff sheets listed on Appendix A to the filing, to be effective June 1, 1997.

PGT asserts the purpose of this filing is to comply with the Commission's Order issued March 4, 1997 in Docket RM97-134-000, on PGT's compliance filing establishing standards for business practices of interstate natural gas pipelines. PGT states the filing conforms its FERC Gas Tariff, First Revised Volume No. 1-A to the requirements of Order 587 in compliance with the March 4, 1997 Order.

PGT further states a copy of this filing has been served upon its jurisdictional customers and interested state regulatory agencies, as well as the official service list compiled by the Secretary in the above-referenced proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed on or before April 21, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9286 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-169-001]

Riverside Pipeline Company, L.P.; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Riverside Pipeline Company (Riverside) tendered for filing to become part of Riverside's FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, the tariff sheets listed on Appendix A to the filing, with an effective date of June 1, 1997.

Riverside states that the filing is made to comply with the Federal Energy Regulatory Commission's Order No. 587, "Standards for Business Practices of Interstate Natural Gas Pipelines," III FERC Stats. & Regs. Regulations Preambles ¶ 31,039 ("Final Rule"), and Order No. 587-B, 78 FERC ¶ 61,076 (1997), adopting certain standardized business practices and electronic communication practices promulgated by the Gas Industry Standards Board ("GISB") and requiring pipelines to comply with the requirements of the GISB standards by incorporating the GISB standards by reference into the Commission's Regulations, and the Commission's March 16, 1997, "Order on Compliance Filing," 78 FERC ¶ 61,245 (1997) in Docket No. RP97-169-000.

Riverside requested that the Commission permit the tariff sheets to become effective June 1, 1997, as required by the staggered implementation schedule set forth in the Final Rule.

Riverside states that copies of the filing were served upon the parties listed on the official service list compiled by the Secretary in this proceeding and its 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, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 21, 1997. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9287 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-138-002]

Shell Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Shell Gas Pipeline Company (SGPC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the sheets set forth on Appendix B to the filing in compliance with the Order in Docket Nos. RP97-138-000 and RP97-138-001 issued March 6, 1997 to become effective June 1, 1997.

SGPC states that the amended tariff sheets set forth revisions to SGPC's December 2, 1996 and January 17, 1997 tariff filings, made to comply with Order No. 587. The amended tariff sheets reflect changes for: (1) Certain standards that have been either incorporated verbatim or by reference; (2) revised intra-day nominations that allow for later effective times; and (3) include an end date to the shipper nomination form.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed by April 21, 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9288 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP97-321-000]****Southern Natural Gas Company; Notice of Refund Report**

April 4, 1997.

Take notice that on April 2, 1997 Southern Natural Gas Company (Southern) tendered for filing a Refund Report.

Southern states that pursuant to Section 23.3 of the General Terms and Conditions of Southern's Tariff the Refund Report sets forth Rate Schedule ISS revenues refunded to Rate Schedule CSS customers.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protest should be filed on or before April 11, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 97-9289 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP97-177-001]****Steuben Gas Storage Company; Notice of Compliance Filing**

April 4, 1997.

Take notice that on April 1, 1997, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed on the Appendix A to the filing, to be effective June 1, 1997.

Steuben states that the attached tariff sheets are being filed in compliance with the Commission's Order issued on March 4, 1997 in the above Captioned docket. The tariff sheets incorporate changes to conform to the standards

adopted by the Gas Industry Standards Board at Docket No. RM96-1-000.

Steuben states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 21, 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 in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 97-9290 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP97-183-002]****Texas Gas Transmission Corporation; Notice of Filing of Tariff Sheets**

April 4, 1997.

Take notice that on April 1, 1997, Texas Gas Transmission Corporation (Texas Gas) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1 the tariff sheets listed on Appendix A to the filing, with an effective date of June 1, 1997.

Texas Gas states that the instant filing is in compliance with the Commission's Order issued February 14, 1997, in Docket No. RP97-183-000 in response to the pro forma tariff sheets previously filed to implement the business standards issued by the Gas Industry Standards Board (GISB) which were incorporated by the Commission in Order No. 587. The tariff sheets reflect those revisions directed by the February 14, 1997, Order and also incorporate by reference into the tariff the Electronic Delivery Mechanism Standards adopted by Order No. 587-B. As directed, the filing is being made sixty (60) days in advance of the June 1, 1997, effective date for Texas Gas to implement GISB Standards.

Texas Gas states that copies of the tariff sheets are being served upon Texas Gas's jurisdictional customers and interested state commissions, as well as all parties on the Commission's official service list in this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests should be filed on or before April 21, 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 in the Public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 97-9291 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****[Docket No. RP97-312-000]****Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff**

April 4, 1997.

Take notice on April 1, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in Appendix A attached to the filing.

Transco states that the purpose of the filing is to implement a gas parking and borrowing service under Rate Schedule PBS. Service under Rate Schedule PBS will enable Transco to accommodate the needs of the marketplace in a manner not currently available under its existing tariff by providing shippers with enhanced flexibility to manage their gas supplies.

Transco states that it is serving copies of the instant filing to customers, State Commissions and other interested parties.

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, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should 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. Any person wishing to

become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9292 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-160-001]

Western Gas Interstate Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Western Gas Interstate Company (WGI) tendered for filing to become part of WGI's FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, with an effective date of June 1, 1997.

WGI states that the filing is made to comply with the Federal Energy Regulatory Commission's February 14, 1997 Letter Order, Order No. 587, "Standards for Business Practices of Interstate Natural Gas Pipelines," III FERC Stats. & Regs. Regulations Preambles ¶11,039 ("Final Rule"), and Order No. 587-B, "Standards for Business Practices of Interstate Natural Gas Pipelines," 78 FERC ¶61,076 (1997), adopting certain standardized business practices and electronic communication practices promulgated by the Gas Industry Standards Board ("GISB") and requiring pipelines to comply with the requirements of the GISB standards by incorporating the GISB standards by reference into the Commission's Regulations. WGI moved that the Commission permit the tariff sheets to become effective June 1, 1997, as required by the staggered implementation schedule set forth in the Final Rule.

WGI states that copies of the filing were served upon the official service list compiled by the Secretary in this proceeding.

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 on or before April 21, 1997. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9293 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-317-000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Williams Natural Gas Company (WNG) tendered for filing Third Revised Sheet No. 254 to its FERC Gas Tariff, Second Revised Volume No. 1. The proposed effective date of this tariff sheet is May 1, 1997.

WNG states that the purpose for this instant filing is to amend Article 14 of the General Terms and Conditions of WNG's FERC Gas Tariff to provide for the extension of WNG's pricing differential mechanism (PDM) until October 1, 1999. WNG's PDM is currently set to expire on October 1, 1997.

WNG states that a copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9294 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-319-000]

Williams Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 4, 1997.

Take notice that on April 1, 1997, Williams Natural Gas Company (WNG), tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with the proposed effective date of May 1, 1997:

Twentieth Revised Sheet No. 6A

Original Sheet Nos. 8E and 8F

WNG states that this filing is being made pursuant to Article 14 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1. WNG hereby submits its second quarter, 1997, report of take-or-pay buyout, buydown and contract reformation costs and gas supply related transition costs, and the application or distribution of those costs and refunds.

WNG states that a copy of its filing was served on all participants listed on the service lists maintained by the Commission in the dockets referenced above and on all of WNG's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9295 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. ER97-1294-000, et al.]

Northern States Power Company, et al.; Electric Rate and Corporate Regulation Filings

April 3, 1997.

Take notice that the following filings have been made with the Commission:

1. Northern States Power Company

[Docket No. ER97-1294-000]

Take notice that on March 19, 1997, Northern States Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Eastern Power Distribution, Inc., Englehard Power Marketing, Inc., Southeastern Energy Resources, Inc., Ocean Energy Services, Inc., Northrop Grumman Corporation, Northrop Grumman Corporation, and Enserco Energy, Inc.

[Docket Nos. ER94-964-013, ER94-1690-011, ER95-385-008, ER96-588-003, ER96-2957-001, ER96-2958-001, and ER96-2964-001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On March 20, 1997, Eastern Power Distribution, Inc. filed certain information as required by the Commission's April 5, 1994, order in Docket No. ER94-964-000.

On March 24, 1997, Englehard Power Marketing, Inc. filed certain information as required by the Commission's December 29, 1994, order in Docket No. ER94-1690-000.

On March 14, 1997, Southeastern Energy Resources, Inc. filed certain information as required by the Commission's February 24, 1995, order in Docket No. ER95-385-000.

On March 21, 1997, Ocean Energy Services, Inc. filed certain information as required by the Commission's January 19, 1996, order in Docket No. ER96-588-000.

On January 29, 1997, Northrop Grumman Corporation filed certain information as required by the Commission's November 13, 1996, order in Docket No. ER96-2957-000.

On January 29, 1997, Northrop Grumman Corporation filed certain information as required by the

Commission's November 13, 1996, order in Docket No. ER96-2958-000.

On January 31, 1997, Enserco Energy Inc. filed certain information as required by the Commission's December 2, 1996, order in Docket No. ER96-2964-000.

3. Northern States Power Company

[Docket No. ER97-1295-000]

Take notice that on March 19, 1997, Northern States Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Amerada Hess Corporation

[Docket No. ER97-2153-000]

Take notice that on March 18, 1997, Amerada Hess Corporation (Amerada Hess), submitted for filing pursuant to Rule 205, 18 CFR 385.205, a request for an order accepting its proposed FERC Electric Rate Schedule No. 1 effective May 1, 1997, and an application for waivers and blanket approval under various Commission Regulations.

Upon receipt of such authorizations, Amerada Hess intends to operate as a marketer of electric power. The rates, and the terms and conditions, of such services will be market-based.

Amerada Hess states that it does not own, operate, or control any electric power transmission or distribution facilities. Amerada Hess is not affiliated, directly or indirectly, with any investor-owned utility or any entity which owns or controls electric transmission facilities or facilities used for generation of electric power. Nor is Amerada Hess affiliated with any entity which holds a franchise or service territory for the transmission, sales, or distribution of electric power.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Western Resources, Inc.

[Docket No. ER97-2154-000]

Take notice that on March 19, 1997, Western Resources, Inc. (Western Resources), tendered for filing a proposed change in its Rate Schedule FERC No. 264 and to Kansas Gas and Electric's (KGE) Rate Schedule FERC No. 183. Western Resources states that the change is in accordance with its Electric Power, Transmission and Service Contract with Kansas Electric Power Cooperative (KEPCo) and further that the proposed change for KGE is in accordance with the Electric Power, Transmission and Service contract between KGE and KEPCo. Revised Exhibits B set forth Nominated

Capacities for transmission, distribution and dispatch service for the contract year beginning June 1, 1997 and for the four subsequent contract years, pursuant to Article IV, Section 4.1 of Rate Schedule FERC Nos. 264 and 183. Revised Exhibits C set forth KEPCo's Nominated Capacities for the Points of Interconnection, pursuant to Article IV, Section 4.1 of Rate Schedule FERC Nos. 264 and 183. Revised Exhibits D set forth KEPCo's load forecast and KEPCo's Capacity Resources intended to provide power and energy to meet the forecast requirements for ten years into the future, pursuant to Article V, Section 5.1 of Rate Schedule FERC Nos. 264 and 183.

Copies of the filing were served upon Kansas Electric Power Cooperative, Inc. and the Kansas Corporation Commission.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER97-2155-000]

Take notice that on March 19, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96-137-000), an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with American International Group Trading Corp. (AIG Trading Corp).

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective March 10, 1997.

A copy of this filing was caused to be served upon AIG Trading Corp. as noted in the filing letter.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Portland General Electric Company

[Docket No. ER97-2156-000]

Take notice that on March 19, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96-137-000), an executed Service Agreement for Non-Firm Point-to-Point Transmission Service with LG&E Power Marketing Inc.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No.

PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective March 10, 1997.

A copy of this filing was caused to be served upon LG&E Power Marketing Inc. as noted in the filing letter.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Company

[Docket No. ER97-2157-000]

Take notice that on March 19, 1997, Northeast Utilities Service Company (NUSCO), on behalf of its operating affiliates, The Connecticut Light and Power Company, Western Massachusetts Electric Company, Holyoke Water Power Company, Holyoke Power and Electric Company, and Public Service Company of New Hampshire, tendered for filing the following Service Agreements under the Northeast Utilities System Companies' Sale for Resale Tariff No. 7 Market Based Rates. NUSCO requests an effective date of February 1, 1997.

Service Agreement between NUSCO and LG&E Power Marketing, Inc., dated January 31, 1997.

Service Agreement between NUSCO and Electric Clearinghouse, Inc., dated March 1, 1997.

Service Agreement between NUSCO and Pennsylvania Power & Light Company.

Service Agreement between NUSCO and Delmarva Power & Light Company, dated February 3, 1997.

Service Agreement between NUSCO and Baltimore Gas & Electric Company, dated October 15, 1996.

Service Agreement between NUSCO and Atlantic City Electric, dated July 22, 1996.

NUSCO states that copies of its submission have been mailed or delivered to each of the named customers on the Service Agreements.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Portland General Electric Company

[Docket No. ER97-2158-000]

Take notice that on March 19, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96-137-000), an executed Service Agreement for Non-firm Point-to-Point Transmission Service with MP Energy, Inc.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No.

PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective March 10, 1997.

A copy of this filing was caused to be served upon MP Energy, Inc. as noted in the filing letter.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Western Resources, Inc.

[Docket No. ER97-2159-000]

Take notice that on March 18, 1997, Western Resources, Inc., tendered for filing a non-firm transmission agreement between Western Resources and LG&E Power Marketing, Inc. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective March 14, 1997.

Copies of the filing were served upon LG&E Power Marketing, Inc. and the Kansas Corporation Commission.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Portland General Electric Company

[Docket No. ER97-2160-000]

Take notice that on March 19, 1997, Portland General Electric Company (PGE), tendered for filing under PGE's Final Rule pro forma tariff (FERC Electric Tariff Original Volume No. 8, Docket No. OA96-137-000), an executed Service Agreement for Short-Term Firm Point-to-Point Transmission Service with LG&E Power Marketing, Inc.

Pursuant to 18 CFR 35.11, and the Commission's Order in Docket No. PL93-2-002 issued July 30, 1993, PGE respectfully requests that the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the Service Agreement to become effective March 10, 1997.

A copy of this filing was caused to be served upon LG&E Power Marketing Inc. as noted in the filing letter.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Boston Edison Company

[Docket No. ER97-2161-000]

Take notice that on March 19, 1997, Boston Edison Company (Boston

Edison), tendered for filing a restated Substation 402 Agreement which would address the terms of service provided by Boston Edison to Cambridge Electric Light Company at Boston Edison's transformation Substation 402. The previous Station 402 support agreement is on file as Boston Edison's FERC Electric Rate Schedule No. 149.

Boston Edison requests waiver of the Commission's prior notice agreement to permit the Substation 402 Agreement to become effective March 10, 1997.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Puget Sound Energy, Inc.

[Docket No. ER97-2162-000]

Take notice that on March 19, 1997, Puget Sound Energy, Inc., as Transmission Provider, tendered for filing a Notice of Succession in Ownership or Operation. A copy of the filing was served upon parties indicated on the official service list in the applicable proceedings.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Rochester Gas and Electric Corporation

[Docket No. ER97-2163-000]

Take notice that on March 19, 1997, Rochester Gas and Electric Corporation (RG&E), filed a Service Agreement between RG&E and the Southern Energy Trading and Marketing, Inc. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96-141-000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of March 10, 1997 for the Southern Energy Trading and Marketing, Inc. Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. PacifiCorp

[Docket No. ER97-2164-000]

Take notice that on March 19, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Revision No. 7 to Exhibit A, Contract No. 14-06-400-3976, Weber Basin Project, for Water Exchange and Transmission Service, between PacifiCorp and Western Area Power

Administration (Western), PacifiCorp's Rate Schedule FERC No. 286. Exhibit A specifies Points of Delivery of power and energy received by PacifiCorp at Points of Connection with Western's Weber Basin Project. Revision No. 7 to Exhibit A adds five new Points of Delivery and deletes 2 existing Points of Delivery.

PacifiCorp requests an effective date of February 21, 1997 be assigned to Exhibit A, Revision No. 7.

Copies of this filing were supplied to Western, the Public Utility Commission of Oregon and the Utah Public Service Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464-6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. PacifiCorp

[Docket No. ER97-2165-000]

Take notice that on March 19, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Non-Firm Transmission Service Agreements with MP Energy, Inc., Northern California Power Agency and Platte River Power Authority under, PacifiCorp's FERC Electric Tariff, Original Volume No. 11.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464-6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. PacifiCorp

[Docket No. ER97-2166-000]

Take notice that on March 19, 1997, PacifiCorp, tendered for filing in accordance with Section 35.30 of the Commission's Regulations revised Average System Cost (ASC) information applicable in the state of Oregon.

PacifiCorp requests waiver of the Commission's notice requirements to permit this rate schedule change to become effective on November 22, 1995.

Copies of this filing were supplied to Bonneville and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory

Administration Department's Bulletin Board System through a personal computer by calling (503) 464-6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power Service Corp. on Behalf of West Penn Power Company

[Docket No. ER97-2167-000]

Take notice that on March 19, 1997, Allegheny Power Service Corporation, on behalf of West Penn Power Company (West Penn) filed Supplement No. 9 to West Penn's FERC Electric Tariff First Revised Volume No. 1, submitting a rate decrease for the Borough of Tarentum (Tarentum). Allegheny Power Service Corporation requests waiver of notice requirements and asks the Commission to honor the proposed effective date, April 1, 1997, as specified in the negotiated agreement entered into between Tarentum and West Penn.

Copies of the filing have been provided to the Pennsylvania Public Utility Commission and all parties of record.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Massachusetts Electric Company

[Docket No. ER97-2170-000]

Take notice that on March 20, 1997, Massachusetts Electric Company, tendered for filing a Service Agreement under its FERC Electric Tariff, Original Volume No. 1, for service to Blackstone Valley Electric Company.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Keys Electric Cooperative Association, Inc.

[Docket No. ER97-2171-000]

Take notice that on March 20, 1997, Florida Keys Electric Cooperative Association, Inc., tendered for filing a revised rate for non-firm transmission service provided to the City Electric System, Key West, Florida in accordance with the terms and conditions of the Long-Term Joint Investment Transmission Agreement between the Parties.

A copy of this filing has been served on CES and the Florida Public Service Commission.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Commonwealth Electric Company

[Docket No. ER97-2172-000]

Take notice that on March 20, 1997, Commonwealth Electric Company

(Commonwealth), tendered for filing a non-firm point-to-point transmission service agreement between Commonwealth and Morgan Stanley Capital Group, Inc. (Morgan Stanley). Commonwealth states that the service agreement sets out the transmission arrangements under which Commonwealth will provide non-firm point-to-point transmission service to Morgan Stanley under Commonwealth's open access transmission tariff accepted for filing in Docket No. ER97-1341-000, subject to refund and issuance of further orders.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Northern Indiana Public Service Company

[Docket No. ER97-2173-000]

Take notice that on March 20, 1997, Northern Indiana Public Service Company (Northern Indiana), filed its Off-System Wholesale Sales Tariff. Northern Indiana asserts that this tariff will allow for sales of electricity for resale to parties unaffiliated with Northern Indiana at delivery points not directly interconnected with Northern Indiana's transmission system. Northern Indiana has requested waiver of the Commission's Notice requirements and requirement of approval of individual service agreements under the Off-System Wholesale Sales Tariff.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Delmarva Power & Light Company

[Docket No. ER97-2174-000]

Take notice that on March 20, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing service agreements providing for firm point-to-point transmission service to Duke/Louis Dreyfus pursuant to Delmarva's open access transmission tariff.

Delmarva states that a copy of the filing was provided to Duke/Louis Dreyfus.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Delmarva Power & Light Company

[Docket No. ER97-2175-000]

Take notice that on March 20, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing service agreements providing for firm point-to-point transmission service to the City of

Dover pursuant to Delmarva's open access transmission tariff.

Delmarva states that copies of the filing were provided to the City of Dover and its agent, Duke/Louis Dreyfus.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Energis Resources Incorporated

[Docket No. ER97-2176-000]

Take notice that on March 20, 1997, Energis Resources Incorporated (Energis), tendered for filing an application for waivers and blanket approvals under regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1. Energis has further requested that the Commission waive its regulations to the extent necessary such that its Market-Based Tariff be permitted to take effect 60 days after the initial filing date. Energis is an affiliate of Public Service Electric and Gas Company.

Energis intends to engage in electric capacity and energy transactions as a marketer and broker. In these transactions, Energis intends to charge market rates as mutually agreed to by Energis and the purchaser. All other terms of the transactions would also be determined by negotiation between the parties. All sales and purchases will be arms-length transactions.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Arizona Public Service Company

[Docket No. ER97-2177-000]

Take notice that on March 21, 1997, Arizona Public Service Company (APS), tendered for filing Service Agreements to provide Non-Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with USGen Power Services, L.P. (USGen) and Electric Clearinghouse, Inc. (ECH).

A copy of this filing has been served on USGen, ECH and the Arizona Corporation Commission.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2178-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between PanEnergy Power Services, Inc. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company and (Collectively, the PJM Companies)

[Docket No. ER97-2179-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Citizens Lehman Power Sales and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company, (Collectively, the PJM Companies)

[Docket No. ER97-2180-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Western Power Services, Inc. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2181-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Heartland Energy Services, Inc. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2182-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Illinova Power Marketing, Inc., and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2183-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Coral Power, L.L.C. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2184-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Duke/Louis Dreyfus L.L.C. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2185-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Electric Clearinghouse, Inc. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2186-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Enron Power Marketing, Inc. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2187-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate the Non-Replacement Energy Agreement between Morgan Stanley Capital Group Inc. and the PJM Companies.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2188-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate certain schedules in the Interconnection agreement Between West Penn Power Company, Potomac Edison Company and Monongahela Power Company and Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, dated April 26, 1965. The PJM Companies also filed a new Schedule 5.05 to provide for Emergency Service transactions.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2189-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate certain schedules in the Interconnection agreement Between Virginia Electric and Power Company and Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, dated September 30, 1965. The PJM Companies also filed a new Schedule 5.05 to provide for Emergency Service transactions.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2190-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate certain schedules in the Interconnection agreement Between Cleveland Electric Illuminating Company and Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, dated September 30, 1965. The PJM Companies also filed a new Schedule 5.05 to provide for Emergency Service transactions.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Co., Baltimore Gas and Electric Co., Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, and Delmarva Power & Light Company (Collectively, the PJM Companies)

[Docket No. ER97-2191-000]

Take notice that on March 20, 1997, the PJM Companies filed a Notice of Termination to terminate certain schedules in the Interconnection agreement Between Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corporation and Public Service Electric and Gas Company, PECO Energy Company, Pennsylvania Power & Light Company, Baltimore Gas and Electric Company, Pennsylvania Electric Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Potomac Electric Power Company, Atlantic City Electric Company, Delmarva Power & Light Company, dated April 9, 1974. The PJM Companies also filed a new Schedule 4.03 to provide for Emergency Service transactions.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

41. Duke Power Company

[Docket No. ER97-2192-000]

Take notice that on March 21, 1997, Duke Power Company ("Duke") tendered for filing a Transmission Service Agreement between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Morgan Stanley Capital Group, Inc. Duke states that the TSA sets out the transmission arrangements under which Duke will provide Morgan Stanley Capital Group, Inc. non-firm point-to-point transmission service under Duke's Pro Forma Open Access Transmission Tariff. Duke requests that the Agreement be made effective as of February 21, 1997.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

42. Duke Power Company

[Docket No. ER97-2193-000]

Take notice that on March 21, 1997, Duke Power Company ("Duke") tendered for filing a Market Rate Service Agreement between Duke and between Duke and Consumers Power Company d/b/a Consumers Energy Company and The Detroit Edison Company, dated as of February 17, 1997. Duke requests that the Agreement be made effective as of February 21, 1997.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

43. Duke Power Company

[Docket No. ER97-2194-000]

Take notice that on March 21, 1997, Duke Power Company ("Duke") tendered for filing a Market Rate Service Agreement between Duke and between Duke and Arkansas Electric Cooperative Corporation, dated as of February 14, 1997. Duke requests that the Agreement be made effective as of February 21, 1997.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

44. Duke Power Company

[Docket No. ER97-2195-000]

Take notice that on March 21, 1997, Duke Power Company ("Duke") tendered for filing a Market Rate Service Agreement between Duke and between Duke and Florida Power Corporation, dated as of January 15, 1997. Duke requests that the Agreement be made effective as of February 21, 1997.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

45. Poco Petroleum, Inc.

[Docket No. ER97-2197-000]

Take notice that on March 21, 1997, Poco Petroleum, Inc. (Poco Petroleum) tendered for filing pursuant to Rule 205 of the Commission's Rules of Practice and Procedure an Application for Blanket Approvals, Waivers and Order Approving Rate Schedule, requesting authorization to engage in electric power and energy transactions as a marketer. Poco Petroleum also requests certain authorizations, waiver of certain regulations, and an order accepting its proposed FERC Electric Rate Schedule No. 1, which provides for the sale of electric energy and/or capacity at negotiated rates.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

46. Poco Marketing Ltd.

[Docket No. ER97-2198-000]

Take notice that on March 21, 1997, Poco Marketing Ltd. (Poco Marketing) tendered for filing pursuant to Rule 205 of the Commission's Rules of Practice and Procedure an Application for Blanket Approvals, Waivers and Order Approving Rate Schedule, requesting authorization to engage in electric power and energy transactions as a marketer. Poco Marketing also requests certain authorizations, waiver of certain regulations, and an order accepting its proposed FERC Electric Rate Schedule No. 1, which provides for the sale of electric energy and/or capacity at negotiated rates.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

47. Carolina Power & Light Company

[Docket No. ER97-2199-000]

Take notice that on March 21, 1997, Carolina Power & Light Company (Carolina) tendered for filing an executed Service Agreement between Carolina and the following Eligible Entity: New York State Electric & Gas Co. Service to the Eligible Entity will be in accordance with the terms and conditions of Carolina's Tariff No. 1 for Sales of Capacity and Energy.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

48. Northern Indiana Public Service Company

[Docket No. ER97-2200-000]

Take notice that on March 21, 1997, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service agreement for Non-firm Point-to-Point Transmission Service Between Northern Indiana Public Service Company and American Energy Solutions, Inc.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to American Energy Solutions, Inc. pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in docket No. ER96-1426-000 and allowed to become effective by the Commission, and as amended in Docket No. OA97-47-000. *Northern Indiana Public Service Company*, 75 FERC ¶61,213 (1996). Northern Indiana Public Service Company has requested

that the Service Agreement be allowed to become effective as of February 21, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

49. NewCorp Resources Inc.

[Docket No. OA97-14-000]

Take notice that on March 27, 1997, NewCorp Resources Inc. tendered for filing its revised Open Access Tariff. NewCorp states that this tariff has been revised to reflect the name change from NewCorp Resources, Inc. to NewCorp Resources Electric Cooperative, Inc.

Comment date: April 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9186 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96-477-000]

K N Interstate Gas Transmission Company; Notice of Availability of the Environmental Assessment for the Proposed Pony Express Pipeline Project

April 4, 1997.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared this

environmental assessment (EA) on the natural gas pipeline facilities proposed by K N Interstate Gas Transmission Company (KNI) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The primary components of the project include:

- Conversion of approximately 804 miles of existing crude oil pipeline from the Lost Cabin, Wyoming area east to Freeman, Missouri (the Pony Express Mainline), including removal and/or replacement of oil pipeline valves, pig launcher/receiver sets, and interconnections along the length of the pipeline;
- Construction of four short segments of new pipeline (totaling 10.2 miles) to connect existing KNI facilities to the Pony Express Mainline and to route the mainline around the Casper, Wyoming area;
- Installation of additional and new compression facilities totaling 50,500 horsepower at five locations along the Pony Express Mainline in Wyoming, Colorado, and Kansas;
- Construction of a new 62.6-mile-long lateral extending between the Pony Express Mainline in southwest Nebraska and northern Colorado; and
- Upgrading 26 segments of an existing KNI pipeline at road crossings in southwest Nebraska to allow the pipeline to operate at a higher pressure.

The existing pipeline, which extends 914 miles between Riverton, Wyoming and Freeman, Missouri, was previously owned and operated by Amoco Pipeline Company (Amoco) and used to transport crude oil. K N Energy Incorporated (KNI's parent company) is acquiring the existing Amoco pipeline, and is presently displacing the oil, cleaning the pipeline's interior, and hydrostatically testing the pipeline by segments. Following FERC certification, approximately 804 miles of the Amoco pipeline would be transferred to KNI. Activities to convert the pipeline to natural gas service would begin following receipt of the necessary authorizations from the various Federal, state, and local authorities.

Also included in this EA is a review of facilities which KNI plans to construct in the Kansas City area under section 311 of the Natural Gas Policy Act. These facilities include about 36.4

miles of 12-, 16-, and 20-inch-diameter pipeline and appurtenant facilities in Miami and Johnson Counties, Kansas, and Cass and Jackson Counties, Missouri. The project is designed to deliver up to 230,700 MMBtu of natural gas per day to Missouri Gas Energy and Western Resources Inc., two local distribution companies which serve Kansas City, Missouri, and Kansas City, Kansas, respectively.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Washington, DC 20426, (202) 208-1371.

Copies of the EA have been mailed to Federal, state, and local agencies; public interest groups; interested individuals; local libraries and newspapers; and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on this proposal, it is important that we receive your comments before the date listed below. Please carefully follow the instructions below to ensure that your comments are received in time and properly recorded:

- Reference Docket No. CP96-477-000.
- Send two copies of your comments to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.
- Please mail your comments so that they will be received in Washington, DC on or before May 5, 1997.

Comments will be considered by the Commission but will not serve to make the commentator a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your comments considered.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9264 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission****Notice of Application Filed With the Commission**

April 4, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to License.

b. *Project No:* 2852-008.

c. *Date Filed:* September 20, 1996; revised March 10, 1997.

d. *Applicant:* New York State Electric & Gas Corporation.

e. *Name of Project:* Keuka Hydroelectric Project.

f. *Location:* Mudd Creek; Waneta and Lamoka Lakes; and Keuka Lake in Steuben and Schuyler Counties, New York.

g. *Filed Pursuant to:* 18 CFR § 4.200.

h. *Applicant Contact:* Ms. Carol Howland, New York State Electric & Gas Corp., Corporate Drive-Kirkwood Industrial Park, P.O. Box 5224, Binghamton, NY 13902-5224, (607) 762-8881.

i. *FERC Contact:* Steve Hocking (202) 219-2656.

j. *Comment Date:* May 12, 1997.

k. *Description of Amendment:* New York State Electric & Gas Corporation (licensee) filed an application to amend article 31 of its license for the Keuka Hydroelectric Project. Article 31 of the license states:

Article 31: To protect fish, wildlife, and recreational resources, the licensee shall operate the project in such a manner that the levels of Waneta and Lamoka Lakes are maintained between elevations 1,099.0 and 1,098.0 feet mean sea level (msl) between Memorial Day and October 1, and between elevations 1,099.0 and 1,096.0 feet msl the remainder of the year.

In its amendment application, the licensee proposes to add the following provisions to article 31:

During high flow conditions like storm events, the licensee may maintain Waneta and Lamoka Lakes a maximum of 0.5 foot above the upper lake limit. During drought conditions, the licensee may maintain Waneta and Lamoka Lakes a maximum of 0.5 foot below lower lake limits.

The provisions in its amendment application would allow the licensee to

maintain lake levels slightly above or below article 31's current requirements only during times of abnormally high or low flows. Under normal conditions, the licensee would maintain lake levels within article 31's current requirements.

The project has a large drainage area and limited capacity to pass flows. A single storm can raise lake levels above the maximum 1,099.0 foot limit. During drought, evaporation and other losses can reduce the lake levels below minimum levels. The licensee's proposed amendment would reduce instances of noncompliance with article 31 due to weather circumstances beyond the licensee's control.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be

presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97-9265 Filed 4-9-97; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL ELECTION COMMISSION**Sunshine Act Meeting**

AGENCY: Federal Election Commission.

FEDERAL REGISTER NUMBER: 97-7254.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, March 27, 1997, 10:00 a.m., meeting open to the public.

This meeting was canceled.

DATE & TIME: Tuesday, April 15, 1997 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, April 17, 1997 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC, (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1997-03: James N. Clymer, Treasurer, Constitutional Party of Pennsylvania.

Status of Regulation Projects.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION:

Mr. Ron Harris, Press Officer,
Telephone: (202) 219-4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 97-9431 Filed 4-8-97; 3:14 pm]

BILLING CODE 6715-01-M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 5, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. *Regions Financial Corporation*, Birmingham, Alabama; to merge with The New Iberia Bancorp, Inc., New Iberia, Louisiana, and thereby indirectly acquire The New Iberia Bank, New Iberia, Louisiana.

In connection with this application, Applicant also has applied to merge with First Bankshares, Inc., East Point, Georgia, and thereby indirectly acquire First Bank of Georgia, East Point, Georgia.

In addition, Applicant also has applied to merge with SB&T Corporation, Smyrna, Georgia, and thereby indirectly acquire Smyrna Bank and Trust Company, Smyrna, Georgia.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. *Marshall & Ilsey Corporation*; to merge with Security Capital Corporation, and thereby indirectly acquire Security Bank, S.S.B., all of Milwaukee, Wisconsin.

2. *NEB Corporation*, Fond du Lac, Wisconsin; to acquire 100 percent of the voting shares of State Bank of St. Cloud, St. Cloud, Wisconsin.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Giltner Investment Partnership, Ltd.*, Omaha, Nebraska; to become a bank holding company by acquiring 60 percent of the voting shares of The Avoca Company, Avoca, Nebraska, and thereby indirectly acquire Farmers State Bank, Bennett, Nebraska.

2. *Northeast Kansas Bancshares, Inc.*, Valley Falls, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Valley Falls Insurance, Inc., Valley Falls, Kansas, and thereby indirectly acquire Kendall State Bank, Valley Falls, Kansas.

In connection with this application, Applicant also has applied to engage in insurance activities, pursuant to § 225.25(b)(8)(iii) of the Board's Regulation Y.

D. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105-1579:

1. *Bancorp Hawaii, Inc.*, Honolulu, Hawaii; to merge with CU Bancorp, Encino, California, and thereby indirectly acquire California United Bank, Encino, California.

Board of Governors of the Federal Reserve System, April 4, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97-9158 Filed 4-9-97; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY-4-97]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639-7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

1. A Health Study of Acute Respiratory Outcomes on Staten Island—New—The purpose of this proposed study is to investigate and determine whether odor and air pollutants emanating from Fresh Kills Municipal Landfill are associated with respiratory morbidity among two populations of adults diagnosed with asthma. The study will involve two geographically determined cohorts, living on Staten Island. Data collection will begin with a baseline questionnaire. The study will continue with a six week follow-up period. Daily diaries will be utilized to collect self-reported information on variables such as respiratory-related health outcomes, peak flow measurements, odor perception, and time spent outdoors. Exposure measurements of ozone, PM10 and hydrogen sulfide will be collected concurrently. The statistical analysis will compare health outcome measures (i.e. symptoms, change in peak flow, etc.) to measurements of odor perception and other exposure variables. The total annual burden hours are 3,365.

Respondents	No. of respondents	No. of respondents/response	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Introductory Phone Call	350	1	0.10	35
Baseline Questionnaire	300	1	0.75	225

Respondents	No. of respondents	No. of respondents/response	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Daily Diary with Peak Flow (Trial Period)	300	7 days	0.25	525
Compliance Calls During the Trial Period	300	2 phone calls ..	0.0833	50
Daily Dairy with Peak Flow (Weeks 1-6)	220	42 days	0.25	2310
Compliance Phone Calls (Week 1-6)	220	12 phone calls	0.0833	220

Dated: April 4, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97-9192 Filed 4-9-97; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

CDC Advisory Committee on HIV and STD Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: CDC Advisory Committee on HIV and STD Prevention.

Times and Dates: 8:30 a.m.-4:30 p.m., May 1, 1997; 8:30 a.m.-4:30 p.m., May 2, 1997.

Place: Sheraton Colony Square Hotel, Midtown Atlanta, 188 14th Street, NE., Atlanta, Georgia 30361

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: This committee is charged with advising the Director, CDC, regarding objectives, strategies, and priorities for HIV and STD prevention efforts including maintaining surveillance of HIV infection, AIDS, and STDs, the epidemiologic and laboratory study of HIV/AIDS and STDs, information/education and risk reduction activities designed to prevent the spread of HIV and STDs, and other preventive measures that become available.

Matters to be Discussed: Agenda items will include combined HIV and STD surveillance systems; impact of managed care on HIV and STD control efforts; prevention and treatment of persons co-infected with TB and HIV; and follow-up of CDC activities in response to the Institute of Medicine report "The Hidden Epidemic—Confronting Sexually Transmitted Diseases." Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Beth Wolfe, Program Analyst, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE., Mailstop E-07, Atlanta, Georgia 30333, telephone (404) 639-8008.

Dated: March 31, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97-9193 Filed 4-9-97; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 11 a.m.-5:30 p.m., May 1, 1997; 8:30 a.m.-2:30 p.m., May 2, 1997.

Place: CDC, Auditorium B, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: Program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters To Be Discussed: The agenda will focus on:

1. NCID Update.
2. Scientific Updates:
 - a. Opportunistic Infections
 - b. CDC Genetics Initiative
 - c. Vaccines
 - d. Managed Care
3. Workgroup Sessions:
 - a. Vaccines Issues
 - b. Food Safety
 - c. Blood Safety
 - d. Antibiotic Resistance
 - e. CDC Emerging Infections Plan 1998-2000
4. Workgroup Reports
5. Recommendations.

Other agenda items include announcements/introductions; follow-up on

actions recommended by the Board in December 1996; and consideration of future directions, goals, and recommendations.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information:

Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C-20, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/639-0078.

Dated: March 31, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97-9194 Filed 4-9-97; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.-4:30 p.m., April 30, 1997; 8:30 a.m.-4:30 p.m., May 1, 1997.

Place: Sheraton Colony Square Hotel, Midtown Atlanta, 188 14th Street N.E., Atlanta, Georgia 30361.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: The Council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be Discussed: Agenda items include TB in children; TB in the foreign born; issues related to the laboratory

diagnosis of TB; impact of managed care on TB control efforts; and surveillance efforts relating to TB control. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Beth Wolfe, Program Analyst, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, M/S E-07, Atlanta, Georgia 30333, telephone 404/639-8008.

Dated: March 31, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97-9195 Filed 4-9-97; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95F-0122]

Hempel Coatings (USA), Inc.; Withdrawal of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a food additive petition (FAP 5B4457), proposing that the food additive regulations be amended to provide for the safe use of meta-xylylenediamine and 3-diethylaminopropylamine as components of articles intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS-215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3091.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 22, 1995 (60 FR 32526), FDA announced that a food additive petition (FAP 5B4457) had been filed by Hempel Coatings (USA), Inc., 6901 Cavalcade St., Houston, TX 77028. The petition proposed to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to provide for the safe use of meta-xylylenediamine and 3-diethylaminopropylamine as components of articles intended for food-contact use. Hempel Coatings (USA), Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 171.7).

Dated: March 26, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97-9168 Filed 4-9-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N-0029]

"Guidance for Industry for the Evaluation of Combination Vaccines for Preventable Diseases: Production, Testing and Clinical Studies;" Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a document entitled "Guidance for Industry for the Evaluation of Combination Vaccines for Preventable Diseases: Production, Testing and Clinical Studies." This document provides information regarding the manufacture and clinical study of combination vaccines. This document is intended to assist manufacturers and other interested parties with the development and licensure of combination vaccines.

DATES: Written comments may be submitted at any time.

ADDRESSES: Submit written requests for single copies of "Guidance for Industry for the Evaluation of Combination Vaccines for Preventable Diseases: Production, Testing and Clinical Studies" to the Office of Communication, Training, and Manufacturers Assistance (HFM-40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448. Send one self-addressed adhesive label to assist that office in processing your requests. The document may also be obtained by mail by calling the CBRE Voice Information System at 1-800-835-4709 or 301-827-1800, or by fax by calling the FAX Information System at 1-888-CBER-FAX or 301-827-3844. Persons with access to the Internet may obtain the document using the World Wide Web (WWW), or bounce-back e-mail. For WWW access, connect to CBRE at "http://www.fda.gov/cber/cberftp.html". To receive the document by bounce-back e-mail, send a message to "COMBVAC@A1.CBER.FDA.GOV". Submit written comments on the guidance document to the Dockets

Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of this document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Stephen M. Ripley, Center for Biologics Evaluation and Research (HFM-630), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-594-3074.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a document entitled "Guidance for Industry for the Evaluation of Combination Vaccines for Preventable Diseases: Production, Testing and Clinical Studies." In the **Federal Register** of June 25, 1993 (58 FR 34469), FDA announced the July 28 and 29, 1993, scientific workshop entitled "Combined Vaccines and Simultaneous Administration: Current Issues and Perspectives." Issues discussed and information gathered in this workshop were considered in preparing this document. Prior to making this document available for industry use, FDA presented the issues discussed in this document at the October 27, 1995, Vaccines and Related Biological Products Advisory Committee meeting. FDA announced the advisory committee meeting and the availability of a draft guidance document in the **Federal Register** of October 2, 1995 (60 FR 51481 at 51482). Comments received from the meeting were considered in further preparation of this document.

For the purposes of this guidance document, a combination vaccine consists of two or more live organisms, inactivated organisms or purified antigens combined either by the manufacturer or mixed immediately before administration, and it is intended to: (1) Prevent multiple diseases, or (2) prevent one disease caused by different strains or serotypes of the same organism. Vectored vaccines and conjugated vaccines are combination vaccines, if the prevention of the disease caused by the vector organism or the carrier moiety is to be one of the combination's indication.

This guidance document discusses the approach manufacturers, sponsors, and investigators should follow in the

development of combination vaccines for licensure in the United States. Topics addressed in this document include: (1) Manufacturing issues for combination vaccines; (2) preclinical studies; (3) clinical studies to support the licensure of combination vaccines; and (4) vaccines administered simultaneously with combination vaccine. This document does not cover therapeutic combination vaccines. In addition, not all issues outlined in the document will pertain to all types of combination vaccines, e.g., some issues related to live vaccines may not apply to inactivated vaccines.

As with other guidance documents, FDA does not intend this document to be all-inclusive and cautions that not all information may be applicable to all situations. This document is intended to provide information and does not set forth requirements. FDA anticipates that manufacturers and other interested parties may develop alternative methods and procedures, and discuss them with FDA. FDA recognizes that advances will continue in the area of combination vaccines, and FDA intends to update and revise this document in order to improve its usefulness. This guidance document represents the agency's current thinking on combination vaccines. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit to the Dockets Management Branch (address above) written comments on this guidance document. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of this document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Received comments will be considered in determining whether further revision of this document is warranted.

Dated: April 1, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97-9169 Filed 4-9-97; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung and Blood Institute; Proposed Collection; Comment Request; The Atherosclerosis Risk in Communities Study

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995

for opportunity for public comment on the proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: The Atherosclerosis Risk in Communities (ARIC) Study. **Type of Information Collection Request:** Revision of a currently approved collection (OMB No. 0925-0281). **Need and Use of Information Collection:** This project involves a physical examination and a survey of a new sample of 45-64 year olds living in the same communities as the original ARIC Study participants. Information from this sample and from the original cohort collected 10 years earlier will be used to assess temporal trends in selected atherosclerosis risk factor domains. **Frequency of Response:** The recruited individuals will participate in a home interview and an in-clinic examination. **Affected Public:** Individuals or households. **Type of Respondents:** Adults 45-64 years old. The annual reporting burden is as follows:

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
Individuals participating in home interview only	2,400	1	0.0501	120
Individuals participating in both home interview and clinic examination	1,200	1	1.8851	2,262
Total				2,382

The cost to the respondents consists of their time; time is estimated using a rate of \$10.00 per hour. The annualized cost to respondents is estimated at: \$23,820. There are no Capital Costs. The Operating and Maintenance Costs are \$682,000.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4)

Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT:

To request more information on the proposed project, to obtain a copy of the data collection plans and instruments, or to submit comments, contact Ms. Suzanne Anthony, Project Clearance Liaison, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 5A10, MSC 2490, 31 Center Dr.,

Bethesda, MD 20892-2490 or call non-toll free number (301) 496-9737, or E-mail your request or comments, including your address, to: AnthonyS@nih.gov.

COMMENTS DUE DATE: Comments regarding this information collect are best assured of having their full effect if received by June 9, 1997.

Dated: April 4, 1997.

Sheila E. Merritt,

Executive Officer, NHLBI.

[FR Doc. 97-9296 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Submission for OMB Review; Comment Request; Clinical, Laboratory, and Epidemiologic Characterization of Individuals at High Risk of Cancer**

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 16, 1996, pages 66052–66053 and allowed 60 days for public comment. Only one comment from the public was received; it was a request for additional information about the project. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION:

Title: Clinical, Laboratory, and Epidemiologic Characterization of Individuals at High Risk of Cancer. **Type of Information Collection Request:** Extension of OMB No. 0925–0194 (Expiration date 04/30/97). **Need and Use of Information Collection:** This ongoing research study will identify cancer-prone persons in order to learn about cancer risk and cancer causes in individuals and families. The primary objectives of this research study are to utilize clinical, laboratory, and epidemiologic approaches in studies of individuals and families at high risk of cancer to identify and further characterize cancer susceptibility factors. Respondents are members of families in which multiple cancers are thought to have occurred. Information about the occurrence of cancer is collected and reviewed to determine eligibility for further etiologic study. Participation is entirely voluntary. The findings will lead to a better understanding of the causes and risk factors for selected cancers, which may reduce cancer incidence, and promote the earlier diagnosis of some cancers. **Frequency of Response:** One time. **Affected Public:** Individuals or

households. **Type of Respondents:** Adults. The annual reporting burden is as follows: **Estimated Number of Respondents:** 600 per year; **Estimated Number of Responses per Respondent:** 1; **Average Burden Hours Per Response:** .75; and **Estimated Total Annual Burden Hours Requested:** 450. The annualized cost to respondents is estimated at \$4,500. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written 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 the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. Margaret Tucker, Chief, Genetic Epidemiology Branch, National Cancer Institute, NIH, Executive Plaza North, Room 439, 6130 Executive Blvd., Bethesda, MD 20892, or call non-toll-free number (301) 496–4375, or E-mail your request, including your address to: tuckerp@epndce.nci.nih.gov.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before May 12, 1997.

Dated: April 1, 1997.

Nancie L. Bliss,

OMB Project Clearance Liaison.

[FR Doc. 97–9240 Filed 4–9–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)**National Institutes of Health (NIH)****National Library of Medicine (NLM); Opportunity for a Cooperative Research and Development Agreement for Research and Development of Data Mining, Data Warehousing and Visualization Techniques to Commercial Products**

AGENCY: Lister Hill National Center for Biomedical Communications, NLM, NIH, DHHS.

ACTION: Advertisement.

SUMMARY: The Lister Hill National Center for Biomedical Communications (LHNCBC), an R&D division of the National Library of Medicine, seeks a Cooperative Research and Development Agreement (CRADA) with a software company with a reputation in the software engineering research and development and marketing communities as demonstrated by the quality of its information products and successful application of sophisticated statistical or machine learning methods to commercial products. Of particular interest is application of data mining, data warehousing and visualization techniques to areas of interest including drug design, medical care, fraud detection, and medical administration.

The Collaborator must be able to collaborate with NLM staff to produce high quality information products. The Collaborator must have a demonstrated record of success in privately producing and marketing information resources.

The term of the CRADA will be up to five (5) years.

DATES: Interested parties should notify this office in writing of their interest in filing a formal proposal no later than June 9, 1997, and then will have an additional thirty (30) days to submit a formal proposal.

ADDRESSES: Inquires and proposals regarding this opportunity should be addressed to Jeremy A. Cubert, M.S., J.D. (Tel. #301–496–0477, FAX #301–402–2117), Office of Technology Development, National Cancer Institute, 6120 Executive Blvd., Suite 450, Rockville, MD 20852. Inquiries regarding obtaining patent license(s) needed for participation in the CRADA opportunity may be addressed to John Fahner-Vihtelic, Office of Technology Transfer, National Institute of Health, 6011 Executive Blvd., Suite 325, Rockville, MD 20852, Phone: (301) 496–7735 (ext. 285); FAX: (301) 402–0220.

SUPPLEMENTARY INFORMATION: A CRADA is the anticipated joint agreement to be

entered into by LHCBC pursuant to the Federal Technology Transfer Act of 1986, as amended by the National Technology Transfer Act (Pub. L. 104-113 (1996)) and by Executive Order 12591 of April 10, 1987. The Computer Science Branch, LHCBC, NLM is presently developing a system to automate key decisions in the design and execution of machine learning applications. The system, termed "cultural coevolution" (COEV), uses object oriented intelligent agent techniques to synergistically integrate many different machine learning approaches into a single framework. The described methods are the subject of a provisional patent application (60/018,191) filed by the Government.

Under the present proposal, the goal of the CRADA will be the development of the following parameters:

- Improved speed of the algorithm;
- Improved portability of the system;
- Integration of "data warehousing"

functions to enable compatibility with a wide variety of database formats, remedy gaps or errors in the data ("data cleaning") and to identify target concepts for learning;

- Development of a user interface to enable system set up and configuration, monitor algorithm progression, adjust the algorithm as necessary, and display the results in a comprehensive and useful format.

Party Contributions

The role of the LHCBC includes the following:

- (1) Provide Collaborator with COEV system information necessary for the further development of the COEV system;
- (2) Provide staff, expertise, and materials for the further development of the COEV system;
- (3) Evaluate the work product of Collaborator to ensure progress toward meeting the CRADA goals; and
- (4) Provide work space and equipment for production and testing of any components or improvements of the COEV system.

The role of the successful Collaborator will include the following:

- (1) Provide funding, if and as necessary, in support of the development of the COEV system;
- (2) Provide expertise and assistance in the production and marketing of any products resulting from this CRADA;
- (3) Provide staff, expertise, and materials for the development of the COEV system under this CRADA; and
- (4) Provide quality assurance testing, operator training, and user support for any products resulting from this CRADA.

Selection Criteria

Proposals submitted for consideration should fully address each of the following qualifications:

(1) Expertise

A. Demonstrated expertise in translating sophisticated statistical or machine learning methods to successful products;

B. Demonstrated expertise in software engineering, data warehousing, data visualization;

C. Demonstrated ability to secure national and international marketing and distribution of software;

D. Demonstrated expertise in overseeing all aspects of product development;

E. Demonstrated intellectual ability to guide development of product line which addresses the requirement of LHCBC;

F. Demonstrated expertise in serving and supporting a significant client base; and

G. Familiarity with application of data mining techniques to biomedical fields.

(2) Reputation

The successful Collaborator must be recognized in the software industry for:

A. Producing, marketing and supporting data mining and related applications;

B. Indications of high levels of satisfaction by software experts and users of data mining products and;

C. The range of products and services it produces.

(3) Physical Resources

A. An established headquarters with offices, space, and equipment;

B. Access to the organization during business hours by telephone, mail, e-mail, the Internet, and other evolving technologies; and

C. Sufficient financial and technological resources to support, at a minimum, the current activities of the CRADA to meet the needs of LHCBC.

Dated: April 1, 1997.

Thomas D. Mays,

Director, Office of Technology Development, National Cancer Institute, National Institutes of Health.

[FR Doc. 97-9238 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Opportunity for a Clinical Trial-Cooperative Research and Development Agreement (CT-CRADA) for Phase II Clinical Trial on the Use of Minocycline to Treat Osteoporosis

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The National Institute of Aging (NIA) is seeking a Collaborator to participate in a CT-CRADA to run a Phase II clinical trial on the use of minocycline to treat osteoporosis, and to assist in the development of analogues to minocycline.

The term of the CT-CRADA will be up to five (5) years.

DATES: Interested parties should notify this office in writing of their intent to file a formal proposal no later than June 9, 1997. Formal proposals must be submitted to this office no later than July 9, 1997.

ADDRESSES: Inquiries and proposals regarding this opportunity should be addressed to Bruce D. Goldstein, J.D.; Office of Technology Development, National Cancer Institute; Executive Plaza South, Suite 450; 6120 Executive Blvd., MSC 7182, Bethesda, Maryland, 20892 (Telephone No. 301-496-0477; FAX No. 301-402-2117).

SUPPLEMENTARY INFORMATION: A CRADA is the anticipated joint agreement to be entered into by NIA pursuant to the Federal Technology Transfer Act of 1986, as amended by the National Technology Transfer Act (Pub. L. 104-113 (Mar. 7, 1996)) and by Executive Order 12591 of April 10, 1987. NIA has recently published a discovery by its staff that minocycline, an antibiotic related to tetracycline, increases bone mineral density, improves bone strength and formation, and slows bone resorption in old laboratory animals with surgically-induced menopause. Bone, 19:637-644 (Dec. 1996). Accordingly, NIA has begun to organize Phase II clinical trials.

Under the present proposal, the specific goals of the CT-CRADA will be the development of the following technology:

- Development of one or more protocols for the clinical trial of minocycline in the treatment of osteoporosis;
- Execution of clinical trials;
- Joint publication of research results; and

- Development of improved derivatives of minocycline.

Party Contributions

The role of NIA includes the following:

- (1) Develop and file, in consultation with Collaborator, any and all regulatory applications for the use of minocycline in the treatment of osteoporosis;
- (2) Provide staff, expertise, and materials for the development and execution of protocols, and for the development and testing of promising minocycline analogues;
- (3) Together with the Collaborator, evaluate the results of joint research, and to ensure progress toward meeting the CT-CRADA goals; and
- (4) Provide work space and equipment for testing of any prototype pharmaceutical compositions developed.

The role of the successful Collaborator will include the following:

- (1) Provide staff, expertise, and materials for the development and production of pharmaceutical compositions;
- (2) Purchase or manufacture an adequate supply of minocycline;
- (3) Together with NIA, evaluate the results of joint research, and to ensure progress toward meeting the CT-CRADA goals;
- (4) Provide funding in support of the clinical trials; and
- (5) Provide resource to develop and market any promising analogues to minocycline.

Selection Criteria

Proposals submitted for consideration should fully address each of the following qualifications:

(1) Expertise

The successful Collaborator should have the following expertise:

- A. Demonstrated expertise in developing and producing high quality pharmaceutical compositions;
- B. Demonstrated ability to secure national and/or international marketing and distribution of pharmaceutical compositions;
- C. Demonstrated expertise in overseeing all aspects of product development;
- D. Demonstrated intellectual ability to guide development of product line which addresses the requirements of NIA.

(2) Reputation

The successful Collaborator should be recognized in the pharmaceutical industry for each of the following:

- A. Producing quality pharmaceutical products;

B. Indications of high levels of satisfaction by industry experts with the Collaborator's products; and

C. Strong commitment to the research and development of new pharmaceuticals.

(3) Physical Resources

The successful Collaborator should be able to demonstrate it will have the following material resources as of the commencement of research under the CT-CRADA:

A. An established headquarters with offices, space, and equipment;

B. Adequate means for communication with the Collaborator during business hours, such as by telephone, mail, e-mail, the Internet, and other evolving technologies; and

C. Sufficient financial resources to support, at a minimum, the current activities of the CT-CRADA to meet the needs of NIA.

Dated: March 26, 1997.

Thomas D. Mays,

*Director, Office Technology Development,
National Cancer Institute, NIH.*

[FR Doc. 97-9239 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Specialized Clinical Fellowships (Teleconference).

Date: May 5, 1997.

Time: 1:00 p.m.—adjournment.

Place: 6100 Executive Boulevard, 6100 Building Room 5E03, Rockville, Maryland 20852.

Contact Person: Hameed Khan, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20852, Telephone: 301-496-1485.

Purpose/Agenda: To evaluate and review grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would

constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children, National Institutes of Health].)

Dated: April 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97-9297 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke, Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

Date: April 23, 1997.

Time: 9:00 a.m.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892.

Contact Person: Dr. Howard Weinstein/Mr. Phillip Wiethorn, Scientific Review Administrator, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496-9223.

Purpose/Agenda: To review and evaluate an SBIR Phase II Contract Proposal.

The meeting will be closed in accordance with the positions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences).

Dated: April 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97-9298 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****National Institute of Neurological Disorders and Stroke, Division of Extramural Activities; Notice of Closed Meeting**

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference call).

Date: April 23, 1997.

Time: 1:00 p.m.

Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892.

Contact Person: Dr. Howard Weinstein, Scientific Review Administrator, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496-9223.

Purpose/Agenda: To review and evaluate an SBIR Phase II Contract Proposal.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: April 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97-9299 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**National Institutes of Health****Office of Research on Women's Health; Notice of Meeting**

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Advisory Committee on Research on Women's Health (ACRWH) to be held May 5-6, 1997, National Institutes of Health, 9000 Rockville Pike, Building

31, C Wing, Conference Room 10, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:30 a.m., May 5, to adjournment on May 6. The purpose of the meeting will be for the Committee to provide advice to the Office of Research on Women's Health (ORWH) on its research agenda and to provide recommendations regarding ORWH activities.

The agenda will include an update on ORWH activities and programs to meet the mandates of the Office and discussion of scientific issues. The Committee will hear scientific presentations from several NIH institute directors, as well as an update from the Deputy Assistant Secretary for Health (Women's Health). The Committee will also discuss activities related to its regional meetings to update the research agenda on women's health. Attendance by the public will be limited to space available.

Anne R. Bavier, M.N., F.A.A.N., Executive Secretary, ACRWH, and Deputy Director, Office of Research on Women's Health, OD, NIH, Building 1, Rm. 201, Bethesda, Maryland 20892, 301/402-1770, 301/402-1798 (Fax), will furnish the meeting agenda, roster of Committee members, and substantive program information upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Bavier in advance of the meeting.

Dated: April 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97-9300 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Public Health Service****National Institutes of Health****Office of Research on Women's Health; Notice of Meeting—"Beyond Hunt Valley: Research on Women's Health for the 21st Century"**

Notice is hereby given that the Office of Research on Women's Health, Office of the Director, National Institutes of Health, will convene a meeting on June 11, 12, and 13, 1997, at the Sheraton New Orleans Hotel, New Orleans, Louisiana. The purpose of the meeting is to update the current biomedical and behavioral research agenda for women's health, as presented in the Report of the

National Institutes of Health: Opportunities for Research on Women's Health, a publication based on a conference held in Hunt Valley, Maryland, September 1991.

The NIH/FAES is accredited by the Accreditation Council for Continuing Medical Education to sponsor continuing medical educations for physicians.

The NIH/FAES designates this educational activity for a maximum of 10 hours in category 1 credit towards the AMA Physician's Recognition Award. Each physician should claim only those hours of credit that he/she actually spent in the educational activity.

The first day, June 11, will be devoted to receiving public testimony from 1:00 p.m. to 5:00 p.m. from individuals and individuals representing organizations interested in biomedical and behavioral research on women's health issues. On June 12 and 13, concurrent working groups will discuss women's health research, with particular reference to gender differences and emerging scientific issues. The schedule for June 22 is 8:30 a.m. to 5:30 p.m. and on June 23 the meeting will end approximately at 3:00 p.m. All sessions of the meeting are open to the public.

The purpose of this conference is to examine the physiological and psychosocial differences which exist between women and men and emerging scientific issues such as the environmental impact on women's health. In addition, strategies based upon the research which can result in an improved health status for all women will be developed.

Experts in fields of basic and clinical science, practitioners interested in women's health, representatives of scientific, professional and women's health organizations, and women's health advocates will be asked to assess the current status of research in women's health, in these, and other areas, identify gaps in existing knowledge, and recommend scientific approaches and strategies to take advantage of promising opportunities for research on women's health.

Opening sessions will be devoted to identifying those factors which may influence health status, including physiological and psychological differences between women and men, and to addressing the emerging issues from basic science to clinical studies through application to all women regardless of race, ethnicity, or age with special focus on the effects of environmental hazards and toxins across the life span.

The Office of Research on Women's Health invites individuals and individuals representing organizations with an interest in research areas related to women's health to provide written and oral testimony on the state of knowledge and continuing or emerging gaps in knowledge about women's health across the life span, sex/gender differences and the impact on women's health, new priorities for research on women's health, the environmental, genetic, hormonal, non-hormonal, and other factors that impact women's health, and career issues for women scientists and how to overcome the barriers. Due to time constraints, only one representative from each organization may present oral testimony, with presentations limited to 10 minutes. A letter of intent to present such testimony should be sent by interested individuals and organizations to Ms. Maxine Smith, Houston Associates, 1010 Wayne Avenue, Suite 1200, Silver Spring, MD 20910. Presenters should send three (3) written copies of their testimony, including a brief description of their organization, to the above address no later than May 20, 1997. The date of receipt of the letter will establish the order of presentations at the June meeting.

Individuals and organizations wishing to provide written statements only may send three (3) copies of their statements to the above address by May 20, 1997. All written testimony will be made available to the conferees prior to the June 11 meeting day. Comments and questions related to the June meeting should be addressed to Ms. Smith.

This meeting is the second of three regional public hearings and scientific workshops of similar design to be convened by the Office of Research on Women's Health. At the conclusion of this series of meetings, the Office of Research on Women's Health will convene a national meeting to address the deliberations and recommendations from the regional public hearings and scientific workshops for the purpose of developing a report for priorities for research on women's health for the 21st century.

Dated: April 3, 1997.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 97-9301 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Method of Identifying Persons Susceptible to Autoimmune Neuropsychiatric Disorders

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice its interest in the invention embodied in U.S. Patent Application Serial No. 08/473,033, filed June 6, 1995, entitled, "Method of Identifying Persons Susceptible to Autoimmune Neuropsychiatric Disorders," and subsequent filings, to Callisto Pharmaceuticals, Inc., having a place of business in New York, New York. The United States is a joint assignee of the patent rights in these inventions.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 90 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use would be diagnosing persons with, or at risk of developing, certain neuropsychiatric disorders as described in the patent application.

SUPPLEMENTARY INFORMATION: Obsessive compulsive disorder is a severe debilitating condition that can interfere dramatically with daily activities. Obsessive thoughts can include worries about either personal or family safety, past actions, or fears of contamination. Currently there is no known biologic or genetic marker diagnostic for this disorder. However, there is evidence that certain autoimmune diseases have accompanying psychological symptoms including obsessive compulsive behavior, attention deficit hyperactivity disorder, emotional lability, and irritability. The patent application relates to the discovery that in patients at risk for developing neuropsychiatric disorders due to autoimmune disease there is a dramatic increase in the number of B lymphocytes expressing an alloantigen. Detection of the antigen has

been shown to be predictive for obsessive compulsive behavior. In addition, individuals at genetic risk for these neuropsychiatric disorders can also be identified.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Leopold J. Luberecki, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, MD 20852-3804; Telephone: (301) 496-7735, ext. 223; Facsimile: (301) 402-0220. Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before July 9, 1997 will be considered.

Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: March 31, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97-9237 Filed 4-9-97; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-118-6332-00; GP7-0136]

Closure of All Segments of the London Peak Overlook Trail to Off-Highway and Mechanized Vehicle Use

AGENCY: Bureau of Land Management, Medford District Office.

ACTION: Emergency closure of public land trail in Josephine County, Oregon.

SUMMARY: Notice is hereby given that effective immediately, all segments of the London Peak Overlook Trail under Bureau of Land Management control are closed to all uses other than foot traffic or wheelchairs. The closure is made under the authority of 43 CFR 8341.2. The closure will remain in effect until such time that changes in resource management warrant modifications.

The public lands affected by this emergency closure are specifically identified as follows:

London Peak Overlook Trail on BLM lands in T.33 S., R. 6 W., Section 21, Willamette

Meridian, Josephine County, Oregon as shown on a map available at the Medford District, Bureau of Land Management Office.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees, state, local and federal law enforcement and fire protection personnel; and the holders of BLM permits and/or contracts. Vehicle access by additional parties may be allowed, but must be approved by the Authorized Officer of the BLM.

The purpose of this closure is to protect the trail surfacing for wheelchair use and limit safety hazards of incompatible uses.

Any person who fails to comply with a closure order or rulemaking is subject to arrest and fines of up to \$1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Diane Chung, Area Manager, Bureau of Land Management, Glendale Resource Area, Medford District Office, 3040 Biddle Rd, Medford, OR 97504 or (541) 770-2279.

Dated: March 31, 1997.

Diane Chung,

Glendale Area Manager.

[FR Doc. 97-9211 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-CACA 31137, DES 97-10]

Notice of Availability

AGENCY: Bureau of Land Management, Needles Resource Area.

ACTION: Notice of availability for the Castle Mountain Mine Expansion Project, Draft Environmental Impact Statement/Environmental Impact Report, and notice of comment period and public meetings.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended, and in coordination with the County of San Bernardino in its administration of the California Environmental Quality Act, as amended, notice is given that the Bureau of Land Management (BLM) has prepared, with the assistance of a third-party consultant, a Draft Environmental Impact Statement (EIS)/Environmental Impact Report (EIR), on the proposed Castle Mountain Mine Expansion Project, and has made copies available for public and agency review. This notice also announces public meetings

for the purpose of receiving comments on the draft document.

DATES: Written comments on the Draft EIS/EIR must be received no later than 4 p.m., May 28, 1997. Oral and/or written comments may also be presented at two public meetings. The public meetings will be held at the following times and locations: 7 p.m., Tuesday, April 29, 1997 at the Holiday Inn, 1511 East Main Street, Barstow, California; 7 p.m., Wednesday, April 30, 1997 at the Searchlight Community Center, Parks and Recreation Department, 200 Michael Wendall Way, Searchlight, Nevada.

ADDRESSES: Written comments should be addressed to: George R. Meckfessel, U.S.D.I., Bureau of Land Management, Needles Resource Area, 101 West Spikes Road, Needles, California 92363.

FOR FURTHER INFORMATION: George R. Meckfessel, Planning and Environmental Coordinator, telephone (619) 326-7000.

SUPPLEMENTARY INFORMATION: Viceroy Gold Corporation has proposed to mine additional ore adjacent to deposits currently being mined at the Castle Mountain Mine, San Bernardino, California, an open-pit, heap-leach gold mine. Under the present operating permits, mining, processing and reclamation activities could continue through December 31, 2010. Under the proposed expansion, these activities would continue through December 31, 2020. The Proposed Action consists of expanding existing and planned open pit areas, expanding the existing heap leach pad, creating a new overburden storage site and expanding growth media storage areas on approximately 490 additional acres. The action would also incorporate mine pit backfilling on 140 acres of open mine pits. The proposed 10-year extension of the mining and processing phases of the mine would ultimately affect up to 1,380 acres of public and private lands, as compared to the 890 acres presently authorized.

The Draft EIS/EIR has examined potentially significant impacts to geology, water resources, including groundwater quality and quantity, vegetation, wildlife, air quality, visual resources, cultural resources, land use, and hazards.

Public participation has occurred throughout the planning process. A Notice of Intent was published in the **Federal Register** on July 18 and August

29, 1995. Public scoping meetings were held in August 1995.

Molly S. Brady,

Acting Area Manager.

[FR Doc. 97-9172 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-060-01-1320-01; WYW127221]

Notice of Availability of the Final Environmental Impact Statement (FEIS) for the North Rochelle Coal Lease Application Located in Northeastern Wyoming's Powder River Basin

AGENCY: Bureau of Land Management, Interior.

SUMMARY: This notice announces the availability of a final Environmental Impact Statement (FEIS) pursuant to 40 CFR 1500-1508 for the North Rochelle Coal Lease Application (WYW127221) in the Wyoming Powder River Basin. The North Rochelle tract (originally called the North Roundup tract) is being considered for sale as a result of a maintenance coal lease application filed by Bluegrass Coal Development Company (formerly SMC Mining Company) for Federal coal located adjacent to the North Rochelle Mine in Campbell County, Wyoming. The FEIS evaluates the impacts of holding a competitive coal lease sale and issuing a lease if there is a successful bidder. The North Rochelle Mine is a producing coal mine, which has met Federal diligent development requirements on its existing Federal lease. There are currently no mining or rail facilities at the mine, which is located approximately 50 miles south of Gillette, Wyoming.

DATES: The FEIS is scheduled to be available to the public on April 11, 1997. In order to assure that comments are considered in the Record of Decision, they should be received no later than close of business on May 12, 1997.

ADDRESSES: Comments, concerns, and requests for copies of the FEIS (or an Executive Summary of the FEIS) should be addressed to Casper District Office, Bureau of Land Management, Attn: Nancy Doelger, 1701 East "E" Street, Casper, Wyoming 82601. Comments can also be faxed to 307-234-1525, Attn: Nancy Doelger.

FOR FURTHER INFORMATION CONTACT: Nancy Doelger or Mike Karbs, at 307-261-7600, or contact the fax or address listed above.

SUPPLEMENTARY INFORMATION: This coal lease application was made to the BLM pursuant to provisions of 43 CFR 3425.1 as a lease by application. On July 22, 1992, Bluegrass Coal Development Company (formerly SMC Mining Company) applied for a coal lease for approximately 1,439 acres (approximately 144 million tons of coal) in an area adjacent to the North Rochelle Mine in Campbell County, Wyoming. The Bureau of Land Management (BLM) has recommended that approximately 81 additional acres containing approximately 9 million tons of coal be included in the tract to avoid a potential bypass situation in the future, and that approximately 39 acres containing approximately 4 million tons of coal be excluded from the tract to enhance the value of the remaining unleased coal in the area. The application was for the following lands:

T. 42 N., R. 70 W., 6th P.M., Wyoming

Sec. 4: Lots 5 thru 16, 19, and 20;
Sec. 5: Lots 5 thru 16;
Sec. 9: Lot 1;

T. 43 N., R. 70 W., 6th P.M., Wyoming

Sec. 32: Lots 9 thru 11, 14 thru 16;
Sec. 33: Lots 11 thru 14;

Containing 1439.92 acres, more or less.

The BLM has recommended that the following lands containing approximately 4 million tons of coal reserves be excluded from the application:

T. 42 N., R. 70 W., 6th P.M., Wyoming

Sec. 9: Lot 1;

Containing 39.15 acres, more or less.

The BLM has recommended that the following additional lands containing an additional estimated 9 million tons of coal reserves be included in the application:

T. 43 N., R. 70 W., 6th P.M., Wyoming

Sec. 32: Lots 12 and 13.

Containing 81.16 acres, more or less.

The tract as amended by the BLM contains a total of approximately 1481.93 acres and approximately 149 million tons of coal reserves, and includes the following lands:

T. 42 N., R. 70 W., 6th P.M., Wyoming

Sec. 4: Lots 5 thru 16, 19, and 20;
Sec. 5: Lots 5 thru 16;

T. 43 N., R. 70 W., 6th P.M., Wyoming

Sec. 32: Lots 9 thru 16;
Sec. 33: Lots 11 thru 14;

The lease application area is west of and contiguous with Bluegrass' existing North Rochelle Mine and with Thunder Basin Coal Company's Black Thunder Mine. The North Rochelle Mine began producing coal in 1990 from a Federal

lease (WYW71692) issued in 1982. Coal production from the existing Federal lease met the diligence requirements of Section 2(a)(2)(A) of the Mineral Leasing Act in November 1996. Bluegrass has applied to lease the proposed North Rochelle Tract (initially called the North Roundup Tract) as a maintenance tract for the North Rochelle Mine.

There are no existing mine facilities or rail facilities at the North Rochelle Mine. Construction is scheduled to begin on the North Rochelle rail and mine facilities in mid-1997. In addition, Encal Corporation is proposing to begin construction of a coal enhancement facility and power plant inside the rail loop at the North Rochelle Mine starting in 1997, and North American Power Group of Englewood, Colorado is proposing to construct a power plant near the adjacent Black Thunder Mine, starting in late 1997.

The FEIS analyzes three alternatives. The proposed action is to lease the tract as applied for to the successful bidder. Alternative A is to lease the tract as modified by the BLM to the successful bidder. This is the Preferred Alternative of the BLM. The third alternative is the No Action Alternative, which assumes that the lease is not issued.

The North Rochelle tract would be logically mined as a maintenance lease by either the existing North Rochelle Mine or the existing Black Thunder Mine, but it does not include enough coal to make opening a new mine economical. The North Rochelle tract includes part of the Roundup tract, a Federal coal tract which was delineated in the early 1980s but which was never offered for sale.

The U.S. Forest Service (USFS) is a cooperating agency in the preparation of the FEIS because the surface of some of the lands included in the tract is owned by the Federal Government and administered by the USFS as part of the Thunder Basin National Grasslands. The Office of Surface Mining Reclamation and Enforcement is also a cooperating agency in the preparation of the FEIS, because it is the Federal agency that administers surface coal mining operations under the Surface Mining Control and Reclamation Act of 1977. The Draft Environmental Impact Statement was made available to the public on November 8, 1996, and the comment period extended through January 10, 1997. Eleven written comment letters were received on the draft documents. They are included, with responses, as Appendix G of the FEIS.

A public hearing was held at 7 p.m. on December 12, 1997, at the Holiday

Inn, 2009 S. Douglas Highway, Gillette, Wyoming. The purpose of the hearing was to receive comments on the Draft Environmental Impact Statement, and on the fair market value, the maximum economic recovery, and the proposed competitive sale of coal from the North Rochelle tract (originally called the North Roundup tract). An open house was held prior to the hearing from 4 p.m. to 6 p.m. on December 12, 1996, at the Gillette Holiday Inn to answer questions about the North Rochelle coal lease application, as well as other pending coal lease applications, other mineral development issues in the Powder River Basin, the coal leasing process, and the coal unsuitability screening process.

Dated: April 3, 1997.

Alan R. Pierson,

State Director.

[FR Doc. 97-9163 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-22-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO-010-07-1020-00-241A]

Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the next meetings of the Northwest Colorado Resource Advisory Council will be held on Thursday, May 15, 1997, in Steamboat Springs, Colorado; and Friday, July 11, 1997, in Craig, Colorado.

DATES: Meetings are scheduled for Thursday, May 15, 1997, and Friday, July 11, 1997.

ADDRESSES: For further information, contact Joann Graham, Bureau of Land Management (BLM), Grand Junction District Office, 2815 H Road, Grand Junction, Colorado 81506; Telephone (970) 244-3037.

SUPPLEMENTARY INFORMATION: Thursday, May 15, 1997, 9:30 a.m. This meeting will be held at the Yampa Valley Rural Electrification Association building, 32 Tenth Street, Steamboat Springs, Colorado. Agenda items include: subcommittee reports, council recommendations regarding motorized travel in the Bang's Canyon planning area, conservationists' wilderness proposal, and new business.

Friday, July 11, 1997, 9 a.m.: This meeting will be held at the BLM District

Office, 455 Emerson Street, Craig, Colorado. Agenda items include general council business and subcommittee reports.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements at the meetings or submit written statements following the meetings. Per-person time limits for oral statements may be set to allow all interested persons an opportunity to speak.

Summary minutes of Council meetings are maintained in both the Grand Junction and Craig District Offices. They are available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Dated: March 27, 1997.

Mark Morse,

Grand Junction/Craig District Manager.

[FR Doc. 97-9221 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-07-2811-00]

Notice of Intent To Hold Public Meeting Regarding the Draft BLM Phoenix Field Office Fire Management Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Fire management plan, notice of meeting.

SUMMARY: This notice announces a public meeting to discuss the development of the Phoenix Field Office Fire Management Plan. The meeting will be held on Monday, April 28, 1997, from 4 to 7 p.m., at the BLM's Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, Arizona.

This plan is required by the Federal Wildland Fire Policy for every area with burnable vegetation. Wildland fire management decisions are based on these approved fire management plans in conjunction with land and resource management plans. New fire management plans must be developed and in place by all BLM offices in fiscal year 1998. The initial phase of this two-phase process requires completion of draft fire management direction by June 1, 1997. Final fire management direction must be completed by November 1997.

Comments to the above address, Attention: Glenn Joki, will be accepted until May 12, 1997.

FOR FURTHER INFORMATION CONTACT:

Glenn Joki, Fire Management Officer, Phoenix Field Office, 2015 West Deer

Valley Road, Phoenix, Arizona 85027, (602) 780-8090.

Dated: April 2, 1997.

David J. Miller,

Acting Field Office Manager.

[FR Doc. 97-9225 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-62-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-010-1430-01; CACA 7202]

Public Land Order No. 7252; Revocation of the Executive Order Dated February 21, 1913; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes an Executive Order dated February 21, 1913, in its entirety, as it affects 59,752.64 acres of public land withdrawn for Potash Reserve No. 2. The withdrawal is no longer needed for this purpose since potash was made a leasable mineral with the passage of the Mineral Leasing Act of 1920. The revocation is needed to permit partial disposal of the land through exchange. This action will open the land to nonmetalliferous mining. The land has been and will remain open to surface entry, metalliferous mining, and mineral leasing.

EFFECTIVE DATE: May 12, 1997.

FOR FURTHER INFORMATION CONTACT:

Kathy Gary, BLM California State Office (CA-931.5), 2135 Butano Drive, Sacramento, CA 95825, 916-979-2858.

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 February 21, 1913, which withdrew public land for Potash Reserve No. 2, is hereby revoked in its entirety as it affects the following described land:

Mount Diablo Meridian

T. 24 S., R. 43 E.,

Sec. 32, SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 33, S $\frac{1}{2}$;

Sec. 34, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 35, S $\frac{1}{2}$ SW $\frac{1}{4}$

An area bounded as follows:

Beginning at the southeast corner of sec. 31, T. 24 S., R. 43 E.; thence west 2 miles; thence south 12 miles; thence east 9 miles; thence north 12 miles; thence west 2 $\frac{1}{2}$ miles, more or less to the south quarter corner of sec. 36, T. 24 S., R. 43 E., thence west 4 $\frac{1}{2}$ miles more

or less, along the south line of T. 24 S., R. 43 E., to point of beginning.

The area described contains 59,752.64 acres in San Bernardino County.

2. At 10 a.m. on May 12, 1997, the land will be opened to location and entry for nonmetalliferous mining under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: March 27, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97-9213 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT-924-1430-01; MTM 82330]

Public Land Order No. 7254; Withdrawal of Public Mineral Estate Within the Sweet Grass Hills Area of Critical Environmental Concern and Surrounding Areas; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 19,685 acres of public mineral estate from location and entry under the mining laws for a period of 20 years to protect the unique resources within the Sweet Grass Hills Area of Critical Environmental Concern and surrounding areas. The lands have been and will remain open to surface entry, as identified in the Sweet Grass Hills Resource Management Plan Amendment, and to mineral leasing.

EFFECTIVE DATE: April 10, 1997.

FOR FURTHER INFORMATION CONTACT:

Richard Hopkins, Great Falls Resource Area Office, Great Falls, Montana 59401, 406-727-0503.

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. Subject to valid existing rights, the public mineral estate in the following described lands is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. Ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the Sweet Grass Hills Area of Critical Environmental Concern and surrounding areas:

Principal Meridian, Montana

- T. 37 N., R. 1 E.,
 Sec. 1, lots 5 to 8, inclusive;
 Sec. 2, lots 5 to 8, inclusive, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 11, E $\frac{1}{2}$ E $\frac{1}{2}$;
 Sec. 12, lots 1 to 8, inclusive, and S $\frac{1}{2}$ N $\frac{1}{2}$;
 Sec. 13, lots 1 to 5, inclusive, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 14, lots 1 to 3, inclusive, N $\frac{1}{2}$, SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 15, E $\frac{1}{2}$ E $\frac{1}{2}$;
 Sec. 22, E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 23, lot 1, E $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 24, lots 1 to 4, inclusive, W $\frac{1}{2}$ E $\frac{1}{2}$, and W $\frac{1}{2}$;
 Sec. 25, lots 1 to 10, inclusive, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 26, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;
 Sec. 27, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 34, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 35, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 36 N., R. 2 E.,
 Sec. 5, lot 4;
 Sec. 6, lots 1 and 2, and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 23, E $\frac{1}{2}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 24, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 25, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 37 N., R. 2 E.,
 Sec. 5, lot 8;
 Sec. 6, lots 6 to 10, inclusive;
 Sec. 7, lots 1 to 4, inclusive, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 17, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 18, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 19, lots 2, 3, and 4, NE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 20, NW $\frac{1}{4}$ NE $\frac{1}{4}$ and N $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 30, lots 1 to 4, inclusive, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 31, lots 1, 2, and 3, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$.
 T. 35 N., R. 3 E.,
 Sec. 3, lot 4 and SW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 4, lots 1 and 2, and S $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 36 N., R. 3 E.,
 Sec. 7, lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 10, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 11, NW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 15, NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 17, lots 1 and 2, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;
 Sec. 18, lots 5, 6, 11, and 12, and NW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 19, lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 20, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 21, NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 22, NW $\frac{1}{4}$;
 Sec. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 29, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;
 Sec. 30, lots 1 and 2, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 31, lots 2 and 3, NE $\frac{1}{4}$ NE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 32, N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 33, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 34, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$.
 T. 35 N., R. 4 E.,
 Sec. 2, lot 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$.
 T. 36 N., R. 4 E.,
 Sec. 1, lots 1, 2, and 3, S $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 9, SE $\frac{1}{4}$;
 Sec. 10, lots 3 and 4, and E $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 24, lots 1 to 4, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, and NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 25, lots 1 to 6, inclusive, NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and N $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 26, SE $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 34, E $\frac{1}{2}$ NE $\frac{1}{4}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 35, E $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 36, lots 1, 2, 3, and 5.
 T. 37 N., R. 4 E.,
 Sec. 34, N $\frac{1}{2}$ N $\frac{1}{2}$ and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 35, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
 T. 35 N., R. 5 E.,
 Sec. 5, lot 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 6, lots 1, 2 and 5, and SW $\frac{1}{4}$ NE $\frac{1}{4}$.
 T. 36 N., R. 5 E.,
 Sec. 3, lot 1 and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 4, W $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 5, SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 6, lot 6, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 7, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 8, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, and W $\frac{1}{2}$ NW $\frac{1}{4}$;
 Sec. 9, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 14, S $\frac{1}{2}$ SW $\frac{1}{4}$;
 Sec. 18, N $\frac{1}{2}$ NE $\frac{1}{4}$;
 Sec. 19, lots 1 to 9, inclusive, N $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 20, lots 1 to 5, inclusive, N $\frac{1}{2}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 21, N $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$ and E $\frac{1}{2}$ SE $\frac{1}{4}$;
 Sec. 23, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$;
 Sec. 27, W $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 28, SE $\frac{1}{4}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
 Sec. 29, lots 1 to 5, inclusive, lots 7 to 10, inclusive, SW $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 30, lots 1 to 4, inclusive, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;
 Sec. 31, lots 1 to 4, inclusive, MS 3418, E $\frac{1}{2}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$;
 Sec. 32, lots 1 to 5, inclusive, E $\frac{1}{2}$ NE $\frac{1}{4}$, and SW $\frac{1}{4}$ NE $\frac{1}{4}$;
 Sec. 34, N $\frac{1}{2}$ NE $\frac{1}{4}$.
 T. 37 N., R. 5 E.,
 Sec. 29, SE $\frac{1}{4}$ SE $\frac{1}{4}$;
 Sec. 30, SE $\frac{1}{4}$ SW $\frac{1}{4}$.

The areas described aggregate approximately 19,685 acres in Toole and Liberty Counties.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the public mineral estate under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. Uses allowed are identified in the Sweet Grass Hills Resource Management Plan Amendment.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: March 31, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97-9222 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-DN-P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Prepare an Environmental Impact Statement and Hold a Public Meeting on the Great Egg Harbor National Scenic and Recreational River Comprehensive Management Plan

AGENCY: National Park Service, Interior.

ACTION: Notice of intent to prepare an environmental impact statement and hold a public meeting.

SUMMARY: This notice announces the intent to prepare an environmental impact statement and hold a public meeting for the development of a Comprehensive Management Plan for the Great Egg Harbor National Scenic and Recreational River in New Jersey.

DATE AND TIME: Tuesday, April 22, 1997 at 7 p.m.

ADDRESS: Fox Nature Center, Atlantic County Park, Estell Manor, New Jersey.

The purpose of this meeting is to solicit public input into the future management of the Great Egg Harbor National Scenic and Recreational River corridor and the identification of issues that need to be addressed for long-term protection. This National Park Service unit is managed in partnership with twelve New Jersey municipalities, the New Jersey Pinelands Commission, Atlantic, Gloucester, Camden, and Cape May Counties, The State of New Jersey,

and the Great Egg Harbor Watershed Association.

We encourage all who have an interest in this National Park unit's future to attend or to contact Mary Vavra, National Park Service Project Leader, by letter or telephone. Minutes of the meeting will be available for distribution four weeks after the meeting at the Fox Nature Center.

FOR FURTHER INFORMATION CONTACT: Mary Vavra, Project Leader, National Park Service, Chesapeake/Allegheny System Support Office, 200 Chestnut Street, 3rd Floor, Philadelphia, PA 19106, (215) 597-9175.

Dated: April 1, 1997.

Joan Krall,

Assistant Regional Director, Program and Financial Management, Northeast Field Area, National Park Service.

[FR Doc. 97-8905 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463).

MEETING DATE AND TIME: Wednesday, April 16, 1997; 1:30 p.m. until 4:30 p.m.

ADDRESS: Commission Offices, 10 E. Church Street, Room P-205, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100-692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Director of Finance and Development,

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 E. Church Street, Room P-208, Bethlehem, PA 18018, (610) 861-9345.

Dated: April 4, 1997.

Michael D. Fallesen,

Director of Finance and Development, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 97-9197 Filed 4-9-97; 8:45 am]

BILLING CODE 6820-PE-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information for 30 CFR parts 761 and 772.

DATES: Comments on the proposed information collection must be received by June 9, 1997, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 120—SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208-2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR part 761, Areas Designated by Act of Congress; and part 772, Requirements for Coal Exploration.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in OSM's submissions of the information collection requests to OMB.

The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Areas Designated by Act of Congress—30 CFR part 761.

OMB Control Number: 1029-0102.

Summary: OSM and State regulatory authorities use the information collected under 30 CFR part 761 to ensure that persons planning to conduct surface coal mining operations on the lands protected by § 522(e) of the Surface Mining Control and Reclamation Act of 1977 have the right to do so under one of the exemptions or waivers provided by this section of the Act.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Persons planning to conduct coal mining and reclamation operations and State regulatory authorities.

Total Annual Responses: 620.

Total Annual Burden Hours: 1.6 hours.

Title: Requirements for Coal Exploration—30 CFR Part 772.

OMB Control Number: 1029-0033

Summary: OSM and State regulatory authorities use the information collected under 30 CFR part 772 to maintain knowledge of exploration activities, evaluate the need for an exploration permit, and ensure that exploration activities comply with the environmental protection and reclamation requirements of 30 CFR Parts 772 and 815 and section 512 of SMCRA (30 U.S.C. 1262).

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Persons planning to conduct coal exploration and State regulatory authorities.

Total Annual Responses: 1,229.

Total Annual Burden Hours: 13,354.

Dated: April 4, 1997.

Richard G. Bryson,

Acting Chief, Division of Regulatory Support.

[FR Doc. 97-9110 Filed 4-9-97; 8:45 am]

BILLING CODE 4310-05-M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Agency Strategic Plan

AGENCY: U.S. Agency for International Development.

ACTION: Notice.

SUMMARY: The U.S. Agency for International Development (USAID) seeks public comment on its draft strategic plan. The plan, an important requirement under the Government Performance and Results Act, seeks to articulate the mission statement, goals and objectives of the United States' economic and humanitarian assistance programs.

DATES: Comments should be sent no later than April 18, 1997.

SEND COMMENTS TO: Dan Rathbun, BHR/PPE, Room 365, U.S. Agency for International Development, 320 C Street, N.W., Washington, D.C. 20523 or (drathbun@usaid.gov).

FOR FURTHER INFORMATION CONTACT: Dan Rathbun, 2703-351-0127 or (drathbun@usaid.gov).

SUPPLEMENTARY INFORMATION: The draft Strategic Plan and an accompanying questionnaire are available at the USAID Internet Web Site: (http://www.info.usaid.gov/pubs/strat__plan/).

Dated: March 31, 1997.

Dan Rathbun,

Program Officer, Office of Program, Planning and Evaluation, Bureau for Humanitarian Response.

[FR Doc. 97-9170 Filed 4-9-97; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-380]

Certain Agricultural Tractors Under 50 Power Take-Off Horsepower; Notice of Denial of Petition for Reconsideration and Motion for Relief Pending Review

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to deny respondents' Petition for

Reconsideration and respondents' Motion for Relief Pending Review in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT:

Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3090.

SUPPLEMENTARY INFORMATION: The authority for the Commission's determination is contained in Section 705 of the Administrative Procedure Act (5 U.S.C. 705), Section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in §§ 210.47 and 210.48 of the Commission's Rules of Practice and Procedure (19 C.F.R. 210.47 and 210.48).

This trademark-based section 337 investigation was instituted by the Commission on February 14, 1996, based on a complaint filed by Kubota Tractor Corporation ("KTC"), Kubota Manufacturing of America ("KMA"), and Kubota Corporation ("KBT") (collectively "complainants"). On January 9, 1997, the Commission determined not to review that portion of the presiding administrative law judge's (ALJ) final initial determination (ID) finding a violation of section 337 based on infringement of complainants' federally-registered U.S. trademark "KUBOTA" (Reg. No. 922,330).

On February 25, 1997, the Commission issued a general exclusion order prohibiting the unlicensed entry for consumption of agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe the federally-registered U.S. trademark "KUBOTA" and eleven cease and desist orders directed to respondents Bay Implement Company, Casteel World Group, Inc. (and related entities), Gamut Trading Co. (and related entities), Lost Creek Tractor Sales, MGA, Inc. Auctioneers, The Tractor Shop, Tractor Company, and Wallace International Trading Co. prohibiting the importation, sale for importation, or sale in the United States after importation of agricultural tractors under 50 power take-off horsepower manufactured by Kubota Corporation of Japan that infringe the federally-registered U.S. trademark "KUBOTA". The Commission also determined that the public interest factors enumerated in subsections 337(d) and (f) did not preclude the issuance of the general exclusion order and cease and desist orders, and that the bond during the Presidential review period should be in the amount of 90 percent of the entered value of the articles in question.

On March 13, 1997, respondents Gamut Trading Co., Gamut Imports, Wallace International Trading Co., Wallace Import Marketing Co., Inc., Bay Implement Co., Casteel World Group, Inc., The Tractor Shop, Suma Sangyo, Eisho World Ltd., Sanko Industries Co., Ltd, and Fujisawa Trading Co. filed a Petition for Reconsideration pursuant to Commission rules 210.47 and 210.48, requesting that the Commission reconsider its conclusion that requiring warning labels on the infringing tractors would not be an effective remedy. On the same date, respondents also filed a Motion for Relief Pending Review, requesting that the Commission stay the effective date of its general exclusion order and cease and desist orders until such time as the U.S. Court of Appeals for the Federal Circuit can decide respondents' planned appeal. Responses in opposition to both requests were received from complainants and the Commission investigative attorney (IA) on March 24, 1997.

Having considered the written submissions of the parties, as well as the record in this investigation, the Commission determined to deny both respondents' Petition for Reconsideration and respondents' Motion for Relief Pending Review.

Copies of the Commission's opinion and order and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810.

Issued: April 4, 1997.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 97-9198 Filed 4-9-97; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-352]

Andean Trade Preference Act: Effect on the U.S. Economy and on Andean Drug Crop Eradication

AGENCY: United States International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with 1996 annual report.

EFFECTIVE DATE: April 1, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Jennings (202-205-3260), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, D.C. 20436.

Background

Section 206 of ATPA (19 U.S.C. 3204) requires that the Commission submit annual reports to the Congress regarding:

(1) The actual economic effect of ATPA on the U.S. economy generally as well as on specific industries which produce articles that are like, or directly competitive with, articles being imported under the Act;

(2) The probable future effect of ATPA on the U.S. economy generally and on industries affected by the Act; and

(3) The estimated effect of ATPA on drug-related crop eradication and crop substitution efforts of beneficiary countries.

Notice of institution of the investigation and the schedule for such reports was published in the **Federal Register** of March 10, 1994 (59 FR 11308). The Commission's fourth annual report on ATPA, covering calendar year 1996, is to be submitted by September 30, 1997.

Written Submissions

The Commission does not plan to hold a public hearing in connection with the preparation of this report. However, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than June 30, 1997.

Address all submissions to Office of the Secretary, U.S. International Trade Commission, 500 E St., S.W., Washington, D.C. 20436. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

Issued: April 2, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-9178 Filed 4-9-97; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-227]

Annual Report on the Impact of the Caribbean Basin Economic Recovery Act on U.S. Industries and Consumers

AGENCY: United States International Trade Commission.

ACTION: Notice of opportunity to submit comments in connection with 1996 annual report.

EFFECTIVE DATE: April 2, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Jennings (202-205-3260), Country and Regional Analysis Division, Office of Economics, U.S. International Trade Commission, Washington, D.C. 20436.

Background

Section 215(a) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2704(a)) requires that the Commission submit annual reports to the Congress and the President regarding:

(1) The actual economic effect of CBERA on the U.S. economy generally as well as on specific industries which produce articles that are like, or directly competitive with, articles being imported under the Act; and

(2) The probable future effect of CBERA on the U.S. economy generally and on industries affected by the Act.

Notice of institution of the investigation and the schedule for such reports was published in the **Federal Register** of May 14, 1986 (51 FR 17678). The twelfth report, covering calendar year 1996, is to be submitted by September 30, 1997.

Written Submissions

The Commission does not plan to hold a public hearing in connection with the twelfth annual report. However, interested persons are invited

to submit 2 written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received no later than June 30, 1997.

Address all submissions to the Secretary to the Commission, U.S. International Trade Commission, 500 E St., S.W., Washington, D.C. 20436. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

Issued: April 2, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-9177 Filed 4-9-97; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-752 (Final)]

Crawfish Tail Meat From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731-TA-752 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether 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 less-than-fair-value imports from China of crawfish tail meat, provided for in subheadings 0306.19.00

and 0306.29.00 of the Harmonized Tariff Schedule of the United States.¹

For further information concerning the conduct of this phase of the investigation, hearing procedures, 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 C (19 CFR part 207), as amended by 61 FR 37818, July 22, 1996. **EFFECTIVE DATE:** March 26, 1997.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202-205-3182), 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

The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of crawfish tail meat from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigation was requested in a petition filed on September 20, 1996, by the Louisiana Crawfish Coalition, Breaux Bridge, LA.

Participation in the Investigation and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified

in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on July 15, 1997, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on July 28, 1997, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before July 17, 1997. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on July 21, 1997, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing

testimony in camera no later than 7 days prior to the date of the hearing.

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is July 22, 1997. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is August 5, 1997; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before August 5, 1997. On August 22, 1997, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 26, 1997, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's 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 section 207.21 of the Commission's rules.

Issued: April 2, 1997.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 97-9181 Filed 4-9-97; 8:45 am]

BILLING CODE 7020-02-P

¹ For purposes of this investigation, Commerce has defined the subject merchandise as "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.

INTERNATIONAL TRADE COMMISSION**[Investigation No. 337-TA-397]****Certain Dense Wavelength Division Multiplexing Systems and Components Thereof; Notice of Investigation****AGENCY:** U.S. International Trade Commission.**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on February 18, 1997, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Ciena Corporation, 8530 Corridor Road, Savage, MD 20763. On March 13, 1997, the Commission extended by two weeks the thirty-day period for determining whether to institute an investigation based on the complaint. On March 17, 1997, Ciena filed an amended complaint. Supplementary letters were filed on March 21 and 25, 1997. The complaint, as amended and supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dense wavelength division multiplexing systems and components thereof by reason of infringement of claims 1-7 of U.S. Letters Patent 5,557,439 and claims 1-10 of U.S. Letters Patent 5,504,609. The complaint further alleges that there exists an industry in the United States as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202-205-2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

FOR FURTHER INFORMATION CONTACT: Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2571.

AUTHORITY: The authority for institution of this investigation is contained in

section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR § 210.10 (1996).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on April 1, 1997, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dense wavelength division multiplexing systems or components thereof by reason of infringement of claims 1-7 of U.S. Letters Patent 5,557,439 or claims 1-10 of U.S. Letters Patent 5,504,609, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Ciena Corporation, 8530 Corridor Road, Savage, MD 20763.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Pirelli, S.p.A., Viale Sarca 222, 20126 Milano (Milan), Italy

Pirelli Cavi, S.p.A., Optical Communications Systems, Viale Sarca 222, 20126 Milano (Milan), Italy

Pirelli Cable Corporation, 705 Industrial Drive, Lexington, SC 29072

(c) Thomas S. Fusco, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401-O, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and notice

of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: April 2, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary,

[FR Doc. 97-9179 Filed 4-9-97; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION**[Investigation No. 731-TA-760 (Preliminary)]****Needle Bearing Wire From Japan****Determination**

On the basis of the record¹ developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of needle bearing wire, provided for in subheading 7229.90.50 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On February 14, 1997, a petition was filed with the Commission and the Department of Commerce by E.C.D. Inc., Hillside, NJ, alleging that an industry in the United States is materially injured and threatened with material injury by

¹ The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

reason of LTFV imports of needle bearing wire from Japan. Accordingly, effective February 14, 1997, the Commission instituted antidumping Investigation No. 731-TA-760 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 25, 1997 (62 FR 8458). The conference was held in Washington, DC, on March 7, 1997, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on March 28, 1997. The views of the Commission are contained in USITC Publication 3033 (April 1997) entitled "Needle Bearing Wire from Japan: Investigation No. 731-TA-760 (Preliminary)."

Issued: April 2, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-9180 Filed 4-9-97; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation and Liability Act (CERCLA)

In accordance with Department of Justice policy and 28 C.F.R. 50.7, notice is hereby given that on March 24, 1997, a proposed Consent Decree in *United States v. Cowles Media Company, et al.*, Civil No. 4-96-958, was lodged in the United States District Court for the District of Minnesota. The Complaint filed by the United States sought to recover costs incurred by the United States pursuant to CERCLA, 42 U.S.C. 9601 *et seq.* The Consent Decree requires Defendant City of Brooklyn Park to reimburse the United States in the amount of \$50,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station,

Washington, D.C. 20044, and should refer to *United States v. Cowles Media Company, et al.*, D.J. Ref. No. 90-11-2-1099.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the District of Minnesota, 234 United States Courthouse, 110 S. 4th Street, Minneapolis, MN 55401 (contact Assistant United States Attorney Friedrich Seikert); (2) the U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590 (contact Assistant Regional Counsel Dorothy Attermeyer); and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, 202-624-0892. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, telephone (202) 624-0892. For a copy of the Consent Decree please enclose a check in the amount of \$4.50 (25 cents per page reproduction costs) payable to Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97-9243 Filed 4-9-97; 8:45 am]

BILLING CODE 4410-15-M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

Date, time and place: April 24, 1997, 11:00 am, U.S. Department of Labor, Room 54215-B, 200 Constitution Ave., NW, Washington, D.C. 20210.

Purpose: The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

For further information, contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs Phone: (202) 219-7597.

Signed at Washington, D.C. this 3rd day of April 1997.

Andrew J. Samet,

Acting Deputy Under Secretary, International Affairs.

[FR Doc. 97-9236 Filed 4-9-97; 8:45 am]

BILLING CODE 4510-28-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Petitions for Modification—Pertains to All Mines

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Petitions for Modification. MSHA is particularly interested in comments which:

- * 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;

- * 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;

- * Enhance the quality, utility, and clarity of the information to be collected; and

- * 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 submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Submit comments on or before June 9, 1997.

ADDRESSES: Written comments shall be mailed to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203-1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235-1910 (voice) or (703) 235-5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203-1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235-8378 (voice), or (703) 235-1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act), 30 U.S.C. 811(c), provides that a mine operator or a representative of miners may petition the Secretary to modify the application of a mandatory safety standard. A petition for modification may be granted if the Secretary of Labor (Secretary) determines (1) that an alternative method of achieving the results of the standard exists and that it will guarantee, at all times, no less than the same measure of protection for the miners affected as that afforded by the standard, or (2) that the application of the standard will result in a diminution of safety to the miners affected.

Petitions for Modification must be in writing and contain the petitioner's name and address, the mailing address and mine identification number of the mine or mines affected, the mandatory safety standard to which the petition is directed, a concise statement of the modification requested; a detailed statement of the facts that show the grounds upon which a modification is claimed or warranted; and, if the petitioner is a mine operator, the identity of any representative of miners at the affected mine.

II. Current Actions

Each petition for modification must be investigated by MSHA on a mine-by-mine basis and a decision reached on

the merits. A mine operator may only request modification of one mandatory safety standard per petition. However, a mine operator may file a petition for more than one mine by showing that identical issues of law and fact exist for each mine.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Petitions for Modification—Pertains to all mines.

OMB Number: 1219-0065.

Affected Public: Business or other for-profit institutions.

Cite/Reference/Form/etc: 30 CFR 44.9, 44.10, and 44.11.

Total Respondents: 217 mine operators.

Frequency: On occasion.

Total Responses: 217.

Average Time per Response: 29 hours.

Estimated Total Burden Hours: 6,400 hours.

Estimated Total Burden Cost: \$256,000.

Comments submitted in response to this notice will be summarized and/or included in the request for office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 3, 1997.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 97-9235 Filed 4-9-97; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will

result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION: Petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703-235-1910.

Dated: March 24, 1997.

Patricia W. Silvey,

Director, Standards, Regulations, and Variances.

Affirmative Decisions on Petitions for Modification

Docket No.: M-92-096-C.

FR Notice: 57 FR 43476.

Petitioner: Zeigler Coal Company.

Reg Affected: 30 CFR 75.352.

Summary of Findings: Petitioner's proposal to ventilate the belt haulage slope with return air and monitor the belt slope with an automatic fire sensor and warning device system considered acceptable alternative method. Granted for the Spartan Mine with conditions for the use of the conveyor belt in the slope portion of the main return.

Docket No.: M-92-097-C.

FR Notice: 57 FR 43476.

Petitioner: Costain Coal, Inc.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to install a low-level carbon monoxide detection system in all belt entries where a sensor location is identified instead of a monitoring system which identifies each belt flight considered acceptable alternative method. Granted for the Baker Mine with conditions to allow air coursed through conveyor belt entries to be used to ventilate working places.

Docket No.: M-93-080-C.

FR Notice: 58 FR 39235.

Petitioner: Synder Coal Company.

Reg Affected: 30 CFR 75.1405

Summary of Findings: Petitioner's proposal to use bar and pin or link and pin couplers on underground haulage equipment instead of automatic couplers considered acceptable

alternative method. Granted for the N and L Slope Mine with conditions.

Docket No.: M-93-154-C.

FR Notice: 58 FR 39570.

Petitioner: Little Rock Coal Company.

Reg Affected: 30 CFR 75.1100-2(a)(2).

Summary of Findings: Petitioner's proposal to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical considered acceptable alternative method. Granted for the No. 1 Slope Mine with conditions for firefighting equipment in the working section.

Docket No.: M-93-158-C.

FR Notice: 58 FR 41294.

Petitioner: Mountain Coal Company.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal that condition number 16 requiring sections to be designed by entry location, by number of entries, or by pressure differential to enhance the protection of the intake escapeway from contamination by fires in adjacent entries of MSHA Proposed Decision and Order, docket number M-90-061-C be deleted considered acceptable alternative method. Granted for the West Elk Mine with conditions.

Docket No.: M-93-211-C.

FR Notice: 58 FR 44701.

Petitioner: Drummond Company, Inc.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to use all belt entries as intake air courses to eliminate any possible dead air areas and prevent air reversals due to changes in ventilation pressure; to continue separating the belt entries used as intake entries from other intake and return entries using a continuous permanent type stopping; and to install a carbon monoxide monitoring system in all belt entries used as intake air courses considered acceptable alternative method. Granted for the Shoal Creek Mine with conditions for the use of belt air to ventilate active working sections. Application for Relief to Give Effect to April 22, 1996 Granted.

Docket No.: M-93-280-C.

FR Notice: 58 FR 58566.

Petitioner: Andalex Resources, Inc.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to use a two-entry development system and use the belt entry as a return air course during longwall development and as an intake air course during longwall extraction to ensure adequate ventilation quantity to dilute and render harmless any methane or other noxious gases that otherwise may accumulate considered acceptable alternative method. Granted for the

Pinnacle Mine with conditions for the use of belt air in two-entry mining systems.

Docket No.: M-94-009-C.

FR Notice: 59 FR 6975.

Petitioner: SBM Coal Company.

Reg Affected: 30 CFR 75.1100-2(a)(2).

Summary of Findings: Petitioner's proposal to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical considered acceptable alternative method. Granted for the M&R Slope Mine.

Docket No.: M-94-019-C.

FR Notice: 59 FR 10171.

Petitioner: Utah Fuel Company.

Reg Affected: 30 CFR 75.380(d)(4).

Summary of Findings: Petitioner's proposal to continue utilizing the five-foot wide stairways at overcasts in the secondary escapeway which was installed prior to November 16, 1992 considered acceptable alternative method. Granted for Skyline No. 1 Mine with conditions for the use of the existing steel stairways with 5-foot wide stairs providing access to cross overcasts which were constructed prior to November 15, 1992.

Docket No.: M-94-067-C.

FR Notice: 59 FR 32465.

Petitioner: Andalex Resources, Inc.

Reg Affected: 30 CFR 75.352.

Summary of Findings: Petitioner's proposal to install a beltline in the return air course during development of two-entry longwall gate entries considered acceptable alternative method. Granted for the Pinnacle Mine with conditions for the use of the conveyor belt in a return aircourse during development of a two-entry mining system.

Docket No.: M-94-080-C.

FR Notice: 59 FR 35148.

Petitioner: K & S Coal Company.

Reg Affected: 30 CFR 75.360.

Summary of Findings: Petitioner's proposal to examine each seal for physical damage from the slope gunboat during the preshift examination after an air quantity reading is taken in by the intake portal and to test for the quantity and quality of air at the intake air split locations off the slope in the gangway portion of the working section considered acceptable alternative method. Granted for the First Chance Slope with conditions for examinations of seals (conducted from the gunboat) in the intake air haulage slope of this mine.

Docket No.: M-94-101-C.

FR Notice: 59 FR 40924.

Petitioner: H. L. & W. Coal Company.

Reg Affected: 30 CFR 75.340.

Summary of Findings: Petitioner's proposal to charge batteries on the

mine's locomotive when all miners are out of the mine and to have the intake air which is used to ventilate the charging station continue through its normal route to the last open crosscut and into the monkey airway considered acceptable alternative method. Granted for the No. 2 Slope Mine with conditions for underground battery charging station in the intake (gangway) entry.

Docket No.: M-94-120-C.

FR Notice: 59 FR 43869.

Petitioner: Somerset Mining Company.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to use belt air to ventilate active working places in order to enhance the operator's ability to ventilate remote sections of the mine considered acceptable alternative method. Granted for the Sanborn Creek Mine with conditions to allow air coursed through conveyor belt entries to be used to ventilate working places.

Docket No.: M-94-147-C.

FR Notice: 59 FR 52840.

Petitioner: Leeco, Inc.

Reg Affected: 30 CFR 75.1103-4(a)(1).

Summary of Findings: Petitioner's proposal to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries used as intake air courses considered acceptable alternative method. Granted for Mine No. 68 with conditions for the use of a carbon monoxide monitoring system that identifies the location of sensors in lieu of identifying belt flights.

Docket No.: M-94-148-C.

FR Notice: 59 FR 52840.

Petitioner: Leeco, Inc.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to use belt air to ventilate active working places to aid in controlling respirable dust and dissipating methane considered acceptable alternative method. Granted for Mine No. 68 with conditions to allow air coursed through conveyor belt entries to be used to ventilate working places.

Docket No.: M-94-157-C.

FR Notice: 59 FR 55298.

Petitioner: Arch of Illinois.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to use belt air to ventilate active working faces to maintain and to better control the air ventilating the belt entries and the mining faces considered acceptable alternative method. Granted for the Conant Mine with conditions to allow air coursed through conveyor belt entries to be used to ventilate working places.

Docket No.: M-95-025-C.

FR Notice: 60 FR 16165.

Petitioner: Southern Utah Fuel Company.

Reg Affected: 30 CFR 75.380(d)(3), (4), and (5)

Summary of Findings: Petitioner's proposal to use the main return to #3 crosscut where the escapeway will then enter the #1 beltline entry considered acceptable alternative method. Granted for the SUFCo Mine with conditions for the use of 2 East alternate escapeway with reduced travelway height or width from the conveyor belt crossing, alongside the belt conveyor and to the surface.

Docket No.: M-95-040-C.

FR Notice: 60 FR 18147.

Petitioner: C&B Mining Company.

Reg Affected: 30 CFR 75.360.

Summary of Findings: Petitioner's proposal to examine each seal for physical damage from the slope gunboat during the preshift examination after an air quantity reading is taken in by the intake portal and to test for the quantity and quality of air at the intake air split locations off the slope in the gangway portion of the working section considered acceptable alternative method. The petitioner proposes also to physically examine the entire length of the slope once a month. Granted for the No. 2 Vein Slope Mine with conditions for examinations of seals (conducted from the gunboat) in the intake air haulage slope of this mine.

Docket No.: M-95-049-C.

FR Notice: 60 FR 18148.

Petitioner: Kerr-McGee Coal Corporation.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to use the air in the belt entry to ventilate active working places; to examine the belt conveyor entry at least once during each coal producing shift at intervals that would be most effective while miners are working; to follow all other MSHA fire protection requirements, especially those pertaining to water lines, fire hoses, fire suppression systems, warning devices, and flame-resistant belting; and to install a low-level carbon monoxide detection system in all belt entries used as intake air courses as an early warning fire detection system considered acceptable alternative method. Granted for Mine No. 10 with conditions to allow air coursed through conveyor belt entries to be used to ventilate working places.

Docket No.: M-95-050-C.

FR Notice: 60 FR 18148.

Petitioner: Cross Mountain Coal, Inc.

Reg Affected: 30 CFR 75.1103-4.

Summary of Findings: Petitioner's proposal to install a low-level carbon monoxide detection system as an early warning fire detection system in all belt entries where a monitoring system would identify a sensor location instead of each belt flight considered acceptable alternative method. Granted for Mine No. 10 with conditions for the use of a carbon monoxide system that identifies the location of sensors in lieu of identifying belt flights.

Docket No.: M-95-052-C.

FR Notice: 60 FR 18148.

Petitioner: Peabody Coal Company.

Reg Affected: 30 CFR 75.364(b).

Summary of Findings: Petitioner's proposal to eliminate coverage of the 1 South seals, 2 South seals, 3 South seals, 4 South seals, and 1 West seals off the 1 Submain North in the Decision because these areas have been sealed considered acceptable alternative method. Granted for Camp No. 1 Mine with conditions.

Docket No.: M-95-066-C.

FR Notice: 60 FR 26903.

Petitioner: Shell Energy Company, Inc.

Reg Affected: 30 CFR 75.364(b)(2)

Summary of Findings: Petitioner's proposal to establish monitor points "A" and "B" to test for methane and quantity of air in the affected area; to have a certified person examine each monitoring point on a weekly basis and record the results in a record book kept on the surface available for inspection by interested persons; to record daily examinations of the water gauge on the active section until corrective action has been made; to cease mining if a 10 percent decrease in the quantity of air is measured at either monitor point "A" or "B" in the active section until corrective action has been made; and to cease mining if an increase of .05 percent of methane is detected at either monitor point in the active section until corrective action has been made considered acceptable alternative method. Granted for the Stacy-Meranda Mine with conditions for approximately 675-feet of the mine's main return aircourse beginning 130-feet in by the mine's return air portal.

Docket No.: M-95-068-C.

FR Notice: 60 FR 29714.

Petitioner: C. H. & S. Coal Company.

Reg Affected: 30 CFR 75.1711-2.

Summary of Findings: Petitioner's proposal to install bat gates on openings at Mine No. 3 and Portals C in addition to the two bat gates already installed by the Virginia Department of Mines, Minerals and Energy at openings Portal A and Portal B in 1987 considered acceptable alternative method. Granted

for Mine No. 3 with conditions to allow bat gates to be installed in Portal of the No. 1 entry and Portal "C" in this mine.

Docket No.: M-95-070-C.

FR Notice: 60 CFR 29714.

Petitioner: Clinchfield Coal Company.

Reg Affected: 30 CFR 75.350.

Summary of Findings: Petitioner's proposal to install a low-level carbon monoxide monitoring system as an early warning fire detection system in all belt entries used as intake air courses to ventilate the active working faces and to dilute and render harmless respirable dust and harmful gases considered acceptable alternative method. Granted for the McClure No. 2 Mine with conditions to allow air coursed through conveyor belt entries to be used to ventilate working places.

Docket No.: M-95-080-C.

FR Notice: 60 FR 31499.

Petitioner: Andalex Resources, Inc.

Reg Affected: 30 CFR 75.325(b).

Summary of Findings: Petitioner's proposal to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition considered acceptable alternative method. Granted for Island Mine No. 1 with conditions.

Docket No.: M-95-081-C.

FR Notice: 60 FR 31499.

Petitioner: Andalex Resources, Inc.

Reg Affected: 30 CFR 75.360(c)(1).

Summary of Findings: Petitioner's proposal to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition considered acceptable alternative method. Granted for Island Mine No. 1 with conditions.

Docket No.: M-95-082-C.

FR Notice: 60 FR 31499.

Petitioner: Andalex Resources, Inc.

Reg Affected: 30 CFR 75.362(c)(1).

Summary of Findings: Petitioner's proposal to mine panels by driving a set of entries a specified distance and then drive another set of entries parallel and adjoining the first set; and to measure the air volume in the panels at the location indicated on the diagram accompanying the petition considered acceptable alternative method. Granted for Island Mine No. 1 with conditions.

Docket No.: M-95-083-C.

FR Notice: 60 FR 33437.

Petitioner: Birdeye Coal Company, Inc.

Reg Affected: 30 CFR 75.342.

Summary of Findings: Petitioner's proposal to monitor continuously with

a hand-held methane and oxygen detector instead of using machine-mounted methane monitors on three-wheel tractors with drag bottom buckets considered acceptable alternative method. Granted for the No. 4 Mine with conditions for the Mescher permissible three-wheel battery-powered tractors used to load coal.

Docket No.: M-95-087-C.

FR Notice: 60 FR 35236.

Petitioner: Keystone Coal Mining Corporation.

Reg Affected: 30 CFR 75.380(d)(4).

Summary of Findings: Petitioner's proposal to continue utilizing its secondary/alternate escapeway for the Emilie No. 1 Mine through to the East Mains Section cut through to the Emilie No. 2 Mine's main line track entry, along the belt and track, and up the belt slope to the surface; to have two features in and about the slope area of the escapeway less than the requirements of the standard; and to have the distance from the sidewall of the slope to the edge of the belt 54 inches wide and the two airlock doors in the slope 46 inches wide considered acceptable alternative method. Granted for the Emilie No. 1 Mine with conditions for the continued use of the alternate escapeway at a travel width of 54 inches through the belt/track haulage slope.

Docket No.: M-95-089-C.

FR Notice: 60 FR 35236.

Petitioner: R. S. Coal Company.

Reg Affected: 30 CFR 75.1400.

Summary of Findings: Petitioner's proposal to use a slope conveyance (gunboat) in transporting persons without installing safety catches or other no less effective devices but instead use an increased rope strength/safety factor and secondary safety rope connection in place of such devices considered acceptable alternate method. Granted for the No. 1 Slope Mine with conditions for the use of the gunboat without safety catches.

Docket No.: M-95-092-C.

FR Notice: 60 FR 39429.

Petitioner: Consolidation Coal Company.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage (4,160 volts) cables in by the last open crosscut to supply power to longwall mining equipment considered acceptable alternative method. Granted for the Loveridge No. 22 Mine with conditions for the 4,160-volt longwall equipment.

Docket No.: M-95-104-C.

FR Notice: 60 FR 42921.

Petitioner: Old Hickory Coal Company.

Reg Affected: 30 CFR 77.1304(a).

Summary of Findings: Petitioner's proposal to blend recycled oil, a petroleum-based lubrication oil recycled from equipment at the No. 7 Surface Mine blended with fuel oil to create ammonium nitrate/fuel oil (ANFO) for use as a blasting agent considered acceptable alternative method. Granted for the Peat's Branch No. 3 Mine with conditions.

Docket No.: M-95-105-C.

FR Notice: 60 FR 42921.

Petitioner: Hobet Mining, Inc.

Reg Affected: 30 CFR 77.1304(a).

Summary of Findings: Petitioner's proposal to blend recycled oil, a petroleum-based lubrication oil recycled from equipment at the No. 7 Surface Mine blended with fuel oil to create ammonium nitrate/fuel oil (ANFO) for use as a blasting agent considered acceptable alternative method. Granted for the No. 7 Surface Mine with conditions.

Docket No.: M-95-106-C.

FR Notice: 60 FR 42921.

Petitioner: Hobet Mining, Inc.

Reg Affected: 30 CFR 77.1304(a).

Summary of Findings: Petitioner's proposal to blend recycled oil, a petroleum-based lubrication oil recycled from equipment at the No. 21 Surface Mine blended with fuel oil to create ammonium nitrate/fuel oil (ANFO) for use as a blasting agent considered acceptable alternative method. Granted for the No. 21 Surface Mine with conditions.

Docket No.: M-95-111-C.

FR Notice: 60 FR 46871.

Petitioner: Solar Sources Underground, L.L.C.

Reg Affected: 30 CFR 75.1700.

Summary of Findings: Petitioner's proposal to plug and mine through oil and gas wells considered acceptable alternative method. Granted for the Monroe City Mine with conditions for mining through oil and gas wells.

Docket No.: M-95-117-C.

FR Notice: 60 FR 52217.

Petitioner: Snyder Coal Company.

Reg Affected: 30 CFR 75.1200(d) & (j).

Summary of Findings: Petitioner's proposal to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope and to limit the required mapping of mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels considered acceptable alternative method. Granted for the N & L Slope Mine with conditions for the

use of cross sections, in lieu of contour lines, limiting the mapping of mines above or below this mine to those within 100 feet of the vein being mined.

Docket No.: M-96-119-C.

FR Notice: 60 FR 52217.

Petitioner: Doverspike Bros. Coal Company, Inc.

Reg Affected: 30 CFR 75.380(d)(4).

Summary of Findings: Petitioner's proposal to maintain an alternate escapeway that would have a travelway with a minimum width of four feet and a total of 350 lineal feet instead of the required six-foot-wide escapeway considered acceptable alternate method. Granted for the Dora No. 6 Mine with conditions for top portion of the duel compartment conveyor-belt slope for a distance of 350 feet from the surface.

Docket No.: M-95-123-C.

FR Notice: 60 FR 52218.

Petitioner: H & S Coal Company.

Reg Affected: 30 CFR 75.335.

Summary of Findings: Petitioner's request for a modification of the standard to permit alternative methods of construction using wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criteria in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs considered acceptable alternative method. Granted for the No. 1 Slope Mine with conditions for seals installed in this mine.

Docket No.: M-95-128-C.

FR Notice: 60 FR 52218.

Petitioner: H & S Coal Company.

Reg Affected: 30 CFR 75.1100-2.

Summary of Findings: Petitioner's proposal to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical considered acceptable alternative method. Granted for the No. 1 Slope Mine with conditions for firefighting equipment in the working section.

Docket No.: M-95-129-C.

FR Notice: 60 FR 52218.

Petitioner: H & S Coal Company.

Reg Affected: 30 CFR 75.1200 (d) & (i).

Summary of Findings: Petitioner's proposal to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope and to limit the required mapping of the mine workings above and below to those present within 100 feet of the

veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels considered acceptable alternate method. Granted for the No. 1 Slope Mine with conditions for the use of cross sections, in lieu of contour lines, limiting the mapping of mines above or below this mine to those within 100 feet of the vein being mined.

Docket No.: M-95-130-C.

FR Notice: 60 FR 52218.

Petitioner: H & S Coal Company.

Reg Affected: 30 CFR 75.1202-1(a).

Summary of Findings: Petitioner's proposal to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations considered acceptable alternative method. Granted for the No. 1 Slope Mine with conditions for annual revisions and supplements of the mine map.

Docket No.: M-95-131-C.

FR Notice: 60 FR 52219.

Petitioner: Performance Coal Company.

Reg Affected: 30 CFR 75.1002.

Summary of Findings: Petitioner's proposal to use high-voltage (4,160 volts) cables to power longwall equipment considered acceptable alternate method. Granted for the Upper Big Branch South Mine with conditions for the 4,160-volt longwall equipment.

Docket No.: M-95-143-C.

FR Notice: 60 FR 54392.

Petitioner: Three Way Coal Company.

Reg Affected: 30 CFR 75.335.

Summary of Findings: Petitioner's request for a modification of the standard to permit alternative methods of construction using wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criteria in the 10 psi range; and to permit the water trap to be installed in the gangway seal and sampling tube in the monkey seal for seals installed in pairs considered acceptable alternative method. Granted for the Little Vein Slope Mine with conditions for seals installed in this mine.

Docket No.: M-95-147-C.

FR Notice: 60 FR 54392.

Petitioner: Three Way Coal Company.

Reg Affected: 30 CFR 75.1102.

Summary of Findings: Petitioner's proposal to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical considered acceptable alternative method. Granted for the

Little Vein Slope Mine with conditions for firefighting equipment in the working section.

Docket No.: M-95-148-C.

FR Notice: 60 FR 54392.

Petitioner: Three Way Coal Company.

Reg Affected: 30 CFR 75.1200 (d) & (i).

Summary of Findings: Petitioner's proposal to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels considered acceptable alternate method. Granted for the Little Vein Slope Mine with conditions for the use of cross sections, in lieu of contour lines, limiting the mapping of mines above or below this mine to those within 100 feet of the vein being mined.

Docket No.: M-95-149-C.

FR Notice: 60 FR 54392.

Petitioner: Three Way Coal Company.

Reg Affected: 30 CFR 75.1202-1(a).

Summary of Findings: Petitioner's proposal to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations considered acceptable alternative method. Granted for the Little Vein Slope Mine with conditions for annual revisions and supplements of the mine map.

Docket No.: M-95-151-C.

FR Notice: 60 FR 54393.

Petitioner: Heatherly Mining, Inc.

Reg Affected: 30 CFR 75.1700.

Summary of Findings: Petitioner's proposal to plug and mine through certain abandoned wells which lie in the path of engineered mine workers considered acceptable alternative method. Granted for the Pollyanna No. 8 Mine with conditions for permanent plugging prior to the mining within 300 feet of or through oil or gas wells.

Docket No.: M-95-158-C.

FR Notice: 60 FR 64079.

Petitioner: R. S. Coal Company.

Reg Affected: 30 CFR 75.335.

Summary of Findings: Petitioner's request for a modification of the standard to permit alternative methods of construction using wooden materials of moderate size and weight due to the difficulty in accessing previously driven headings and breasts containing inaccessible abandoned workings; to accept a design criteria in the 10 psi range; and to permit the water trap to be installed in the gangway seal and

sampling tube in the monkey seal for seals installed in pairs considered acceptable alternative method. Granted for the No. 1 Slope Mine with conditions for seals installed in this mine.

Docket No.: M-95-160-C.

FR Notice: 60 FR 64080.

Petitioner: R. S. Coal Company.

Reg Affected: 30 CFR 75.1100-2(a)(2).

Summary of Findings: Petitioner's proposal to use only portable fire extinguishers to replace existing requirements where rock dust, water cars, and other water storage are not practical considered acceptable alternative method. Granted for the No. 1 Slope Mine with conditions for firefighting equipment in the working section.

Docket No.: M-95-161-C.

FR Notice: 60 FR 64080.

Petitioner: R. S. Coal Company.

Reg Affected: 30 CFR 75.1200 (d) & (i).

Summary of Findings: Petitioner's proposal to use cross-sections instead of contour lines through the intake slope, at locations of rock tunnel connections between veins, and at 1,000-foot intervals of advance from the intake slope and to limit the required mapping of the mine workings above and below to those present within 100 feet of the veins being mined except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels considered acceptable alternate method. Granted for the No. 1 Slope Mine with conditions for the use of cross sections, in lieu of contour lines, limiting the mapping of mines above or below this mine to those within 100 feet of the vein being mined.

Docket No.: M-95-162-C.

FR Notice: 60 FR 64080.

Petitioner: R. S. Coal Company.

Reg Affected: 30 CFR 75.1202-1(a).

Summary of Findings: Petitioner's proposal to revise and supplement mine maps annually instead of every 6 months, as required, and to update maps daily by hand notations considered acceptable alternative method. Granted for the No. 1 Slope Mine with conditions for annual revisions and supplements of the mine map.

Docket No.: M-95-163-C.

FR Notice: 60 FR 64080.

Petitioner: R. S. Coal Company.

Reg Affected: 30 CFR 75.804(a).

Summary of Findings: Petitioner's proposal to use a high-voltage (4,160-volt) cable with an internal ground check conductor smaller than No. 10 (A.W.G.) as a part of its longwall mining system considered acceptable alternative method. Granted for the

Blacksville No. 2 Mine with conditions for Consolidation Coal Company's, Blacksville No. 2 Mine's longwall system.

Docket No.: M-95-164-C.

FR Notice: 60 FR 64080.

Petitioner: The Pittsburg & Midway Coal Mining Company.

Reg Affected: 30 CFR 75.1700.

Summary of Findings: Petitioner's proposal to plug and mine through oil and gas wells considered acceptable alternative method. Granted for the North River No. 1 Mine with conditions.

Docket No.: M-96-001-C.

FR Notice: 61 FR 13881.

Petitioner: Energy West Mining Company.

Reg Affected: 30 CFR 75.326 (now 75.350).

Summary of Findings: Petitioner's request to amend paragraph III(c)(4) and paragraph (o) of MSHA's Proposed Decision and Order (PDO) for its previously granted petition to permit the use of longwall mining with two entries in the longwall panels under deep cover at the Deer Creek Mine, Case No. 86-MSHA-3, Docket No. M-85-17-C considered acceptable. Granted with conditions. The PDO is modified to permit the use of non-Part 36 diesel-powered equipment in the two entry system, except in those areas where permissible electric face equipment is required and only Part 36 approved diesel equipment is allowed.

Docket No.: M-96-022-C.

FR Notice: 61 FR 17734.

Petitioner: KenAmerican Resources, Inc.

Reg Affected: 30 CFR 75.380(g).

Summary of Findings: Petitioner's request for a modification of the standard to allow the primary escapeway for the No. 9 Slope to be separated from the belt entries after completion of the two-phase Initial Development Stage (the normal course of mining in the No. 9 Seam, the time required from the commencement of mining until connection to the airshaft) considered acceptable alternative method. Granted for the No. 9 Slope Mine with conditions for the slope, during Phase 2 development, until development can progress to the airshaft and make the connections.

Docket No.: M-96-030-C.

FR Notice: 61 FR 20544.

Petitioner: Amax Coal Company.

Reg Affected: 30 CFR 75.503.

Summary of Findings: Petitioner's proposal to extend the length of portable trailing cables to 825 feet to carry electrical power from the working face transformer to the mobile roof supports considered acceptable alternative

method. Granted with conditions for the four(4) Voest-Alpine Mobile roof supports, Model No. ABL5130/275-540, Approved No. 2G-3736A.3, Serial Nos. 111, 112, 113 and 114 used in second mining at the Wabash mine.

Docket No.: M-96-032-C.

FR Notice: 61 FR 20544.

Petitioner: Pittsburg & Midway Coal Mining Company.

Reg Affected: 30 CFR 75.325(b).

Summary of Findings: Petitioner's proposal to provide positive ventilation by using the stopping line constructed to separate the intake and return air courses in the rooms previously developed on the same panel and maintained in accordance with the requirements in 30 CFR 75.333; to construct permanent stopping lines when rooms are driven more than 600 feet deep and to use temporary stopping lines when rooms are driven 600 feet deep or less, as measured from the centerline of the panel from which the rooms are driven; and to measure the air flow volumes in accordance with 30 CFR 75.360(c)(1) and 75.362(c)(1) considered acceptable alternative method. Granted for the Sebree No. 1 Mine with conditions for the relocation of the site at which air measurements shall be taken in the last open crosscut.

Docket No.: M-96-033-C.

FR Notice: 61 FR 20544.

Petitioner: Pittsburg & Midway Coal Mining Company.

Reg Affected: 30 CFR 75.360(c)(1).

Summary of Findings: Petitioner's proposal to provide positive ventilation by using the stopping line constructed to separate the intake and return air courses in the rooms previously developed on the same panel and maintained in accordance with the requirements in 30 CFR 75.333; to construct permanent stopping lines when rooms are driven more than 600 feet deep and to use temporary stopping lines when rooms are driven 600 feet deep or less, as measured from the centerline of the panel from which the rooms are driven; and to measure the air flow volumes in accordance with 30 CFR 75.360(c)(1) and 75.362(c)(1) considered acceptable alternative method. Granted for the Sebree No. 1 Mine with conditions for the relocation of the site at which air measurements shall be taken in the last open crosscut.

Docket No.: M-96-034-C.

FR Notice: 61 FR 20544.

Petitioner: Pittsburg & Midway Coal Mining Company.

Reg Affected: 30 CFR 75.362(c)(1).

Summary of Findings: Petitioner's proposal to provide positive ventilation by using the stopping line constructed

to separate the intake and return air courses in the rooms previously developed on the same panel and maintained in accordance with the requirements in 30 CFR 75.333; to construct permanent stopping lines when rooms are driven more than 600 feet deep and to use temporary stopping lines when rooms are driven 600 feet deep or less, as measured from the centerline of the panel from which the rooms are driven; and to measure the air flow volumes in accordance with 30 CFR 75.360(c)(1) and 75.362(c)(1) considered acceptable alternative method. Granted for the Sebree No. 1 Mine with conditions for the relocation of the site at which air measurements shall be taken in the last open crosscut.

Docket No.: M-96-035-C.

FR Notice: 61 FR 20544.

Petitioner: Pittsburg & Midway Coal Mining Company.

Reg Affected: 30 CFR 75.1700.

Summary of Findings: Petitioner's proposal to mine through oil and gas wells considered acceptable alternative method. Granted for the Sebree No. 1 Mine with conditions for mining-through oil and gas wells, in the Kentucky No. 9 coalbed.

Docket No.: M-95-004-M.

FR Notice: 60 FR 18148.

Petitioner: Holnam, Inc.

Reg Affected: 30 CFR 56.6901.

Summary of Findings: Petitioner's proposal to destroy substandard model rocket engines containing black powder and desensitized black powder sweepings in conjunction with high explosives routinely detonated in mining activities considered acceptable alternative method. Granted for the Portland Quarry with conditions.

Docket No.: M-95-008-M.

FR Notice: 60 FR 29715.

Petitioner: Cyprus Bagdad Copper Corporation.

Reg Affected: 30 CFR 56.6309.

Summary of Findings: Petitioner's proposal to blend recycled oil with fuel oil in preparing ammonium nitrate-fuel oil (ANFO) for use as a blasting agent considered acceptable alternative method. Granted for the Bagdad Mine with conditions.

Docket No.: M-94-047-M.

FR Notice: 60 FR 3437.

Petitioner: Pluess-Stauffer (California), Inc.

Reg Affected: 30 CFR 56.13020.

Summary of Findings: Petitioner's proposal to establish blow-off stations with a low pressure (2-6 psi) compressed airflow at various areas in the plant for employees to blow dust off their clothing considered acceptable

alternative method. Granted for the Limestone Plant with conditions.

[FR Doc. 97-9241 Filed 4-9-97; 8:45 am]

BILLING CODE 4510-43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Summary of Decision Granting a Petition for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decision issued by the Administrator for Coal Mine Safety and Health on a petition for modification of the application of a mandatory safety standard.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either that an alternate method exists at a specific mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard at a specific mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statements, comments and information submitted by interested persons, and a field investigation of the conditions at the mine. MSHA has granted the request for modification submitted by the petitioner listed below. In some instances, the decisions are conditioned upon compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: This petition and a copy of the final decision is available for examination by the public in the Office of Standards, Regulations, and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. Contact Barbara Barron at 703-235-1910.

Dated: April 2, 1997.

Edward C. Hugler,

Deputy Assistant Secretary for Mine Safety and Health.

Affirmative Decision on a Petition for Modification

Docket No.: M-96-037-C.

FR Notice: 61 FR 33140.

Petitioner: Monterey Coal Company.

Reg Affected: 30 CFR 75.380(d)(4).

Summary of Findings: Petitioner's request to allow the width of the escapeway to be 5 feet instead of 6 feet

when using the belt conveyor as an alternate escapeway during gateroad development and longwall operation considered acceptable alternative method. Granted for the No. 1 Mine with conditions for the conveyor belt entry during the development of longwall gate entries and subsequent retreat of the panels.

[FR Doc. 97-9242 Filed 4-9-97; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes; 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 Biomolecular Processes—(5138) (Panel B).

Date and Time: Wednesday, Thursday, and Friday, April 30–May 1 & 2, 1997 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 310, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Charles Liarakos, Program Director for Biochemistry of Gene Expression, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306-1441).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Biochemistry of Gene Expression 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: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9253 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Structure and Function; 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 Biomolecular Structure and Function—(1134) (Panel A).

Date and Time: Wednesday, Thursday, and Friday, April 30–May 2, 1997, 8:30 a.m. to 6:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 340, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Drs. Marcia Steinberg and P.C. Huang, Program Directors for Molecular Biochemistry, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306-1443).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Molecular Biochemistry 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: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9251 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology; 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 Cell Biology (1136)—(Panel A).

Date and Time: April 30th, May 1-2, 1997, 8:30 a.m. to 6:00 p.m.

Place: Room 390, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Barbara Zain and Dr. Eliot Herman, Program Directors for the Cell Biology Program, National Science Foundation, Room 655 South, Arlington, VA 22230. Telephone: 703/306-1442.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Signal Transduction & Regulation 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: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9250 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Engineering: 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: Advisory Committee for Engineering (1170).

Date and Time: May 1, 1997—9:30 a.m.—5:00 p.m.; May 2, 1997—8:30 a.m.—12:30 p.m.

Place: May 1 and 2, Room 1235, (National Science Board Meeting Room), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. Christina Gabriel, Acting Assistant Director for Engineering, National Science Foundation, Suite 505, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306-1301.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations and counsel on major goals and policies pertaining to Engineering programs and activities.

Agenda: Discussion on issues, opportunities and future directions for the Engineering Directorate; discussion of Engineering Directorate budget situation as well as other items.

Dated: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9257 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Genetics; 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 Genetics (1149) (Panel A).

Date and Time: Monday, April 28, 1997 through Wednesday, April 30, 1997, 8:30 am to 5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Rm. 360, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Philip Harriman, Program Director for Microbial Genetics, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. (703) 306-1439.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Microbial Genetics 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: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9252 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Geosciences (1756).

Date & Time: Monday, April 28—Wednesday, April 30, 1997; 8:30 AM—5:00 PM.

Place: Rooms 365 and 920, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306-1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the U.S. Global Ocean Ecosystems Dynamics Program and the Coastal Ocean Processes Program (U.S. GLOBEC and CoOP) 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: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9256 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

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 announces the following meeting.

Name: Advisory Panel for Neuroscience (1158).

Date and Time: May 1 & 2, 1997; 9:00 a.m. to 6:00 p.m.

Place: Room 365, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Persons: Dr. Kathie Olsen, Program Director, Neuroendocrinology; Division of Integrative Biology and Neuroscience; room 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306-1423.

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: May 2, 1997; 10:00 a.m. to 11:00 a.m., To discuss research trends and opportunities in Neuroendocrinology. Closed Session: May 1, 1997; 9:00 a.m. to 6:00 p.m.; May 2, 1997; 9:00 a.m. to 10:00 a.m.; 11:00 a.m. to 6:00 p.m. To review and evaluate Neuroendocrinology 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: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9249 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION**Proposal Review Advisory Team;
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: Proposal Review Advisory Team (5128).

Date & Time: Wednesday, April 30, 1997—9:00 a.m. to 12:00 p.m.

Place: Room 1295, NSF, 4201 Wilson Blvd., Arlington, Va.

Type of Meeting: Open.

Contact Person: Mr. Charles Herz, Office of Policy Support, NSF, Room 1285, 4201 Wilson Blvd., Arlington, Va. 22230, Telephone: (703) 306-1090.

Minutes: May be obtained from the contact person.

Purpose of Meeting: Consider issues remaining from December 1996 meeting relating to stresses on NSF's peer review process, as perceived in the research community and options for addressing the most important of those. Complete substantive work on report to NSF.

Agenda: Review of comments on staff draft of report, Review of evidence gathered by staff, Discussion of issues raised by comments and evidence, Plans for completion and approval of final report to NSF.

Dated: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9255 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION**Advisory Committee for Social,
Behavioral, and Economic 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: Advisory Committee for Social, Behavioral, and Economics Sciences (1171).

Date & Time: May 1, 1997; 9:00 a.m.-5:00 p.m., May 2, 1997; 8:30 a.m.-12:00 noon.

Place: NSF, Room 375, NSF, 4201 Wilson Blvd., Arlington, Va. 22230.

Type of Meeting: Open.

Contact Person: Ms. Catherine J. Hines, Executive Secretary; Directorate for Social, Behavioral, and Economic Sciences, NSF, Suite 905, 4201 Wilson Blvd., Arlington, Va. 22230. Telephone: (703) 306-1741.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to SBE programs and activities.

Agenda: Discussions on issues, role and future direction of the NSF Directorate for Social, Behavioral and Economic Sciences.

Dated: April 7, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97-9254 Filed 4-9-97; 8:45 am]

BILLING CODE 7555-01-M

**NUCLEAR REGULATORY
COMMISSION****Agency Information Collection
Activities: Submission for OMB
Review; Comment Request**

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: Nuclear Material Events Database (NMED).

3. The form number, if applicable: Not applicable.

4. How often the collection is required: Agreement States are requested to report events to NRC electronically or by hard copy within one month of notification from an Agreement State licensee that an incident or event involving the industrial, commercial and/or academic use of radioactive byproduct materials, or the use of radioactive materials for medical diagnosis, therapy, or research has occurred. In addition, Agreement States are requested to report events that may pose a significant health and safety hazard to the NRC Headquarters Operations Officer within the next working day of notification by an Agreement State licensee.

5. Who will be required or asked to report: Current Agreement States and any State receiving Agreement State status in the future.

6. An estimate of the number of responses: It is estimated that each of the 30 Agreement States will submit 24

event reports annually for a total of 720 event reports, and 20 telephone reports of significant events. The total annual responses is 740.

7. The estimated number of annual respondents: 30.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 725 hours (an average of approximately one hour per response) for all existing Agreement States reporting; any new Agreement State would add approximately 24 event reports per year or 24 burden hours.

9. An indication of whether Section 3507(d), Public Law 104-13 applies: Not applicable.

10. Abstract: NRC regulations require NRC licensees to report incidents and events involving the use of radioactive byproduct material, and source material, such as those involving a radiation overexposure, a leaking or contaminated sealed source, release of excessive contamination of radioactive material, lost or stolen radioactive material, equipment failures, and abandoned well logging sources. Medical misadministrations are required to be reported in accordance with 10 CFR 35.33. Agreement State licensees are also required to report these events and medical misadministrations to their individual Agreement State regulatory authorities under compatible Agreement State regulations. NRC is requesting that the Agreement States voluntarily submit summary information on events and medical misadministrations involving the use of nuclear materials regulated pursuant to the Atomic Energy Act, in a uniform electronic format, for assessment and identification of any facility/site specific or generic safety concerns that could have the potential to impact public health and safety; and to evaluate actions necessary to prevent their occurrence at the same or other facilities.

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Members of the public who are in the Washington, DC, area can access the submittal via modem on the Public Document Room Bulletin Board (NRC's Advanced Copy Document Library) NRC subsystem at FedWorld, 703-321-3339. Members of the public who are located outside of the Washington, DC, area can dial FedWorld, 1-800-303-9672, or use the FedWorld Internet address: fedworld.gov(Telnet). The document will be available on the bulletin board for 30 days after the signature date of this notice. If assistance is needed in accessing the document, please contact the FedWorld help desk at 703-487-

4608. Additional assistance in locating the document is available from the NRC Public Document Room, nationally at 1-800-397-4209, or within the Washington, DC, area at 202-634-3273.

Comments and questions should be directed to the OMB reviewer by May 12, 1997: Edward Michlovich, Office of Information and Regulatory Affairs (3150-0178), NEOB-10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415-7233.

Dated at Rockville, Maryland, this 4th day of April, 1997.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 97-9232 Filed 4-9-97; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 040-08948]

Notice of Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that, by a letter dated July 22, 1996, Mr. Sherwood Bauman requested the U.S. Nuclear Regulatory Commission (NRC or Commission) to take action with regard to NRC licensee Shieldalloy Metallurgical Corporation (Shieldalloy) and former NRC licensee Foote Mineral Company (now Cypress Foote).

The Petition requests that Foote Mineral's license be reinstated, and that Shieldalloy and Cypress Foote be made co-responsible licensees with regard to proper remediation and decommissioning of the Shieldalloy site. The Petition also requests that Shieldalloy's current environmental impact statement (EIS) for the site be terminated, and that Shieldalloy and Cypress Foote be jointly ordered to submit a decommissioning plan for licensed material that includes within it only a plan to remediate licensed material.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The Petition has been referred to the Director, Office of Nuclear Material Safety and Safeguards. As provided by 10 CFR 2.206, appropriate action will be taken on this Petition within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public

Document Room at 2120 L Street, NW, Washington, D.C. 20555.

Dated at Rockville, Maryland this 4 day of April 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97-9233 Filed 4-9-97; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22598; 812-10576]

Chubb America Fund, Inc., et al.; Notice of Application

April 3, 1997.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Chubb America Fund, Inc. (the "Fund"), on behalf of World Growth Stock Portfolio, Money Market Portfolio, Domestic Growth Stock Portfolio, Gold Stock Portfolio, Bond Portfolio, Growth and Income Portfolio, Capital Growth Portfolio, Balanced Portfolio, and Emerging Growth Portfolio (collectively, the "Portfolios"), and Chubb Investment Advisory Corporation (the "Adviser").

RELEVANT ACT SECTIONS: Order requested under section 6(c) granting an exemption from section 15(a).

SUMMARY OF APPLICATION: Jefferson-Pilot Corporation ("Jefferson-Pilot") has agreed to acquire 100% of the issued and outstanding shares of common stock of Chubb Life Insurance Company of America ("Chubb Life"), the parent of the Adviser. The indirect change in control of the Adviser will result in the assignment, and thus the termination, of the existing investment management agreements between the Fund and the Adviser (the "Existing Agreements"). The order would permit the implementation, without shareholder approval, of a new investment management agreement (the "New Agreement") for an interim period of not more than 120 days beginning on the date on which Chubb Life is sold to Jefferson Pilot (but in no event later than August 28, 1997). The order also would permit the Adviser to receive from each Portfolio all fees earned under the New Agreement following shareholder approval.

FILING DATES: The application was filed on March 13, 1997 and amended on April 2, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 28, 1997 and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: One Granite Place, Concord, NH 03301.

FOR FURTHER INFORMATION CONTACT: John K. Forst, Staff Attorney, at (202) 942-0569, 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 from the SEC's Public Reference Branch.

Applicants' Representations

1. The Fund is a Maryland corporation registered under the Act as an open-end, management investment company. The Portfolios are series of the Fund, the assets of which are managed by the Adviser pursuant to the Existing Agreements.

2. Under a stock purchase agreement (the "Stock Purchase Agreement") dated as of February 23, 1997, between The Chubb Corporation ("Chubb") and Jefferson-Pilot, Chubb has agreed to sell all the shares of Chubb Life to Jefferson-Pilot in exchange for \$875,000,000 in cash (subject to reduction to the extent of certain distributions made prior to closing) (the "Transaction"). As a result of the Transaction, Chubb Life will become a wholly-owned subsidiary of Jefferson-Pilot and the Adviser will remain a wholly-owned subsidiary of Chubb Life. Applicants expect the Transaction to be consummated on April 30, 1997. Consummation of the Stock Purchase Agreement is subject to the satisfaction of certain conditions, including state insurance department regulatory approvals.

3. Applicants request an exemption to permit implementation, without shareholder approval, of the New Agreement between the Fund and the Adviser, on behalf of each of the Portfolios. The requested exemption will cover an interim period of not more than 120 days beginning on the date on which Chubb and Jefferson-Pilot consummate the Transaction and continuing through the date the New Agreement is approved or disapproved by the shareholders of the respective Portfolios (but in no event later than August 28, 1997) (the "Interim Period"). It is anticipated that the New Agreement will be identical in substance to the Fund's Existing Agreements. The aggregate contractual rate chargeable for investment advisory services for each Portfolio will remain the same as in the relevant Existing Agreement. The Fund proposes to implement the New Agreement during the Interim Period, subject to the conditions contained in the application.

4. The Fund's board of directors (the "Board") is expected to meet on or about April 3, 1997 for the purpose of considering the New Agreement in accordance with section 15(c) of the Act. The Board will receive such information as the directors deem necessary to evaluate whether the terms of the New Agreement are in the best interests of the Portfolios and their shareholders. Proxy materials seeking approval of the New Agreement are expected to be mailed to shareholders of each Portfolio on or about April 15, 1997. A meeting of shareholders of the Fund is expected to take place on or about May 30, 1997 to consider approval of the New Agreement. Applicants believe that the Interim Period is reasonable because it will allow for preparation and distribution of proxy materials in order to obtain shareholder approval.

5. Applicants also request an exemption to permit the Adviser to receive from the Fund all fees earned under the New Agreement implemented during the Interim Period if, and to the extent, the New Agreement is approved by the shareholders of each Portfolio. The fees to be paid during the Interim Period are at the same rate as the fees currently payable by the Portfolios.

6. Applicants propose to enter into an escrow arrangement with an unaffiliated financial institution that will serve as escrow agent. The fees payable to the Adviser during the Interim Period will be paid into an interest-bearing escrow account maintained by the escrow agent. Amounts in the escrow account (including interest earned on such fees) will be paid to the Adviser to the extent

shareholders of each Portfolio approve the New Agreement with their respective Portfolio. If shareholders of any Portfolio fail to approve the New Agreement, the escrow agent will pay to that Portfolio the applicable escrow amounts (including interest earned). The escrow agent will release the escrow funds only upon receipt of certificates from officers of the Fund stating, if the escrow funds are to be delivered to the Adviser, that the New Agreement has received the requisite Portfolio shareholder vote, or, if the escrow funds are to be delivered to any Portfolio, that the Interim Period has ended and the New Agreement has not been approved by the requisite shareholder vote. Before any such certificate is sent, the directors of the Fund who are not "Interested Persons" of the Fund within the meaning of section 2(a)(19) of the Act (the "Independent Directors") will be notified.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company, except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such investment company. Section 15(a) further requires that such written contract provide for automatic termination in the event of its assignment. Section 2(a)(4) of the Act defines "assignment" to include any direct or indirect transfer of a contract by the assignor.

2. Applicants state that, upon completion of the Transaction, Chubb Life, the Adviser's parent, will be controlled by Jefferson-Pilot rather than Chubb. Applicants therefore believe that the Transaction will result in an indirect "assignment" of the Existing Agreements between the Fund and the Adviser within the meaning of section 2(a)(4).

3. Rule 15a-4 provides, in pertinent part, that if an investment advisory contract with an investment company is terminated by assignment, the adviser may continue to act as such for 120 days under a written contract that has not been approved by the company's shareholders, only to the extent that (a) the new contract is approved by the company's board of directors (including a majority of directors that are not "interested persons" of the investment company), (b) the compensation to be paid under the new contract does not exceed the compensation which would have been paid under the contract most

recently approved by shareholders of the investment company, and (c) neither the investment adviser nor any controlling person of the investment adviser "directly or indirectly receives money or other benefit" in connection with the assignment. Applicants state that they cannot rely on rule 15a-4 because of the benefits to Chubb arising from the Transaction.

4. Section 6(c) provides that the SEC may exempt any person, security, or transaction from any provision of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard.

5. Applicants contend that the Fund has prepared the required proxy materials as expeditiously as possible and shareholder meetings are expected to be held on or about May 30, 1997. Applicants believe that the timing of the shareholder meetings may not provide an adequate solicitation period to obtain approval of the New Agreement by the shareholders of each Portfolio prior to effecting the Transaction.

6. Applicants believe that the requested relief is necessary, as it would permit continuity of investment management services to the Portfolios during the Interim Period. Applicants submit that the scope and quality of services provided to the Portfolios during the Interim Period will not be diminished. During the Interim Period, the Portfolios would operate under the New Agreement, which is anticipated to be identical in substance to the Existing Agreements, except for their effective dates. Applicants are not aware of any material changes in personnel who will provide investment management services during the Interim Period.

7. Applicants represent that the best interests of the Portfolios' shareholders would be served if the Adviser receives fees for services during the Interim Period as provided herein. In addition, applicants believe that it would be unjust to deprive the Adviser of fees due to a change in control of the corporate parent. Finally, the fees to be paid during the Interim Period are at the same rate as the fees currently payable by the Fund under the Existing Agreements.

Applicants' Conditions

Applicants agree as conditions to the issuance of the exemptive order requested by the application that:

1. The New Agreement will have substantially the same terms and

conditions as the Existing Agreements, except for the effective date.

2. Fees earned by the Adviser in respect of the New Agreement during the Interim Period will be maintained in an interest-bearing escrow account, and amounts in the account (including interest earned on such paid fees) will be paid (a) to the Adviser in accordance with the New Agreement, after the requisite approvals are obtained, or (b) to the respective Portfolio, in the absence of such approvals.

3. The Portfolios will hold a meeting of their shareholders to vote on approval of New Agreement on or before the 120th day following the termination of the Existing Agreements (but in no event later than August 28, 1997).

4. Jefferson-Pilot and/or Chubb will bear the costs of preparing and filing the application and the costs relating to the solicitation of the shareholders approval necessitated by the Transaction.

5. The Adviser will take all appropriate steps so that the scope and quality of advisory and other services provided to the Portfolios during the Interim Period will be at least equivalent, in the judgment of the Board, including a majority of the Independent Directors, to the scope and quality of services previously provided. If personnel providing material services during the Interim Period change materially, the Adviser will apprise and consult with the Board to assure that the directors, including a majority of the Independent Directors of the Fund, are satisfied that the services provided will not be diminished in scope or quality.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-9173 Filed 4-9-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38467; International Series No. 1069; File No. SR-OPRA-97-2]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Revising the Allocation of Expenses Between the Basic, Index Option and Foreign Currency Option Accounting Centers

April 2, 1997.

Pursuant to Rule 11Aa3-2 under the Securities Exchange Act of 1934 ("Exchange Act"), notice is hereby given

that on March 27, 1997,¹ the Options Price Reporting Authority ("OPRA")² submitted to the Securities and Exchange Commission ("SEC" or "Commission") an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information ("Plan"). The amendment revises the allocation of expenses between the basic, index option, and foreign currency option ("FCO") accounting centers. Moreover, OPRA is proposing to eliminate a few out-of-date provisions from the Plan. OPRA has designated this proposal as concerned solely with the administration of the Plan, permitting the proposal to become effective upon filing pursuant to Rule 11Aa3-2(c)(3) (ii) and (iii) under the Exchange Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to revise the Plan to provide greater flexibility in the allocation of various costs and expenses among OPRA's three internal accounting centers: the basic accounting center, the index option accounting center, and the FCO accounting center. OPRA's accounting centers were created when the Plan was amended effective January 1, 1996, to provide for the unbundling of OPRA's FCO service and to provide a framework for the then contemplated unbundling of its index option service.

The Plan currently provides for the allocation of operating costs applicable to more than one accounting center in proportion to each accounting center's share of OPRA's total output capacity. However, because OPRA has not yet unbundled the index option service and has no current plans to do so, there is no specific portion of the system's output capacity dedicated to the index option service. As a result, output capacity is not a meaningful measure for the allocation of costs to the index accounting center. Therefore, in order to

provide a fair and workable method of allocation, the amendment provides for the allocation of operating costs and expenses to the index option accounting center in the same proportion as revenues are allocated to that center.³

The proposed amendment also addresses the allocation of administrative and general overhead costs and expenses between OPRA's bundled basic and index accounting centers on the one hand, and its unbundled FCO accounting center on the other hand. Currently, a share of these expenses is allocated to the FCO accounting center in proportion to the relative number of accounts maintained by OPRA in respect of these two categories. However, since revenues from the FCO accounting center have remained relatively small compared to revenues from the bundled index and basic accounting centers, OPRA has concluded that this does not provide for a fair allocation of costs to the FCO accounting center. OPRA believes that a more flexible approach to the allocation of this category of costs and expenses to the FCO accounting center is appropriate. Therefore, the amendment eliminates any fixed formula for the allocation of administrative and general overhead costs and expenses to the FCO accounting center, and instead provides for the allocation of these costs and expenses to the FCO accounting center in a fair and reasonable manner as determined by OPRA. This flexible approach will enable OPRA to adjust the allocation of such costs and expenses to the FCO accounting center in a manner that fairly reflects circumstances from time to time.⁴

OPRA also proposes to amend the Plan to add comparable flexibility to the allocation among accounting centers of costs and expenses associated with

³ The Plan provides that so long as the basic service and the index service are not unbundled, revenues are allocated between these two accounting centers on the basis of a 75% allocation to the basic accounting center and 25% to the index option accounting center.

⁴ Pursuant to a resolution adopted at a meeting held in November 1996, OPRA determined that effective retroactively as of July 1, 1996 and continuing through December 31, 1996, administrative and general overhead costs and expenses will be allocated 88% to the basic/index accounting centers and 12% to the FCO accounting center. It also was determined that the 88% allocated to the basic/index accounting center will be further allocated (75% to the basic accounting center and 25% to the index accounting center).

This same allocation was adopted as the tentative allocation for these costs and expenses during 1997, subject to adjustment in the fourth quarter to reflect the final allocation agreed upon by OPRA for that year. The final allocation then will be used as the tentative allocation for 1998, and this same pattern of tentative and final allocations will apply in succeeding years.

¹ The amendment was originally submitted on March 4, 1997, but was subsequently amended on March 27, 1997.

² OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3-2 thereunder. Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the five member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange ("AMEX"); the Chicago Board Options Exchange ("CBOE"); the New York Stock Exchange ("NYSE"); the Pacific Stock Exchange ("PSE"); and the Philadelphia Stock Exchange ("PHLX").

facilities development. Currently, this category of costs is allocated equally among OPRA's accounting centers. Based on experience to date, OPRA determined that, depending on the nature of the facility in question, this allocation may result in too large a share of development costs being allocated to the relatively small FCO accounting center. OPRA believes that greater flexibility is called for so that the allocation of facilities development costs may bear a closer relationship to the nature and functionality of the particular facility being developed. Accordingly, the amendment provides that facilities development expenses shall be allocated among the accounting centers as OPRA may determine for the particular facility in question, and only if no specific allocation is determined for a particular facility will the allocation be made equally among the accounting centers that are expected to make use of the facility. OPRA will determine the allocation of facilities development costs and expenses prior to the commencement of each facilities development project.⁵

Moreover, OPRA proposes to simplify and make more flexible the provision of the Plan governing the allocation of facilities development costs to an accounting center based on that center's use of a facility that was not contemplated at the time the facility's development costs were first allocated. Therefore, OPRA proposes to eliminate the fixed allocation formula that depends upon whether the use of the facility commences in the first or second year after the facility becomes operational. Instead, OPRA will provide that the allocation of a share of facilities development costs to such an accounting center will be as determined by OPRA where such use commences within 24 months of the time the facility first became operational. Further, OPRA believes that all categories of cost allocations will be specifically provided for and, therefore, proposes to eliminate the "catch-all" provision in the Plan.

Finally, OPRA proposes to make several non-substantive amendments.

⁵ At its November 1996 meeting, OPRA determined that the development costs associated with the implementation of the Common Software and Internet Protocol projects, which are the only pending facilities development projects applicable to the FCO accounting center, will be allocated between the basic/index and the FCO accounting centers on the basis of the output line capacity availability to those accounting centers. This results in 2/3 of such costs being allocated to the basic/index accounting centers and 1/3 to the FCO accounting center. OPRA also determined that the share of these costs allocated to the basic/index accounting centers shall be further allocated (75% to the basic accounting center and 25% to the index accounting center).

OPRA intends to remove the references to January 1, 1996, as such date no longer has any relevance in the Plan.

II. Solicitation of Comments

Pursuant to Rule 11Aa3-2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3-2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a National Market System; or otherwise in furtherance of the purposes of the Exchange Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, and 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 withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to file number SR-OPRA-97-2 and should be submitted by April 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁶

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-9174 Filed 4-9-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-7413, File No. S7-15-97]

Securities Uniformity; Annual Conference on Uniformity of Securities Laws

AGENCY: Securities and Exchange Commission.

⁶ 17 CFR 200.30-3(a)(29).

ACTION: Publication of release announcing issues to be considered at a conference on uniformity of securities laws and requesting written comments.

SUMMARY: In conjunction with a conference to be held on April 28, 1997, the Commission and the North American Securities Administrators Association, Inc. today announced a request for comments on the proposed agenda for the conference. This meeting is intended to carry out the policies and purposes of section 19(c) of the Securities Act of 1933, adopted as part of the Small Business Investment Incentive Act of 1980, to increase uniformity in matters concerning state and federal regulation of securities, to maximize the effectiveness of securities regulation in promoting investor protection, and to reduce burdens on capital formation through increased cooperation between the Commission and the state securities regulatory authorities.

DATES: The conference will be held on April 28, 1997. Written comments must be received on or before April 23, 1997 in order to be considered by the conference participants.

ADDRESSES: Written comments should be submitted in triplicate by April 23, 1997 to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. Comments also may be submitted electronically at the following E-mail address: rule-comments@sec.gov. Comments should refer to File No. S7-15-97; this file number should be included on the subject line if E-mail is used. Comment letters will be available for public inspection at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. 20549. Electronically submitted comment letters will be posted on the Commission's internet web site (<http://www.sec.gov>).

FOR FURTHER INFORMATION CONTACT: John D. Reynolds or Richard K. Wulff, Office of Small Business Review, Division of Corporation Finance, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, (202) 942-2950.

SUPPLEMENTARY INFORMATION:

I. Discussion

A dual system of federal-state securities regulation has existed since the adoption of the federal regulatory structure in the Securities Act of 1933 (the "Securities Act").¹ Issuers attempting to raise capital through

¹ 15 U.S.C. 77a et seq.

securities offerings, as well as participants in the secondary trading markets, are responsible for complying with the federal securities laws as well as all applicable state laws and regulations. It has long been recognized that there is a need to increase uniformity between federal and state regulatory systems, and to improve cooperation among those regulatory bodies so that capital formation can be made easier while investor protections are retained.

The importance of facilitating greater uniformity in securities regulation was endorsed by Congress with the enactment of section 19(c) of the Securities Act in the Small Business Investment Incentive Act of 1980.² Section 19(c) authorizes the Commission to cooperate with any association of state securities regulators which can assist in carrying out the declared policy and purpose of section 19(c). The policy of that section is that there should be greater federal and state cooperation in securities matters, including: (1) Maximum effectiveness of regulation; (2) maximum uniformity in federal and state standards; (3) minimum interference with the business of capital formation; and (4) a substantial reduction in costs and paperwork to diminish the burdens of raising investment capital, particularly by small business, and a reduction in the costs of the administration of the government programs involved. In order to establish methods to accomplish these goals, the Commission is required to conduct an annual conference. The 1997 meeting will be the fourteenth such conference.

Recently, Congress has examined the system of dual federal and state securities regulation and the effects of such dual regulation on the nation's securities markets. During this process, Congress considered the need for regulatory changes to promote capital formation, eliminate duplicative regulation, decrease the cost of capital and encourage competition, while at the same time promoting investor protection. These efforts resulted in passage of The National Securities Markets Improvement Act of 1996³ (the "1996 Act"), which was signed by President Clinton on October 11, 1996. The 1996 Act contains significant provisions that realign the regulatory partnership between federal and state regulators. The legislation reallocates responsibility for regulation of the nation's securities markets between the

federal government and the states in order to eliminate duplicative costs and burdens and improve efficiency, while preserving investor protections. The 1996 Act addresses regulation applicable to securities offerings, investment companies and advisers and broker-dealers.

II. 1997 Conference

The Commission and the North American Securities Administrators Association, Inc. ("NASAA")⁴ are planning the 1997 Conference on Federal-State Securities Regulation (the "Conference") to be held April 28, 1997 in Washington, D.C. At the Conference, representatives from the Commission and NASAA will form into working groups in the areas of corporation finance, market regulation and oversight, investment management, and enforcement, to discuss methods of enhancing cooperation in securities matters in order to improve the efficiency and effectiveness of federal and state securities regulation. Generally, attendance will be limited to representatives of the Commission and NASAA in an effort to promote frank discussion. However, each working group in its discretion may invite certain self-regulatory organizations to attend and participate in certain sessions.

Representatives of the Commission and NASAA currently are formulating an agenda for the Conference. As part of that process the public, securities associations, self-regulatory organizations, agencies, and private organizations are invited to participate through the submission of written comments on the issues set forth below. In addition, comment is requested on other appropriate subjects sought to be included in the Conference agenda. All comments will be considered by the Conference attendees.

III. Tentative Agenda and Request for Comments

The tentative agenda for the Conference consists of the following topics in the areas of corporation finance, investment management, market regulation and oversight, and enforcement.

(1) Corporation Finance Issues

A. Uniformity of Regulation

The 1996 Act amended Section 18 of the Securities Act⁵ to preempt state

blue-sky registration of securities offerings of "covered securities"⁶ and prohibit state reviews of offerings of covered securities.⁷ The definition of covered securities does not include the following which, therefore, remain subject to state registration requirements:

- Securities quoted on the Nasdaq SmallCap market;
 - Securities quoted on the Nasdaq over-the-counter Electronic Bulletin Board;
 - Securities quoted on the over-the-counter "pink sheets;"
 - Securities listed on national securities exchanges other than the NYSE or AMEX (unless the Commission determines by rule that the listing standards of such exchanges are substantially similar to the listing standards of the NYSE, AMEX, or Nasdaq/NMS);
 - Various investment grade securities, such as asset-backed and mortgage-backed securities, since these securities usually are not listed on a national exchange or Nasdaq/NMS;
 - Private placements of securities under Section 4(2) of the Securities Act that do not meet the requirements of Rule 506 of Regulation D;⁸ and
 - Securities offered in reliance upon Commission rules adopted under Section 3(b) of the Securities Act, e.g., offerings that are exempt from registration with the Commission under Regulation A⁹ and Rules 504 and 505 of Regulation D.
- In addition, with respect to offerings of covered securities (other than listed securities), the states retain the authority to require specified fee payments and/or notice filings. The states' continuing authority to regulate certain offerings and to require other filings and fees continues the need for uniformity between the federal and state registration systems where consistent with investor protection.

The 1996 Act requires the Commission to conduct a study as to the extent to which uniformity of state regulatory requirements for securities and securities transactions that are not covered securities has been achieved.¹⁰ The Commission is instructed to consult with the states as well as issuers,

⁶ 15 U.S.C. 77r(b). "Covered securities" are defined in Section 18. The term generally includes New York Stock Exchange, Inc. ("NYSE"), American Stock Exchange, Inc. ("AMEX") and Nasdaq National Market System ("Nasdaq/NMS") securities, registered investment company securities and specified exempt securities and offerings.

⁷ 15 U.S.C. 77r(a).

⁸ 17 CFR 230.501 through 230.508.

⁹ 17 CFR 230.251 through 230.263.

¹⁰ Section 102(b) of 1996 Act.

⁴ NASAA is an association of securities administrators from each of the 50 states, the District of Columbia, Puerto Rico, Mexico and twelve Canadian Provinces and Territories.

⁵ 15 U.S.C. 77r.

² Pub. L. 96-477, 94 Stat. 2275 (October 21, 1980).

³ Pub. L. 104-290, 110 Stat. 3416 (October 11, 1996).

brokers and dealers in conducting this study. The results of the study are to be reported to Congress within a year following the enactment of the 1996 Act. The Commission and NASAA will discuss the nature and extent of uniformity at present and discuss steps to increase uniformity in light of the 1996 Act.

B. Sales to Qualified Purchasers under the 1996 Act

Section 18 of the Securities Act, as amended by the 1996 Act, excludes from state regulation and review securities offerings to purchasers who are defined by Commission rules to be "qualified purchasers."¹¹ A security sold to a "qualified purchaser" is a "covered security" subject to the same new regulatory approach as other covered securities as described above. The Commission will be undertaking rulemaking to define "qualified purchaser" for this purpose, and will discuss with NASAA the appropriate criteria for this definition.

C. Commission Exemptive Authority

The 1996 Act added new Section 28 to the Securities Act granting the Commission extensive general authority to craft exemptions from the Securities Act to the extent that such exemptions are necessary or appropriate in the public interest and consistent with the protection of investors.¹² This new authority permits the Commission to adopt rules which exempt any person, security or transaction, or any classes thereof, from one or more of the provisions of the Securities Act. The Commission is authorized to adopt conditions for the availability of such exemptions or, if deemed appropriate, adopt unconditional exemptions. The Commission and NASAA will discuss the nature and extent of appropriate exemptions that may be adopted under the Commission's new authority and the appropriate criteria of and conditions to such exemptions. In this regard, the definition of covered securities does not encompass securities issued pursuant to exemptions under new Section 28. Accordingly, securities or transactions determined to be exempt under Commission rules adopted pursuant to new section 28 may be subject to state regulation and review. The conferees will discuss how offerings exempted under new Section 28 may be regulated in a uniform manner under state securities laws to the greatest possible

extent, consistent with investor protection.

D. Small Business Initiatives

During 1996 the Commission adopted and revised rules to provide additional assistance to small business. On May 1, 1996, the Commission adopted Rule 1001, a new Securities Act Section 3(b) exemption from the registration requirements of the federal securities laws.¹³ Under the exemption, offers and sales of securities, in amounts of up to \$5 million, that satisfy the conditions of a 1994 exemption from California state qualification requirements (Section 25102(n) of the California Corporations Code) are exempt from federal registration. Also on May 1, 1996, the Commission adopted amendments to certain rules under the Securities Exchange Act of 1934¹⁴ ("Exchange Act") that raised the asset threshold for when a company must become a "public" reporting company from \$5 million to \$10 million.¹⁵

On February 20, 1997, the Commission adopted amendments to the holding period requirements contained in Rule 144 under the Securities Act.¹⁶ Rule 144 provides a Securities Act registration safe harbor for resales of securities by persons who hold either "restricted" securities or securities of a company of which they are affiliates. "Restricted" securities generally include securities issued in offerings under certain exemptions from federal registration. The amendments permit the resale of limited amounts of restricted securities after a one-year, rather than the previous two-year, holding period. In addition, the amendments permit unlimited resales of restricted securities by non-affiliates after a holding period of two years, rather than the previous three-year period. The Commission believes that these changes will reduce the cost of private capital formation and especially benefit small businesses, without reducing investor protections. In a companion release, the Commission proposed certain changes to Rule 144 to simplify the rule's operation and solicited comments on additional changes to Rule 144.¹⁷

Also on February 20, 1997, the Commission proposed amendments to Rule 430A to permit certain smaller or

less seasoned reporting companies to price securities on a delayed basis after effectiveness of a registration statement, if they meet specified conditions.¹⁸ The proposals are intended to provide flexibility and efficiency to qualified registrants, enabling them to time their offerings to advantageous market conditions, consistent with investor protection.

The participants will discuss the impact of the recent Commission rule changes and the need for any additional exemptive relief in the small business area. Conferees will consider the recent proposals and discuss the effects of such proposals, if adopted, on small business and public investors.

During the fall of 1996, the Commission began meeting with small businesses in town hall meetings conducted throughout the United States. These town hall meetings are intended to provide basic information to small businesses about fundamental requirements that must be addressed when they wish to raise capital through the public sale of securities. In addition, the Commission has learned and will continue to learn more about the concerns and problems facing small businesses in raising capital so that initiatives and programs can be designed to meet their needs, consistent with the protection of investors. To date, the Commission has held six town hall meetings attended by more than 1,000 small business persons. The Commission representatives will share information and ideas obtained from these meetings with conference participants.

E. Securities Act Concept Release

The Commission issued a concept release during 1996 to solicit comment on the best means of improving the regulation of the capital formation process while maintaining or enhancing investor protection.¹⁹ The Commission has been engaged in a broad reexamination of the regulatory framework for the offer and sale of securities under the Securities Act.

The concept release solicited comment on different approaches, such as: the recommendation of the Advisory Committee on the Capital Formation and Regulatory Processes that a "company registration" approach be adopted; modifications to the existing shelf registration system (many of which were recommended by the Commission's Task Force on Disclosure

¹³ Securities Act Release No. 7285 (May 1, 1996) [61 FR 21356].

¹⁴ 15 U.S.C. 78a et seq.

¹⁵ Securities Exchange Act Release No. 37157 (May 1, 1996) [61 FR 21354].

¹⁶ Securities Act Release No. 7390 (February 20, 1997) [62 FR 9242].

¹⁷ Securities Act Release No. 7391 (February 20, 1997) [62 FR 9246].

¹⁸ Securities Act Release No. 7393 (February 20, 1997) [62 FR 9276].

¹⁹ Securities Act Release No. 7314 (July 25, 1996) [61 FR 40044].

¹¹ 15 U.S.C. 77r(b)(3).

¹² 15 U.S.C. 77z-3.

Simplification); reforms that would liberalize the treatment of unregistered securities; and an approach that would involve deregulation of offers. Comment also was requested with regard to any other approaches that should be considered. The comment period ended October 31, 1996. The participants will discuss the conceptual issues raised by the release and the comments received in response to such release and consider the changes that should be made in the regulation of securities offerings.

F. Report of the Advisory Committee on the Capital Formation and Regulatory Processes

On July 24, 1996, the Advisory Committee on the Capital Formation and Regulatory Processes (the "Advisory Committee") presented its report to the Commission recommending the adoption of a company registration system. The Advisory Committee recommended a fundamental conceptual change in the scheme of regulation governing offerings by public companies. The Advisory Committee advised the Commission to shift the focus of the regulatory process for public offerings of securities by these companies from a transactional registration system to a company registration system, beginning with a pilot program. As a part of this new approach, the Advisory Committee recommended enhancements to the Exchange Act periodic reporting requirements. The participants will consider the recommendations proposed by the Advisory Committee, including the impact of such conceptual changes on the coordination of federal and state securities regulation.

G. Disclosure Simplification

On March 5, 1996, the Commission published the Report of the Task Force on Disclosure Simplification (the "Task Force Report"). The Task Force Report includes several recommendations intended to reduce the costs of raising capital by both smaller and seasoned companies. In addition, the Task Force Report includes a discussion on the ongoing debate regarding the need to adapt existing Securities Act requirements and related concepts to current market conditions. Since publication of the Task Force Report, the Commission initiated implementation of certain of the recommendations by eliminating 45 rules and four forms that were viewed as redundant or otherwise no longer necessary²⁰ and published proposals to

implement additional recommendations to eliminate unnecessary requirements and streamline the disclosure process.²¹

The conference participants will discuss the findings and recommendations of the Task Force Report and consider the Commission's proposals that would implement certain recommendations. Conferees will consider how the Commission's proposals, if adopted, would impact the system of dual federal and state regulation.

H. Plain English

One of major concerns of the Task Force on Disclosure Simplification was the lack of readability of prospectuses and other disclosure documents. The Task Force Report criticized prospectuses for their dense writing, legal boilerplate and repetitive disclosures and recommended using plain English disclosure to improve the readability of prospectuses. The Commission on January 14, 1997 proposed several rule amendments that would be a first step in implementing the Task Force's recommendation.²² The proposals require the use of plain English writing principles when drafting the front part of prospectuses—the cover page, summary and risk factors sections of these documents. Concurrently with the issuance of the plain English proposal, the Commission's Office of Investor Education and Assistance issued a draft copy of a handbook to help issuers write plain English documents.

The Division of Corporation Finance is operating a pilot program for companies that want to draft their documents in plain English. The Division's staff works with volunteers on the techniques for designing and writing plain English documents filed under either the Securities Act or the Exchange Act. The company participants can draft plain English documents and submit them to the staff for suggestions and comments in a nonpublic forum.

Conferees will discuss the Plain English initiative, including federal and state coordination needed to facilitate implementation of the initiative.

I. Electronic Delivery of Disclosure Documents

The Commission has issued interpretive releases and rules addressing the use of electronic media to deliver or transmit information under

the federal securities laws.²³ These initiatives reflect the Commission's continuing recognition of the benefits that electronic technology provides to the financial markets. These releases are premised on the belief that the use of electronic media should be at least an equal alternative to the use of paper delivery.

The participants will discuss the impact of electronic technology on the capital formation process and consider the nature and extent of regulatory changes to accommodate the use of such technology in securities offerings. In particular, conferees will consider the various approaches that have been taken by states and the Commission relative to securities offerings on the Internet.

J. Internationalization of the Securities Markets

1. *Foreign Issuers in the U.S. Market.* Foreign companies raising funds from the public or having their securities traded on a national exchange or the Nasdaq Stock Market are generally subject to the registration requirements of the Securities Act and the registration and reporting requirements of the Exchange Act. The Commission has provided a separate integrated disclosure system for foreign private issuers that provides a number of accommodations to foreign practices and policies. Foreign companies conducting securities offerings in the U.S. continue to be subject to state regulation and review unless the securities being offered are "covered securities" within the meaning of the 1996 Act. The participants will discuss steps to increase coordination of federal and state treatment of multinational offerings.

2. *Regulation S.* In 1990, the Commission adopted Regulation S²⁴ to clarify the extraterritorial application of the registration requirements of the Securities Act. The Commission intended for Regulation S to make clear that registration of an offering of securities under the Securities Act would not be required where the offering takes place outside the United States and the securities offered come to rest offshore. Following the adoption of Regulation S, the Commission became aware of certain abusive practices under the regulation. The Commission issued a release on February 20, 1997 proposing revisions to Regulation S to

²⁰ Securities Act Release No. 7300 (May 31, 1996) [61 FR 30397].

²¹ Securities Act Release No. 7301 (May 31, 1996) [61 FR 30405].

²² Securities Act Release No. 7380 (January 14, 1997) [62 FR 3152].

²³ Securities Act Release No. 7233 (October 6, 1995) [60 FR 53458], Securities Act Release No. 7289 (May 9, 1996) [61 FR 24652].

²⁴ 17 CFR 230.901 through 230.904 and Preliminary Notes.

prevent those abusive practices.²⁵ The proposals include lengthening the restricted period during which persons relying on the Regulation S safe harbor may not sell equity securities into the United States from 40 days to two years (absent registration or a valid exemption) and classifying equity securities placed offshore pursuant to Regulation S as "restricted securities" under Rule 144. The proposals would apply to offshore sales of equity securities of domestic issuers and of foreign issuers where the principal market for those securities is the United States.

Conferees will discuss the proposed changes to Regulation S, share their experiences with Regulation S offerings and discuss steps to increase coordination of federal and state regulation of such offerings.

(2) Market Regulation Issues

A. National Securities Markets Improvement Act of 1996

1. *State Licensing Requirements.* The 1996 Act directed the Commission to conduct a study of the impact of disparate state licensing requirements on associated persons of registered broker-dealers and the methods for states to attain uniform licensing requirements for such persons. The Commission is required to consult with the self-regulatory organizations ("SROs") and the states, and to prepare and submit a report to Congress by October 11, 1997. To this end, Commission staff have been consulting with the SROs, NASAA, and members of the securities industry. The initial goal is to determine the extent to which state licensing requirements differ and the effect of different state requirements and procedures upon associated persons and broker-dealers. The next phase of the study will be to analyze the need for and feasibility of requiring uniform state requirements (through legislation or other means). The participants will discuss the status of the study at the conference.

2. *State Requirements for Exchange-Listed Securities.* As noted above, the 1996 Act amended Section 18 of the Securities Act to provide an exemption from state blue sky laws and regulations for securities that are listed on the NYSE, the AMEX, and the Nasdaq/NMS. The amendments to Section 18 also allow the Commission by rule to designate securities listed on other national securities exchanges as exempt from state blue sky laws and regulations if the applicable listing standards are

substantially similar to those of the NYSE, AMEX, or Nasdaq/NMS. Section 18 allows the Commission to adopt such a rule on its own initiative or in response to a rulemaking petition. The Commission has received rulemaking petitions from the Pacific Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., and the Chicago Stock Exchange, Inc. The participants will discuss these proposals and their potential impact on NASAA members.

3. *Broker-Dealer Books and Records.* Section 103 of the 1996 Act prohibits any state from imposing broker-dealer books and records requirements that are different from or in addition to the Commission's requirements. In addition, the same section directs the Commission to consult periodically with state securities authorities concerning the adequacy of the Commission's requirements. The Commission's current proposal to amend Rules 17a-3 and 17a-4²⁶ originated in discussions between NASAA representatives and the Commission about the adequacy of the existing broker-dealer books and records requirements.²⁷ The proposed amendments clarify, modify, and expand the Commission's record-keeping requirements with respect to purchase and sale documents, customer records, associated person records, customer complaints, and certain other matters. In addition, the proposed amendments specify certain types of books and records that broker-dealers must make available in their local offices. In consideration of the substantial number of organizations that have expressed interest in commenting on the proposed amendments, the Commission extended the comment period until March 31, 1997. The participants at the Conference will discuss the proposed amendments and the comments received.

B. Central Registration Depository ("CRD") Redesign

The CRD system is a computer system operated by the National Association of Securities Dealers, Inc. ("NASD") that is used by the Commission, the states and the SROs primarily as a means to facilitate registration of broker-dealers and their associated persons. The NASD is in the process of implementing a comprehensive plan to redesign the CRD and to expand its use by federal and state securities regulators as a tool for broker-dealer regulation. As a result of the NASD's efforts, the redesigned

CRD system ultimately is expected to provide the Commission, SROs, and state securities regulators with: (i) Streamlined capture and display of data; (ii) better access to registration and disciplinary information through the use of standardized and specialized computer searches; and (iii) electronic filing of uniform registration and licensing forms, including Forms U-4, U-5, BD and BDW.

The NASD has been testing the pilot version of the redesigned CRD since mid-1996, and this version is now in use on a trial basis at approximately 800 broker-dealers nationwide. Among other things, the participants will discuss the status of the CRD implementation process, and issues relating to the conversion of existing registration information to the redesigned CRD and electronic filing of uniform forms.

C. Broker-Dealer Examinations

In December 1995, regulators responsible for examining broker-dealers (NASAA on behalf of state regulators, the AMEX, the CBOE, the NYSE, the NASD and the Commission) signed a Memorandum of Understanding ("MOU") in which they committed to undertake their regulatory responsibilities in the most efficient and effective manner possible by sharing information, coordinating examinations and identifying regulatory priorities. As part of the MOU, NASAA, the SROs and the Commission agreed to meet yearly for a national planning summit and each state securities regulator, NASD district office and Commission regional office agreed to meet at least annually for a regional planning summit, to discuss examination schedules and priorities, review broker-dealers' examination histories, and discuss other areas of related interest, with the goal of encouraging information-sharing to avoid unnecessary duplication of examinations. Common regulatory findings and the status of this coordination and of the implementation of the MOU will be discussed.

In March 1996, the Commission, NASAA, the NASD and the NYSE released a report on the findings of a joint regulatory effort—"The Joint Regulatory Sales Practice Sweep: A Review of the Sales Practice Activities of Selected Registered Representatives and the Hiring, Retention, and Supervisory Practices of the Brokerage Firms Employing Them." The objectives of this joint initiative were to identify possible problem registered representatives, to review their sales practices, and to assess whether adequate hiring, retention, and supervisory mechanisms were in place.

²⁵ Securities Act Release No. 7392 (February 20, 1997) [62 FR 9258].

²⁶ 17 CFR 240.17a-3 and 17a-4.

²⁷ Securities Exchange Act Release No. 37850 (October 22, 1996) [61 FR 55593].

The findings of the report suggested generally that, while many firms maintain satisfactory supervisory mechanisms, firms can and should improve and strengthen their hiring, retention, and supervisory practices. Consequently, the report contained specific recommendations aimed at improving brokerage firms' hiring, retention, and supervisory practices. The attendees will discuss implementation of the recommendations.

D. Arbitration

The NASD and other members of the Securities Industry Conference on Arbitration have been developing new approaches to important issues affecting the administration of securities arbitration over the past year. Much of their work was prompted by the 1996 report of the NASD's Arbitration Policy Task Force. The participants will discuss the status of some of the important developments in their area. For example, proposed changes related to the variations in administering claims of different dollar amounts, the administration of older claims, and punitive damages are likely to be discussed.

E. Internet Fraud/Electronic Delivery

A leadership area of mutual interest to both the Commission staff and NASAA is the impact of developments in technology. This year there were ongoing discussions concerning a variety of new issues. Areas of concern include: industry retention of electronic records and communications; computer security; unregistered brokerage, investment advisory and other regulated financial business conducted through the internet; foreign exchange and foreign financial sector access to the U.S. through electronic media; and industry and investor education about the use of electronic media for the securities business. In 1996, the Division issued no-action or information letters with respect to certain financial business activities on the Internet, including issuer-based bulletin board services,²⁸ non-profit matching services,²⁹ and activities of on-line service providers (America Online, Compuserve, and Microsoft).³⁰ The Commission staff and NASAA also have

ongoing consultations on state securities law issues.

On May 9, 1996, the Commission published an interpretive release expressing its views on the electronic delivery of documents that broker-dealers, transfer agents, and investment advisers are required to send to their customers.³¹ The conference participants will discuss these and other matters concerning the Internet and the use of electronic media.³²

F. Regulation M

On December 18, 1996, the Commission approved Regulation M, representing the most sweeping changes in the way the Commission seeks to prevent the manipulation of securities offerings since the Commission adopted Rules 10b-6, 10b-7, and 10b-8 (also known as the "trading practices rules") over 40 years ago.³³ Regulation M, which became effective March 4, 1997, differs from the former trading practices rules by focusing the restrictions on securities that are more susceptible to manipulation; using better measures for manipulative potential; recognizing the global nature of securities markets; assimilating the changes in market transparency and surveillance; and codifying a variety of earlier actions by the Commission to adapt the former rules to current market conditions. Regulation M addresses the concern that persons with a stake in a securities offering, such as issuers, selling securityholders and underwriters, might artificially influence the market price of the security in distribution, thereby boosting its offering price. The regulation seeks to prevent this result by restricting the activities of these persons. In particular, Regulation M requires offering participants to cease their market activities, such as proprietary trading, during a restricted period that begins one or five business days prior to the offering's pricing and ends when the offering is over. A notable change from the trading practices rules, and one which reflects the more focused approach of Regulation M, is that underwriters of an actively-traded security of a larger issuer would not be subject to these restrictions. Participants will discuss issues raised by the new regulation.

G. Order Execution Rules

In August of 1996, the Commission adopted Rule 11Ac1-4³⁴ ("Limit Order Display Rule") and amendments to Rule 11Ac1-1³⁵ ("Quote Rule") (collectively "Order Execution Rules").³⁶ The Limit Order Display Rule requires, under certain circumstances, the public display of customer limit orders priced better than an exchange specialist's or market maker's quote. The Limit Order Display Rule also requires that specialists and market makers add limit orders priced at their quote to the size associated with their quote when the quote represents the best market-wide price. The rule establishes standard display requirements for limit orders in all markets. The Quote Rule was amended to require specialists and market makers to reflect in their quote any better priced order that they enter into an electronic communication network, or in the alternative, the electronic communication network may route the best specialists' or market makers' orders entered therein into the public quotation stream. In addition, the Quote Rule was amended to require that substantial market makers for any security listed on an exchange publish their quotations for such security. The Order Execution Rules enhance the quality of public quotations for equity securities and improve investor access to the best prices available. The new rules also present investors with improved execution opportunities and improved access to best prices when they buy and sell securities. The participants will discuss the new rules and their implementation.

H. Bank Securities Activities

Last year, the NASD submitted a rule proposal to the Commission that would govern the conduct of member broker-dealers operating on the premises of financial institutions. The NASD has since substantially revised its rule proposal to address a number of issues raised by the commenters, and expects to submit a revised rule proposal to the Commission shortly. The participants will discuss the proposed rule revisions, as well as other developments in this area, including a proposal by the federal banking regulators to require bank employees that sell securities directly to take certain qualification examinations currently required of broker-dealer employees.

²⁸ *Spring Street Brewing Co.* (April 17, 1996); *Real Goods Trading Corp.* (June 24, 1996); *PerfectData Corp.* (August 5, 1996); and *Flamemaster Corp.* (November 6, 1996).

²⁹ *Angel Capital Electronic Network* (October 25, 1996).

³⁰ *Charles Schwab & Co., Inc.* (November 27, 1996).

³¹ Securities Exchange Act Release No. 37182 (May 9, 1996) [61 FR 24644].

³² See related discussion under Corporation Finance Issues, *supra* page 13.

³³ Securities Exchange Act Release No. 38067 (December 20, 1996) [62 FR 520].

³⁴ 17 CFR 240.11Ac1-4.

³⁵ 17 CFR 240.11Ac1-1.

³⁶ Securities Exchange Act Release No. 37619A (September 6, 1996) [61 FR 48290].

(3) Investment Management Issues

Title III of the 1996 Act (the "Investment Advisers Supervision Coordination Act" ("Coordination Act")) made several amendments to the Investment Advisers Act of 1940,³⁷ the most significant of which reallocates federal and state responsibilities over investment advisers. Under the new scheme larger advisers will principally be regulated by the Commission, while smaller advisers the businesses of which tend to be more local will be primarily regulated by the states.

Upon the effective date of the Coordination Act, an investment adviser that is regulated or required to be regulated as an investment adviser in a state in which it maintains its principal office and place of business is prohibited from registering with the Commission unless the adviser (i) has assets under management of not less than \$25 million (or such higher amount as the Commission may, by rule, deem appropriate), or (ii) is an adviser to an investment company registered under the Investment Company Act of 1940.³⁸ The Commission is authorized to deny registration to any applicant that does not meet the criteria for Commission registration and is directed to cancel the registration of any adviser that no longer meets the criteria for registration.

The Coordination Act preempts state investment adviser statutes as they apply to investment advisers registered with the Commission. The Coordination Act preserves, however, the ability of state regulators to: (i) Investigate and bring enforcement actions against Commission-registered advisers with respect to fraud and deceit, (ii) require Commission-registered advisers to file notice documents with the state, and (iii) require Commission-registered advisers to pay state registration and other fees. State law is also preempted as to certain "supervised persons" of Commission-registered advisers, except that a state retains the authority to register an investment adviser representative that has a place of business in the state.

On December 20, 1996 the Commission proposed rules designed to implement the provisions of the Coordination Act.³⁹ The proposed rules: (i) Address the procedures by which advisers not eligible to register will identify themselves to the Commission and withdraw from registration, (ii) exempt certain advisers that do not meet the criteria from Commission

registration from the new prohibition, and (iii) define certain terms used in the statute. The comment period on the proposed rules closed on February 10, 1997.

The conferees will discuss the Commission's rules as they affect the allocation of regulatory responsibilities between the states and the Commission. In addition, the conferees will discuss mutual concerns regarding the implementation of the Coordination Act, including the transition to the new regulatory scheme, the sharing of information regarding the status of registrants, and arrangements for the provision of technical assistance by the Commission including training, conducting joint exams and sharing of information with respect to investment advisers. In addition, state and federal regulators will discuss the coordination of regulatory, examination and enforcement activities subsequent to the effective date of the Coordination Act. The conferees will also discuss progress with regards to the development of a one-stop electronic filing system for investment advisers, and the development of a system for investors to obtain information regarding the disciplinary history of investment advisers.

(4) Enforcement Issues

In addition to the above-stated topics, the state and federal regulators will discuss various enforcement-related issues which are of mutual interest.

(5) Investor Education

The Commission is pursuing a number of programs for investors on how to invest wisely and to protect themselves from fraud and abuse. The states and NASAA have a longstanding commitment to investor education and the Commission is intent on coordinating and complementing those efforts to the greatest extent possible. The participants at the conference will discuss investor education and potential joint projects in some of the working group sessions.

(6) General

There are a number of matters which are applicable to all, or a number, of the areas noted above. These include EDGAR, the Commission's electronic disclosure system, rulemaking procedures, training and education of staff examiners and analysts and sharing of information.

The Commission and NASAA request specific public comments and recommendations on the above-mentioned topics. Commenters should focus on the agenda but may also

discuss or comment on other proposals which would enhance uniformity in the existing scheme of state and federal regulation, while helping to maintain high standards of investor protection.

Dated: April 4, 1997.

By the Commission.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 97-9204 Filed 4-9-97; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38479; File No. SR-Phlx-97-12]

Self-Regulatory Organizations; Order Granting Accelerated Approval of Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 1 Thereto by the Philadelphia Stock Exchange, Inc. Relating to the Maintenance Criteria for the Phlx Phone Index

April 3, 1997.

On March 5, 1997, the Philadelphia Stock Exchange Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the maintenance standards applicable to the Phlx Phone Index ("Index") to allow the number of stocks in the Index to decline to six without having to delist the Index. Notice of the proposed rule change appeared in the **Federal Register** on March 19, 1997.³ No comments were received on the proposal. On April 2, 1997, the Phlx filed Amendment No. 1 to the proposal to address issues related to Index concentration and to request accelerated approval of its proposal.⁴ This order approves the proposal, as amended, on an accelerated basis.

I. Description of the Proposal

On July 11, 1994, the Commission approved a proposal by the Phlx to list and trade options on the Index.⁵ The Index is a capitalization-weighted index composed of eight widely held U.S.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 38383 (March 11, 1997); 62 FR 13203.

⁴ Letter from Nandita Yagnik, Attorney, New Product Development, Phlx to Marianne H. Hawley, Staff Attorney, Division of Market Regulation ("Division"), Commission, dated April 2, 1997.

⁵ Securities Exchange Act Release No. 34345 (July 11, 1994), 59 FR 36245 (approval for index options on the Phone Index).

³⁷ 15 U.S.C. 80b-1 et seq.

³⁸ 15 U.S.C. 80a-1 et seq.

³⁹ Investment Advisers Act Release No. 1601 (December 20, 1996) [61 FR 68480].

companies created as a result of the divestiture of American Telephone and Telegraph Co. ("AT&T") in 1983. The Index includes seven regional telephone companies spun off from AT&T and AT&T itself.⁶ Currently, the maintenance standards for the Index require that at least 90% of the component stocks in the Index by weight, and 80% by number, are eligible for options trading⁷ and the number of stocks in the Index not decrease to less than eight or increase to more than ten. If the Index were not to meet these maintenance criteria, the Exchange is required to wind down trading in options overlying the Index by restricting trading to closing only transactions and to not open any new series of options on the Index unless a new Rule 19b-4 filing is submitted to the Commission and approved.

On April 1, 1997, two components of the Index, PacTel and SBC consummated a merger in which SBC acquired all of the assets and liabilities of PacTel. After the close of trading on April 1, 1997, the surviving company, SBC, issued to former PacTel shareholders 0.73145 shares of SBC common stock for each outstanding PacTel share as of close of trading on March 31, 1997. The actual number of new SBC shares issued in the merger, however, was not verified until after the close of trading on April 2, 1997. Because trading in PacTel was halted on the New York Stock Exchange ("NYSE") at the close of trading on March 31, 1997 as a result of the merger, the Phlx calculated the PacTel capitalization for purposes of determining the Index value on April 1, 1997 and April 2, 1997 by using the March 31, 1997 PacTel closing market value on the NYSE as well as the number of PacTel shares as of that date. In addition, because SBC was the surviving company in the merger and has continued to trade on the NYSE, the Phlx calculated SBC's market capitalization for April 1, 1997 and April 2, 1997 by multiplying the real-time price of SBC by the outstanding shares of SBC before the merger. This approach, according to the Phlx, was consistent with that used for other indices containing these components.

On April 3, 1997 and thereafter, the Phlx will calculate the Index value using the market capitalization for SBC by multiplying the real-time price of SBC by the total outstanding shares of SBC after the merger. PacTel price and

share information was dropped from the Index after the close of trading on April 2, 1997.⁸ Thus, beginning on April 3, 1997, the Phlx will calculate the Index using only seven component stocks.

In addition, the Exchange expects that in the near future, another merger involving two other Index components may occur. NYNEX and Bell Atlantic are proposing a merger with Bell Atlantic as the surviving company. If this merger is consummated, the Index would have only six component stocks.

The Exchange proposes to amend the maintenance standards to allow the number of component stocks in the Index to decrease to six without having to wind down trading in options overlying the Index by restricting trading to closing only transactions and to not open any new series of options on the Index unless a new Rule 19b-4 filing is submitted to the Commission and approved. In addition, in Amendment No. 1, the Phlx proposes that no one single stock may comprise more than 30% of the Index weight.⁹ The maintenance standards requiring the number of components not to exceed ten stocks and 90% of the component stocks in the Index by weight, and 80% by number, to be eligible for options trading will still apply. In the event that the Index fails to meet the Index maintenance standards, the Exchange immediately would contact the Commission's Division of Market Regulation and restrict trading in the Index options to closing only transactions and would not open any new series of options on the Index unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination or unless the continued listing of that class of Index options has been approved by the Commission under Section 19(b)(2) of the Act.

II. Commission Findings and Conclusions

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, with the requirements of Section 6(b).¹⁰ Specifically, the Commission believes the proposal is consistent with the

Section 6(b)(5)¹¹ requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, in general, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.¹²

Although the proposed maintenance standards for the Index allow six component stocks to comprise the Index, the Commission believes that, based on the liquidity, large capitalizations and relative weightings of the component securities, the options on the Index can continue to be traded on the Exchange.¹³ In addition, the Commission is satisfied that by limiting the most highly capitalized stock in the Index to no more than 30% of the Index weight, the Exchange has proposed maintenance criteria to prevent the Index from being dominated by any one stock. The Commission believes that these maintenance standards help to ensure that the Index is not used as a surrogate to trade equity options on a single component.

The Commission reiterates that should the Index fail to meet the maintenance criteria, the Exchange immediately will contact the Division and restrict trading in the Index options to closing only transactions and would not open any new series of options on the Index unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination or unless the continued listing of that class of Index options has been approved by the Commission under Section 19(b)(2) of the Act.¹⁴

The Commission finds good cause for approving the proposed rule change,

¹¹ 15 U.S.C. 78f(b)(5).

¹² In approving this rule, the Commission has considered the proposed rules' impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

¹³ The total shares outstanding, market capitalization and index weight of the seven component securities as of April 3, 1997 are as follows: Ameritech, 549,391,000 shares, \$32,620,090,625, 13.68% weight; AT&T, 1,620,284,000 shares, \$54,887,120,500, 23.02% weight; Bell Atlantic, 437,769,000 shares, \$26,101,976,625, 10.95% weight; BellSouth, 991,206,000 shares, \$41,382,850,500, 17.35% weight; Nynex, 439,989,000 shares, \$19,799,505,000, 8.30% weight; SBC, 916,956,000 shares, \$47,796,331,500, 20.04% weight; and US West, 479,325,000 shares, \$15,877,640,625, 6.66% weight.

¹⁴ The Commission notes that if the Phlx should propose to list and trade options overlying a narrow-based, single-sector index with fewer stocks, it would be difficult for the Commission to allow the options to be traded as an index product pursuant to the Phlx's option rules.

⁶ *Id.* The components of the Index are as follows: Ameritech; AT&T; Bell Atlantic; BellSouth; Nynex Corporation ("Nynex"); Pacific Telesis ("PacTel"); SBC Communications, Inc. ("SBC"); and US West.

⁷ See Phlx Rule 1009A for options eligibility standards.

⁸ Amendment No. 1 and telephone conversation between Michele R. Weisbaum, Associate General Counsel, Phlx and John Ayanian, Special Counsel, Division, Commission, on April 1, 1997.

⁹ Currently, the largest component of the revised Index is AT&T representing 23.02% of the Index weight. See note 13, *infra*.

¹⁰ 15 U.S.C. 78f(b).

and Amendment No. 1 thereto, prior to the thirtieth day after the date of publication of the notices of filing thereof in the **Federal Register**. First, the Commission believes that it is in the public interest to allow the Exchange to continue listing series of options overlying the adjusted Index in a timely, efficient and consistent manner. Second, the Commission notes that it previously has approved a proposal to trade options overlying the Phlx Super Cap Index that consists of five highly-capitalized, actively-traded component stocks with no single security dominating the index weight.¹⁵ Finally, the proposal has been subject to a substantial portion of the 21-day notice and comment period and no comments have been received. Therefore, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve the proposed rule, and Amendment No. 1 thereto, on an accelerated basis.

III. 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 Phlx. All submissions should refer to File No. SR-Phlx-97-12, and should be submitted by May 1, 1997.

It therefore is ordered, pursuant to Section 19(b)(2) of the Act¹⁶ that the proposed rule change (SR-Phlx-97-12) is approved, as amended, on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁷

¹⁵ Securities Exchange Act Release No. 36369 (October 13, 1995), 60 FR 54274.

¹⁶ 15 U.S.C. 78s(b)(2).

¹⁷ 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-9203 Filed 4-9-97; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Spencer and Dubois Counties; Indiana

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared for a proposed 36 kilometer (22 mile) realignment of US 231.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas N. Head, Program Operations Engineer, Federal Highway Administration, 575 N. Pennsylvania Street, Room 254, Indianapolis, Indiana 46204, Telephone: (317) 226-7487, Fax: 226-7341.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Indiana Department of Transportation will prepare an EIS for the proposed reconstruction and upgrading of US 231 on new alignment in Spencer and Dubois counties, Indiana. This 36 kilometer (22 mile) corridor would connect the new bridge over the Ohio river near Rockport, being built by the Kentucky Transportation Cabinet, with I-64. Construction of this project is considered necessary to provide a link between the new Ohio River bridge and the interstate system in Indiana to support the National Highway System, of which US 231 is a part.

Alternatives under consideration include (1) taking no action; (2) applying low-cost Transportation System Management (TSM) techniques, (3) making isolated improvements to improve traffic flow on US 231, and (4) constructing a four-lane divided roadway on new alignment. TSM techniques include changes in signalization, minor lane additions and geometric improvements, and other relatively low cost changes that facilitate the flow of traffic. TSM techniques emphasize maximum use of existing facilities. More extensive capital improvements can also be made that expand roadway capacity, such as adding lanes to change the typical section of a road, eliminating driveway entrances by use of frontage roads, bringing shoulder widths up to current standards and similar measures.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed interest in this project. No additional formal scoping is planned. Informational public meetings were held May 30, 1993 and June 22, 1993. A public hearing will be held. Public notice will be given of the time and place of the hearing. The Draft EIS will be made available for public and agency review and comment.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding inter-governmental consultation on Federal programs and activities apply to this program)

Mr. Douglas N. Head,

Program Operations Engineer, Indianapolis, Indiana.

[FR Doc. 97-9214 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RSGM-96-3]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

SMS Rail Service Incorporated

SMS Rail Service Incorporated seeks a permanent waiver of compliance from certain sections of 49 CFR Part 223.11 (a), (b), and (c), Safety Glazing Standards, for three locomotives, SLRS 1293, SLRS 1494, and SLRS 300. Locomotive SLRS 300 has broken glazing in several locations.

Interested parties are invited to participate in these proceedings by submitting written views, data, or

comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RSGM-96-3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on March 31, 1997.

Phil Olekszyk,

Deputy Associate Administrator for Safety Compliance and Program Implementation.
[FR Doc. 97-9201 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements to Support the Air Bag Safety Campaign

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Extension of the due date for submission of applications in response to agency announcement published February 19, 1997, 62 FR 7495. Reference DTNH22-97-H-05090.

SUMMARY: Due to lack of sufficient response from the necessary number of national organizations as a result of the original announcement, the decision has been made to extend the due date for submission of applications from March 21, 1997 to April 21, 1997. Those applicants which met the original due date are also given the opportunity to utilize the additional time to refine/revise and resubmit their applications if they so desire.

Your attention is drawn to the Eligibility Requirements in the original

announcement wherein it states that in order to be eligible to participate in this program, you must be a national nonprofit organization which: (1) Has an established membership structure with regional, state or local chapters throughout the country having a mechanism for disseminating and coordinating project efforts at the local level; and, (2) have in place a schedule of regular/national/regional or state conferences or conventions, and one or more communication mechanisms that can be used for motivating members and other constituents to become involved in occupant protection at the state and local level.

Dated: April 1, 1997.

James H. Hedlund,

Associate Administrator for Traffic Safety Programs.

[FR Doc. 97-9154 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

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 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 number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW, Washington, DC.

Applica- tion No.	Applicant	Renewal of ex- emption
11244-M	Aerospace Design & Development, Inc. Niwot, CO (See Footnote 1)	11244
11344-M	Dupont SHE Excellence Center, Wilmington, DE (See Footnote 2)	11344
11725-M	Swales Aerospace, Beltsville, MD (See Footnote 3)	11725

¹To modify the exemption to provide for additional designed non-DOT specification cylinder for use in transporting air, refrigerated liquid.

²To modify the exemption to provide for Methyl acrylate, inhibited, Class 3, as an additional class of material.

³To modify the exemption to provide for higher capacity heat pipes by increasing the size of end caps and fill tubes and weight of anhydrous ammonia, Division 2.3.

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 April 4, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials, Exemptions and Approvals.

[FR Doc. 97-9166 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

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 May 12, 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 April 4, 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
11783-N ...	11783-N	Peoples Natural Gas, Rosemount, MN.	49 CFR 173.242	To authorize the one-time transportation of natural gas odorant in portable tanks comparable to DOT Specification 51. (mode 1)
11849-N ...	RSPA-97-2307	Boeing North American, Inc., Downey, CA.	49 CFR 173.302, 306, 173.304, 173.314, 173.315, 173.421, 173.62.	To authorize the transportation in commerce of a P91-ARGOS satellite, containing eight experiments containing several hazardous materials, which will be attached to a transport dolly with an aluminum cover enclosure. (mode 1)
11850-N ...	RSPA-97-2308	Air Transportation Association & Members, Washington, DC.	49 CFR 173.34(e) ..	To provide for an alternative testing method for DOT-Specification 4DA and 4DS cylinders used as components of aircraft systems. (modes 4, 5)
11852-N ...	RSPA-97-2309	McKenzie Tank Lines, Inc., Tallahassee, FL.	49 CFR 173.315(A) Note 24.	To authorize the transportation in commerce of methylamine, anhydrous, Division 2.1, in MC330 and 331 cargo tanks and the manufacture, mark and sale of new 331 cargo tanks that do not meet the container specification requirements. (mode 1)
11859-N ...	RSPA-97-2310	Carleton Technologies Inc., Orchard Park, NY.	49 CFR 178.65	To authorize the manufacture, mark and sale of non-DOT specification cylinders as part of a gas bottle system consisting of two cylindrical/spherical halves fabricated from stainless steel for use in transporting Division 1.4S material. (modes 1, 2, 3)
11860-N ...	RSPA-97-2311	GATX, Chicago, IL	49 CFR 173.31(b)(3).	To authorize the transportation in commerce of DOT111A60ALW-2 aluminum tank cars without head shields to be used in transporting hydrogen peroxide, Division 5.1. (mode 2)

[FR Doc. 97-9167 Filed 4-9-97; 8:45 am]

BILLING CODE 4910-60-M

Final Rule

Thursday
April 10, 1997

Part II

Department of Housing and Urban Development

NOFA Mainstream Housing Opportunities
for Persons With Disabilities (Mainstream
Program), Fiscal Year 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4224-N-01]

NOFA for Mainstream Housing Opportunities for Persons With Disabilities (Mainstream Program), Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA) for FY 1997.

SUMMARY: This notice announces the availability in FY 1997 of up to \$48.5 million in five-year budget authority for Section 8 rental vouchers and certificates for persons with disabilities. This funding will support approximately 2,000 rental vouchers or certificates. Housing agencies (HAs), including Indian Housing Authorities, are invited to respond to this NOFA.

The purpose of the Mainstream Program is to provide rental vouchers or certificates to enable persons with disabilities to rent affordable private housing.

DATES: The application deadline for the Mainstream Program NOFA is June 9, 1997, 3:00 p.m., local HUD Office time.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing HAs, HUD will treat as ineligible for consideration any application that is not received before the application deadline. The \$48.5 million in funding available under this NOFA will be used to approve HA applications. HUD will fund by lottery if it receives approvable applications for more funds than are available under this NOFA.

Applicants should submit their materials as early as possible to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent by facsimile (FAX) transmission.

ADDRESSES: The local HUD State or Area Office, Attention: Director, Office of Public Housing, is the official place of receipt for all applications, except applications from Indian Housing Authorities (IHAs). HUD's local Office of Native American Programs, Attention: Administrator, Office of Native American Programs, is the place of official receipt for IHA applications. For ease of reference, the term "HUD Office" will be used throughout this NOFA to mean the HUD State Office, and HUD Area Office, and HUD's local Office of Native American Programs. If

a particular type of HUD Office needs to be identified, e.g., HUD's local Office of Native American Programs, the appropriate office will be used.

FOR FURTHER INFORMATION CONTACT:

Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone number (202) 708-0477 (this is not a toll-free number). For hearing-and speech-impaired persons, this number may be accessed by TTY (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The Section 8 information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), and assigned OMB control number 2577-0169. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Promoting Comprehensive Approaches to Housing and Community Development

HUD wants to promote comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in this fiscal year. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

Elsewhere in today's **Federal Register**, the Department has published a related NOFA concerning Rental Assistance for Persons with Disabilities in Support of

Designated Housing Allocation Plans. On April 8, 1997, the Department published in the **Federal Register** the NOFA for Continuum of Care Assistance. Other related NOFAs the Department expects to publish in the **Federal Register** within the next few weeks include: the Family Unification NOFA, the Housing Opportunities for Persons with Aids NOFA, the Supportive Housing for the Elderly NOFA, and the Supportive Housing for Persons with Disabilities NOFA.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants of HUD's NOFA activity. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at <http://www.hud.gov.nofas.html>. Additional steps to better coordinate HUD's NOFAs are being considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

Family Self-Sufficiency (FSS) Program Requirement

Unless specifically exempted by HUD, all rental certificate funding reserved in FY 1997 (except funding for renewals or amendments) will be used to establish or contribute to the minimum size of an HA's FSS program.

A. Purpose and Substantive Description of Mainstream Program

(1) Authority

Legislative authority for the \$48.5 million in five-year budget authority available under this NOFA (general use rental assistance for persons with disabilities) is found in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. No. 104-204, 110 Stat. 2874, at 2882, approved September 26, 1996) which states that the Secretary may designate up to 25 percent of the amounts earmarked for Section 811 of the National Affordable Housing Act of 1990 (42 U.S.C. 8013) for tenant-based assistance, as authorized under that section.

(2) Background

The Secretary has established a Mainstream Housing Opportunities for Persons with Disabilities Program (Mainstream Program) to provide rental voucher or certificates to enable persons with disabilities to rent affordable private housing of their choice.

The Mainstream Program will assist HAs in providing Section 8 rental vouchers and certificates to a segment of the population recognized by HUD's housing research as having one of the worst case housing needs of any group in the United States; i.e., very low-income households with adults with disabilities. In addition, the Mainstream Program will assist persons with disabilities who often face difficulties in locating suitable and accessible housing on the private market.

(a) Application Funding. HUD will award funding for rental vouchers or certificates under the Mainstream Program to HAs that submit an application for rental assistance for persons with disabilities, and that currently administer a Section 8 rental voucher or certificate program. HUD will make available approximately 2,000 Section 8 rental vouchers and certificates for HAs to increase the supply of mainstream housing opportunities available to persons with disabilities. HUD will select HA applications for funding by lottery in the event approvable applications are received for more funding than is available under this NOFA.

(b) Limit on Rental Assistance Requested. An eligible HA may apply for up to 100 rental vouchers or certificates.

(3) Guidelines

(a) Definitions

Disabled Family. A family whose head, spouse or sole member is a person with disabilities. The term "disabled family" may include two or more persons with disabilities living together, and one or more persons with disabilities living with one or more live-in aides. A disabled family may include a person with disabilities who is elderly.

Person with disabilities. A person who—

(a) Has a disability as defined in section 223 of the Social Security Act (42 U.S.C. 423), or

(b) Is determined to have a physical, mental or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(c) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

The term "person with disabilities" does not exclude persons who have the

disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome (HIV).

Section 8 search assistance.

Assistance to increase access by program participants to housing units in a variety of neighborhoods (including areas with low poverty concentrations) and to locate and obtain units suited to their needs.

(b) Eligible HAs. HAs that currently administer a Section 8 rental voucher or certificate program may apply for funding under this NOFA.

Some housing agencies currently administering the Section 8 rental voucher and certificate programs have, at the time of publication of this NOFA, major program management findings that are open and unresolved or other significant program compliance problems (e.g., HA has not implemented mandatory FSS Program). HUD will not accept applications for additional funding from these HAs as contract administrators if, on the application deadline date, the findings are not closed to HUD's satisfaction. If the HA wants to apply for funding under this NOFA, the HA must submit an application that designates another housing agency, nonprofit agency, or contractor, that is acceptable to HUD. The HA's application must include an agreement by the other housing agency, nonprofit agency, or contractor to administer the new funding increment on behalf of the HA, and a statement that outlines the steps the HA is taking to resolve the program findings. Immediately after the publication of this NOFA, the Office of Public Housing in the local HUD Office will notify, in writing, those HAs that are not eligible to apply without such an agreement. The HA may appeal the decision, if HUD has mistakenly classified the HA as having outstanding management or compliance problems. Any appeal must be accompanied by conclusive evidence of HUD's error and must be received prior to the application deadline. HUD will reject applications submitted by these HAs without an agreement from another housing agency, nonprofit agency, or contractor, approved by HUD, to administer the new funding increment on behalf of the HA.

Only a disabled family may receive a rental voucher or certificate awarded under the mainstream program. Applicants with disabilities will be selected from the HA's Section 8 waiting list.

(c) Eligible Participants

Only a disabled family may receive a rental voucher or certificate awarded under the mainstream program. Applicants with disabilities will be selected from the HA's Section 8 waiting list.

(d) Rental Voucher and Certificate Assistance

(i) Section 8 regulations. HAs must administer the Mainstream Program in accordance with HUD regulations and requirements governing the Section 8 rental voucher and certificate programs.

(ii) Section 8 admissions requirements. Section 8 assistance must be provided to eligible applicants in conformity with regulations and requirements governing the Section 8 program and the HA's administrative plan.

If there is ever an insufficient pool of disabled families on the HA Section 8 waiting list, an HA shall conduct outreach to encourage eligible persons to apply for this special allocation of rental vouchers and certificates. Outreach may include contacting independent living centers, advocacy organizations for persons with disabilities, and medical, mental health, and social service providers for referrals of persons receiving such services who would benefit from Section 8 assistance. If the HA's Section 8 waiting list is closed, and if the HA has insufficient applicants on its Section 8 waiting list to use all awarded rental vouchers and certificates under this NOFA, the HA shall open the waiting list to disabled families.

(iii) Turnover. When a rental voucher or certificate under this NOFA becomes available for reissue (e.g., the family initially selected for the program drops out of the program or is unsuccessful in the search for a unit), the rental assistance may be used only for another individual or family eligible for assistance under this NOFA for five years from the date the rental assistance is placed under an annual contributions contract (ACC).

(e) HA Responsibilities

In addition to HA responsibilities under the Section 8 rental voucher and certificate programs and HUD regulations concerning nondiscrimination based on disability (24 CFR 8.28) and to affirmatively further fair housing, HAs that receive rental voucher or certificate funding shall:

(i) Where requested by an individual, assist program participants to gain access to supportive services available within the community but not require eligible applicants or participants to accept supportive services as a condition of participation or continued occupancy in the program.

(ii) Identify public and private funding sources to assist participants in covering the costs of modifications that

need to be made to their units as a reasonable accommodation for their disabilities.

(iii) Not deny persons who qualify for rental assistance under this program other housing opportunities, or otherwise restrict access to HA programs to eligible applicants who choose not to participate.

(iv) Provide Section 8 search assistance.

B. Mainstream Program Allocation Amounts

This NOFA announces the availability of up to \$48.5 million (approximately) of five-year budget authority that will support about 2,000 rental vouchers or certificates for rental assistance for disabled families.

C. Application Submission Requirements

(1) Form HUD-52515

All HAs must complete and submit form HUD-52515, Funding Application, for the Section 8 rental certificate program (dated January 1996). This form was recently revised to include all necessary certifications for Fair Housing, Drug Free Workplace and Lobbying Activities; therefore, HAs can complete and sign the new form HUD-52515 to provide these required certifications. An application must include the information in Section C, Average Monthly Adjusted Income, of form HUD-52515 in order for HUD to calculate the amount of Section 8 budget authority necessary to fund the requested number of units. Copies of form HUD-52515 may be obtained from the local HUD Office or may be downloaded from the HUD Home Page site on the Internet's world wide web (<http://www.hud.gov>).

A regional (multicounty) or State HA may submit a separate application for a specific county or municipality for which it administers a HUD-approved residency preference in addition to its rental voucher or certificate program. If the regional or State HA has no such specific county or municipality for which it wants to apply separately for rental assistance under this NOFA, the HA may only submit a single application.

(2) Local Government Comments

Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) requires that HUD independently determine that there is a need for the housing assistance requested in applications and solicit and consider comments relevant to this determination from the chief executive

officer of the unit of general local government. The HUD Office will obtain Section 213 comments from the unit of general local government in accordance with 24 CFR part 791, subpart C, Applications for Housing Assistance in Areas Without Housing Assistance Plans. Comments submitted by the unit of general local government must be considered before an application can be approved.

For purposes of expediting the application process, the HA needs to encourage the chief executive officer of the unit of general local government to submit a letter with the HA application commenting on the HA application in accordance with Section 213. Because HUD cannot approve an application until the 30-day comment period is closed, the Section 213 letter needs to not only comment on the application, but also state that HUD may consider the letter to be the final comments and that no additional comments will be forthcoming from the unit of general local government.

(3) Letter of Intent and Narrative

All the items in this Section must be included in the application submitted to the HUD Office. The HA must state in its cover letter to the application whether it will accept a reduction in the number of rental vouchers or certificates, and the minimum number of rental vouchers or certificates it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of rental vouchers or certificates requested. The maximum number of rental vouchers or certificates that an HA may apply for under this NOFA is limited to 100, or such smaller number that the HA can lease within one year. A regional or State HA may not apply for more than 100 rental vouchers or certificates for each of the specific communities in which it administers a residency preference. If the regional or State HA has no such specific communities for which it wishes to apply for rental assistance, the HA shall be limited to one application for up to a maximum of 100 rental vouchers or certificates.

(4) Description of Need for Mainstream Program Rental Assistance

The application must demonstrate a need for Mainstream Program rental vouchers or certificates by providing information documenting that the demand for housing for persons with disabilities would equal or exceed the requested number of rental vouchers or certificates (not to exceed a maximum of 100). The HA must assess and document

the housing need for persons with disabilities using a range of sources including, but not limited to: census data, information from the HA's waiting list (both public housing and Section 8), statistics on recent public housing admissions and rental certificate and voucher use, data from local advocacy groups and local public and private service agencies familiar with the housing needs of persons with disabilities, and pertinent information from the Consolidated Plan applicable to the HA's jurisdiction. (See 24 CFR 91.205(d).)

(5) Mainstream Program Operating Plan

The application must include a description of an adequate plan for operating a program to serve eligible persons with disabilities, including:

(a) A description of how the HA will carry out its responsibilities under 24 CFR 8.28 to assist recipients in locating units with needed accessibility features; and

(b) A description of how the HA will identify private or public funding sources to help participants cover the costs of modifications that need to be made to their units as reasonable accommodations to their disabilities.

D. Corrections to Deficient Mainstream Program Applications

(1) Acceptable Applications

To be eligible for processing, an application must be received by the appropriate HUD Office no later than the date and time specified in this NOFA. The HUD Office will initially screen all applications and notify HAs of technical deficiencies by letter.

If an application has technical deficiencies, the HA will have 14 calendar days from the date of the issuance of the HUD notification letter to submit the missing or corrected information to the HUD Office before the application can be considered for further processing by HUD. Curable technical deficiencies relate only to items that do not improve the substantive quality of the application.

All HAs must submit corrections within 14 calendar days from the date of the HUD letter notifying the applicant of any such deficiency. Information received after 3 p.m. local time (i.e., the time in the appropriate HUD Office), of the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(2) Unacceptable Applications

(a) After the 14-calendar day technical deficiency correction period, the HUD

Office will disapprove HA applications that it determines are not acceptable for processing. The HUD Office notification of rejection letter must state the basis for the decision.

(b) Applications that fall into any of the following categories will not be processed:

(i) There is a pending civil rights suit against the HA instituted by the Department of Justice or there is a pending administrative action for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act).

(ii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident selection and assignment plan or compliance agreement designed to correct the areas of noncompliance.

(iii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has denied application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(v) The HA has serious unaddressed, outstanding Inspector General audit findings, Fair Housing and Equal Opportunity monitoring and compliance review findings, or HUD management review findings for its rental voucher or rental certificate programs. HA has serious underutilization of rental vouchers or certificates not attributable to the three month statutory delay for the reissuance of rental vouchers and certificates. The only exception to this category is if the HA has been identified under the policy established in section A.(3)(b) of this NOFA and the HA makes application with a designated contract administrator.

(vi) The HA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the HA to administer the rental vouchers or certificates.

(vii) An HA application that does not comply with the requirements of 24 CFR

982.102 and this NOFA after the expiration of the 14-calendar day technical deficiency correction period will be rejected from processing.

(viii) An HA application submitted after the deadline date.

E. Mainstream Program Application Selection Process

After the HUD Office has screened HA applications and disapproved any applications found unacceptable for further processing, the HUD Office will review all acceptable applications to ensure that they are technically adequate and responsive to the requirements of the NOFA. Each HUD Office will send to HUD Headquarters the following information on each application that is found technically adequate and responsive:

(a) Name and address of the HA;

(b) HUD Office contact person and telephone number;

(c) The completed fund reservation worksheet, indicating the number of Section 8 rental vouchers or certificates requested in the HA application and approved by the HUD Office during the course of its review, and the corresponding budget authority.

Headquarters will fund all applications from HAs that are recommended for funding by the HUD Offices, unless HUD receives approvable applications for more funds than are available. If HUD receives approvable applications for more funds than are available, HUD will select applicants to be funded by lottery. All HAs identified by the HUD Offices as having submitted technically adequate and responsive applications will be included in the lottery. As HAs are selected, the cost of funding the applications will be subtracted from the funds available. In order to achieve geographic diversity, HUD Headquarters will limit the number of applications selected for funding from any state to 10 percent of the budget authority available for the general use Mainstream Program. However, if establishing this geographic limit would result in unreserved budget authority, HUD may modify this limit to assure that all available funds are used.

Applications will be funded for the total number of units requested by the HA and approved by the HUD Office (not to exceed 100 units) in accordance with the NOFA. However, when remaining budget authority is insufficient to fund the last selected HA application in full, HUD Headquarters will fund that application to the extent of the funding available, unless the HA's application indicates it will only accept a higher number of units. In that event, the next selected application shall be

one which has indicated a willingness to accept the lesser amount of funding for units available.

F. Other Matters

Catalog of Federal Domestic Assistance

The Federal Domestic Assistance numbers for this program are: 14.855 and 14.857.

Environmental Impact

This NOFA provides funding under, and does not alter environmental requirements of, 24 CFR part 982. This NOFA provides funding only for tenant-based assistance, which is a categorical exclusion not subject to the individual environmental compliance requirements cited in 24 CFR 50.4. The regulations referred to above, therefore, do not contain environmental review requirements. Accordingly, under 24 CFR 50.19 (c)(5) this NOFA is categorically excluded from environmental review requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of the Department, the States, and local governments, including HAs.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter program requirements concerning family eligibility.

Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of

provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

a. Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

b. Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 HUD Reform Act

Section 103 of the Department of Housing and Urban Development Reform Act of 1989, and HUD's implementing regulation codified at subpart B of 24 CFR part 4, applies to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995,

Public Law 104-65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted. The certification and the SF-LLL are included in the application package.

The Lobbying Disclosure Act of 1995, Public Law 104-65 (December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: April 7, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97-9333 Filed 4-9-97; 8:45 am]

BILLING CODE 4210-33-P

Federal Register

Thursday
April 10, 1997

Part III

**Department of
Housing and Urban
Development**

**NOFA for Rental Assistance for Persons
With Disabilities in Support of Designated
Housing Allocation Plans and
Establishment of Preferences for Certain
Section 8 Developments; Notice**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**[Docket No. FR-4207-N-01]****NOFA for Rental Assistance for Persons With Disabilities in Support of Designated Housing Allocation Plans and Establishment of Preferences for Certain Section 8 Developments****AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.**ACTION:** Notice of funding availability (NOFA).

SUMMARY: This notice announces the availability of up to \$25 million in one-year budget authority for approximately 4,200 Section 8 rental vouchers and certificates for non-elderly persons with disabilities in support of designated housing allocation plans, and up to \$25 million in one-year budget authority for approximately 4,200 Section 8 rental vouchers and certificates for non-elderly disabled families who are not currently receiving housing assistance in certain Section 8 project-based developments due to the owners establishing preferences for the admission of elderly families. The rental vouchers and certificates will enable persons with disabilities to rent affordable housing.

Housing agencies (HAs), including Indian Housing Authorities (IHA), are invited to respond to this NOFA for funding for rental vouchers and certificates related to preferences for elderly admissions at certain Section 8 project-based developments. PHAs are also invited to respond to this NOFA for funding related to designated housing allocation plans. IHAs, however, may not apply for funding related to designated housing allocation plans, because the requirements of section 7 (42 U.S.C. 1437e) concerning designated housing allocation plans do not apply to IHAs.

Paragraphs A and G of this NOFA address application related information pertinent to preparing and submitting an application related to designated housing allocation plans, or an application related to certain Section 8 project-based developments. Information provided in paragraphs B through F in this NOFA relate solely to applications pertaining to certain Section 8 project-based developments.

DATES: There are no application deadlines for applications submitted in response to this NOFA's requirements pertinent to either designated housing allocation plan, or certain Section 8 developments. Applications may be submitted immediately following the

publication of this NOFA and will continue to be accepted through FY 1998 and beyond or until further notice from HUD that all funds have been obligated. HUD will not accept application materials sent via facsimile (FAX) transmission.

ADDRESSES: a. *Allocation Plans.* The addresses for applications submitted for Section 8 rental vouchers or certificates in connection with allocation plans: HUD Headquarters, Office of Public and Assisted Housing Operations, Room 4206, 451 Seventh Street, S.W., Washington, D.C., 20410; and the local HUD State or Area Office, Attention: Director, Office of Public Housing, are the official places of receipt. A PHA's application (see paragraph C. of NOFA FR-4085-N-01 (61 FR 56090, October 30, 1996), captioned Application Submission Requirements, regarding the multiple components that must comprise an HA's application) should be submitted concurrently to both offices.

b. *Certain Section 8 Projects.* The addresses for applications submitted for Section 8 rental vouchers or certificates in connection with Section 8 project-based developments: HUD Headquarters, Operations Division, Room 4220, 451 Seventh St., S.W., Washington, D.C., 20410; and the local HUD State or Area Office, Attention: Director, Office of Public Housing, is the official place of receipt, except for applications from IHAs. HUD's local Office of Native American Programs, Attention: Administrator, Office of Native American Programs, is the official place of receipt for IHA applications. The application should be submitted concurrently to HUD Headquarters and the appropriate local HUD Office.

For ease of reference, the term "HUD Office" is subsequently used throughout this NOFA to mean the local HUD State Office, local HUD Area Office, and local HUD Office of Native American Programs.

FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Operations Division, Office of Rental Assistance, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000, telephone number (202) 708-0477 (this is not a toll-free number). For hearing-and speech-impaired persons, this number may be accessed via TTY by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act Statement**

The Section 8 information collection requirements contained in this NOFA have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520), and assigned OMB control numbers 2577-0169 and 2577-0192. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in this fiscal year. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

Elsewhere in today's **Federal Register**, the Department has published a related NOFA concerning Mainstream Housing Opportunities for Persons with Disabilities. On April 8, 1997, the Department published in the **Federal Register** the NOFA for Continuum of Care Assistance. Other related NOFAs the Department expects to publish in the **Federal Register** within the next few weeks include: the Family Unification NOFA, the Housing Opportunities for Persons with Aids NOFA, the Supportive Housing for the Elderly NOFA, and the Supportive Housing for Persons with Disabilities NOFA.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants of HUD's NOFA activity. In addition, a complete schedule of NOFAs to be

published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at <http://www.hud.gov.nofas.html>. Additional steps to better coordinate HUD's NOFAs are being considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

Family Self-Sufficiency (FSS) Program Requirement

Unless specifically exempted by HUD, all rental voucher or rental certificate funding (except funding for renewals or amendments) reserved in FY '97, including funding reserved as a result of this NOFA, will be used to establish or increase the minimum size of an HA's FSS program.

A. Authority and Funding

(1) Authority.

Legislative authority to provide Section 8 assistance in support of allocation plans to designate public housing for occupancy by elderly families only, disabled families only, or elderly families and disabled families only (covering the \$25 million available under this NOFA) is found at Section 7 of the U.S. Housing Act of 1937 (42 U.S.C. 1437e). HUD's Fiscal Year 1997 Appropriations Act, Public Law 104-204, approved September 26, 1996 (Appropriations Act), contains language authorizing the use of Section 8 rental voucher and certificate funding for housing agencies to implement allocation plans approved by the Secretary for designated housing. HUD's 1997 Appropriations Act also contains language authorizing the use of Section 8 rental vouchers and certificates by HAs for non-elderly disabled families who are not receiving housing assistance in certain Section 8 project-based developments, in accordance with Section 651 of the Housing and Community Development Act of 1992 where the owners have elected to establish preferences for elderly families (covering the remaining \$25 million of the total of \$50 million available under this NOFA).

(2) Application Funding

a. *Allocation Plans.* HUD will award funding for rental vouchers or certificates to PHAs that submit an allocation plan to designate public housing for occupancy by elderly families only, disabled families only, or disabled and elderly families only, and that also administer a Section 8 rental certificate or rental voucher program.

The \$25 million in funding announced in this NOFA, for Section 8 rental vouchers and certificates for persons with disabilities in support of designated housing allocation plans, is in addition to the \$78.6 million in funding previously made available by the NOFA for Rental Assistance for Persons With Disabilities In Support of Designated Housing Allocation Plans (NOFA FR-4085-N-01) published at 61 FR 56090 on October 30, 1996.

The following requirements of NOFA FR-4085-N-01, except as expressly modified by this NOFA, apply to all applications received after the date of publication of this NOFA, including applications funded from balances remaining from the \$78.6 million initially made available by the NOFA FR-4085-N-01:

Section A.(3) Limit on Rental Assistance Requested;

Section a.(4) Guidelines, except see this NOFA for turnover and HA Responsibilities;

Section C. Application Submission Requirements. Additional submission requirements include:

- The maximum number of rental vouchers or certificates that an HA may apply for related to allocation plans under this NOFA and NOFA FR-4085-N-01 is limited to 200. The PHA must indicate whether it will accept a reduction in the number of rental vouchers or certificates, and must state the minimum number of rental vouchers or certificates it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of rental vouchers or certificates requested.

- Also, any PHA wishing to rely on an allocation plan previously approved by HUD (i.e., not submitted as part of a PHA's application in response to NOFA FR-4085-N-01) will be required to resubmit the HUD-approved allocation plan as part of its application, along with updated needs data indicating why the PHA does not have the appropriate resources to carry out the previously approved or submitted plan, identifying the new resources (Section 8 rental vouchers or certificates) needed for persons with disabilities and disabled families, and addressing the housing needs in its comprehensive plan.

- Applicants who choose to apply must submit an allocation plan in conformity with the requirements in section 10(a) of the Housing Opportunity Program Extension Act of 1996, Public Law 104-120, approved March 28, 1996, as explained in Notice PIH 97-12 (HA), Requirements for Designation of Public Housing Projects.

Section D. Correction of Deficient Applications. Section D.(2)(b)(viii) lease-up rate threshold does not apply to applications processed under this NOFA. The statutorily-required three month delay in the reissuance of turnover rental vouchers and certificates has had an adverse impact on the lease-up rate of HAs, which makes it unfair to apply this threshold; and

Section E. Application Selection Process, except section E.(2), Funding. HUD intends to fund all approvable applications for designated housing allocation plans on a first-come, first-served basis (not to exceed a maximum of 200 rental vouchers or certificates for any individual application). Applications will be funded for the total number of units requested by the PHA and approved by the HUD Office (not to exceed 200 units) in accordance with the NOFA. However, when remaining budget authority is insufficient to fund the last selected PHA application in full, HUD Headquarters will fund that application to the extent of the funding available unless the PHA's application indicates it will only accept a higher number of units. In that event, the next selected application shall be one which has indicated a willingness to accept the lesser amount of funding for units available.

The \$25 million made available by this NOFA is one-year budget authority which will support approximately 4,200 rental vouchers and certificates in connection with approvable PHA allocation plans. The funding under this NOFA will be obligated only after the \$58.3 million of five-year budget authority and the \$20.3 million of two-year budget authority provided under NOFA FR-4085-N-01 are obligated. The rental vouchers and certificates will assist PHAs in providing sufficient alternative resources to meet the housing needs of those persons with disabilities who would have been housed by the PHA if occupancy in the designated public housing project were not restricted to elderly households and assist PHAs that wish to continue to designate their buildings as "mixed elderly and disabled buildings" but can demonstrate a need for alternative resources for persons with disabilities that is consistent with the jurisdiction's Consolidated Plan and the low-income housing needs of the jurisdiction.

b. *Certain Section 8 Projects.* HUD also will award \$25 million in one-year budget authority for approximately 4,200 rental vouchers and certificates to HAs that submit an application identifying the number of non-elderly disabled families who are not receiving housing assistance in certain Section 8

project-based developments where the owners have elected to establish preferences for elderly families. HUD intends to fund all approvable applications for these funds on a first-come, first-served basis.

c. *Redistribution of Funds.* In the event that approvable applications are received for more funding than the \$25 million being made available in this NOFA related to certain Section 8 projects, funds will be transferred from the \$25 million made available under this NOFA for applications related to allocation plans. In the event that approvable applications are received for more than the combined funding made available under this NOFA and NOFA FR-4085-N-01 for applications related to allocation plans, funds will be transferred from the \$25 million being made available in this NOFA related to certain Section 8 projects.

d. *Turnover.* When a rental voucher or rental certificate under this program becomes available for reissue (e.g., the individual or family initially selected for the program drops out of the program or is unsuccessful in the search for a unit), the rental assistance may be used only for another individual or family eligible for assistance under this program for five years, subject to appropriations for renewal funding, from the date the funding for the rental assistance was added to the ACC.

(e) *HA Responsibilities:*

In addition to HA responsibilities under the Section 8 programs and under HUD regulations for nondiscrimination based on disability (24 CFR 8.28) and to affirmatively further fair housing, HAs that receive rental voucher or certificate funding must:

(i) Where requested by the individual, assist program participants to gain access to supportive services available within the community but not require eligible applicants or participants to accept supportive services as a condition of participation or continued occupancy in the program;

(ii) Identify public and private funding sources to assist participants in covering the costs of modifications that need to be made to their units needed as a reasonable accommodation for their disabilities;

(iii) Not deny persons who qualify for rental assistance under this program other housing opportunities, or otherwise restrict access to HA programs to eligible applicants who choose not to participate; and

(iv) Provide assistance to increase access by program participants to housing units in a variety of neighborhoods (including areas with low poverty concentrations) and to

locate and obtain a unit suited to their needs (Section 8 search assistance).

B. Background, Purpose and Substantive Description for Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(1) *Background*

HUD's Fiscal Year 1997 Appropriations Act provided that funding for Section 8 rental vouchers and certificates would be made available to nonelderly disabled families affected by the establishment of preferences in accordance with Section 651 of the Housing and Community Development Act of 1992 (42 U.S.C. 13611). Section 651 of the 1992 Act allowed owners of the following Section 8 developments (limited to only such developments originally designed primarily for occupancy by elderly families) to provide preferences to elderly families in selecting tenants for available assisted units in those projects:

(a) Section 8 New Construction Program, 24 CFR Part 880;

(b) Section 8 Substantial Rehabilitation Program, 24 CFR Part 881;

(c) State Housing Agencies Program (insofar as involving new construction and substantial rehabilitation), 24 CFR Part 883;

(d) New Construction Set-Aside for Section 515 Rural Rental Housing Projects Program, 24 CFR Part 884; and

(e) Section 8 Housing Assistance Program for the Disposition of HUD-Owned Projects (insofar as involving substantial rehabilitation), 24 CFR Part 886, subpart C.

(2) *Purpose*

The rental vouchers and certificates that HAs may apply for under this NOFA will assist these agencies in providing sufficient alternative resources to meet the housing needs of those non-elderly disabled families who would have been housed if the owners of the Section 8 project-based developments identified in paragraph B.(1) above had not elected to provide preferences to elderly families in selecting tenants for vacancies in assisted units in those developments.

(3) *Limit on Rental Assistance Requested*

An HA may apply only for the number of units needed to house those non-elderly disabled families who are on the waiting list of an owner of a Section 8 project-based development, identified in paragraph B.(1) above

where the owner elected to provide preferences to elderly families and to house other non-elderly disabled families residing in the community who would qualify for one- or zero-bedroom units.

(4) *Guidelines*

(a) *Definitions*

Elderly Family. A Family whose head of household, spouse, or sole member is 62 years or older.

Non-elderly Disabled Family. A family who is not elderly, and whose head, spouse, or sole member is a person with disabilities. The term "non-elderly disabled family" may include two or more such persons with disabilities living together, and one or more such persons with disabilities living with one or more persons who are determined to be essential to the care and well-being of the person or persons with disabilities.

Person with Disabilities. A person who:

(a) Has a disability as defined in Section 223 of the Social Security Act (42 U.S.C. 423), or

(b) Is determined to have a physical, mental or emotional impairment that:

(i) Is expected to be of long-continued and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that such ability could be improved by more suitable housing conditions, or

(c) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

The term "person with disabilities" does not exclude persons who have the disease of acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome (HIV).

(b) *Eligible HAs*

HAs that submit an application for Section 8 rental vouchers or certificates reflective of the need for housing by non-elderly disabled families (in connection with the establishment of preferences by owners for the admission of elderly families to certain Section 8 project-based developments), and also administer a Section 8 rental certificate and/or rental voucher program.

Some HAs currently administering the Section 8 rental certificate and voucher programs have, at the time of publication of this NOFA, major program management findings that are open and unresolved or other significant

program compliance problems (e.g., HA has not implemented mandatory FSS Program). HUD will not accept applications for funding from these HAs as contract administrators if, on the application deadline, the findings are not closed to HUD's satisfaction. If these HAs want to apply under this NOFA, the HA must submit an application that designates another housing agency, non-profit agency, or contractor that is acceptable to HUD and includes an agreement with the other housing agency or contractor to administer the new funding increment on behalf of the HA. The Office of Public Housing, for PHAs, and the Office of Native American Programs, for IHAs, in the local HUD Office will notify immediately after publication of this NOFA, those PHAs and IHAs that are not eligible to apply. Applications submitted by these HAs without an agreement from another housing agency or contractor, approved by HUD, to serve as contract administrator will be rejected.

(c) Eligible Participants

Eligible participants include non-elderly disabled families who were on the waiting list (at the time of application) of a covered development listed in paragraph B.(1), where the owner had exercised a preference for the admission of elderly families when the HA received the names of these families from the management of this development(s) for purposes of requesting either Section 8 rental certificates or vouchers in response to this NOFA. These non-elderly disabled families need not be listed on the HA's Section 8 waiting list in order to be offered and receive Section 8 rental assistance; i.e., it is sufficient that their names are on the waiting list for a covered Section 8 development at the time their names are provided to the HA by the owner. Eligible participants also include other non-elderly disabled families residing in the community who would qualify for a one- or zero-bedroom unit.

(d) Rental Voucher and Certificate Assistance

(i) Section 8 regulations. HAs must administer the Section 8 assistance in accordance with HUD regulations governing the Section 8 rental voucher and certificate programs.

(ii) Section 8 admission requirements. Section 8 assistance must be provided to eligible applicants in conformity with applicable rules governing the Section 8 program, and in accordance with the HA's administrative plan.

(e) Turnover

When a rental voucher or rental certificate issued in support of the program becomes available for reissue (e.g., the individual or family initially selected for the program drops out of the program or is unsuccessful in the search for a unit), the rental assistance may be used only for another individual or family eligible for assistance in support of the program for five years, subject to appropriations for renewal funding, from the date the funding for the rental assistance was added to the ACC.

(f) HA Responsibilities

In addition to HA responsibilities under the Section 8 programs and under HUD regulations for nondiscrimination based on disability (24 CFR 8.28) and to affirmatively further fair housing, HAs that receive rental voucher or certificate funding must:

(i) Where requested by the individual, assist program participants to gain access to supportive services available within the community but not require eligible applicants or participants to accept supportive services as a condition of participation or continued occupancy in the program;

(ii) Identify public and private funding sources to assist participants in covering the costs of modifications that need to be made to their units needed as a reasonable accommodation for their disabilities;

(iii) Not deny persons who qualify for rental assistance under this program other housing opportunities, or otherwise restrict access to HA programs to eligible applicants who choose not to participate; and

(iv) Provide assistance to increase access by program participants to housing units in a variety of neighborhoods (including areas with low poverty concentrations) and to locate and obtain a unit suited to their needs (Section 8 search assistance).

C. Allocation Amount for Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

This NOFA announces the availability of up to \$25 million (approximately) of one-year budget authority that will support about 4,200 Section 8 rental vouchers or certificates. HAs are provided with the opportunity to apply for rental vouchers or certificates in conjunction with the submission of an application to provide rental assistance to non-elderly disabled families from the waiting list of certain Section 8 project-based developments (see paragraph B.(1)) where the

developments were originally designed primarily for the occupancy of elderly families, and where the owners elected to provide preferences to elderly families in selecting tenants for available assisted units in the developments and to house other non-elderly disabled families residing in the community who would qualify for one- or zero-bedroom units.

D. Application Submission Requirements for Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(1) Form HUD-52515

All HAs must complete form HUD-52515, Funding Application, for the Section 8 rental certificate and rental voucher programs (dated January 1996). This form includes all necessary certifications for Fair Housing, Drug Free Workplace, and Lobbying Activities; therefore, HAs can complete and sign the new form HUD-52515 to meet the requirements of these certifications. An application must include the information in Section C, Average Monthly Adjusted Income, of form HUD-52515 in order for HUD to calculate the amount of Section 8 budget authority necessary to fund the requested number of units. Copies of form HUD-52515 may be obtained from the local HUD Office or may be downloaded from the HUD Home Page on the Internet's world wide web (<http://www.hud.gov>).

(2) Local Government Comments

Section 213 of the Housing and Community Development Act of 1974 (42 U.S.C. 1439) requires that HUD independently determine that there is a need for the housing assistance requested in applications and solicit and consider comments relevant to this determination from the chief executive officer of the unit of general local government. The HUD Office will obtain section 213 comments from the unit of general local government in accordance with 24 CFR part 791, subpart C, Applications for Housing Assistance in Areas Without Housing Assistance Plans. Comments submitted by the unit of general local government must be considered before an application can be approved.

For purposes of expediting the application process, the HA needs to encourage the chief executive officer of the unit of general local government to submit a letter with the application commenting on the HA's application in accordance with section 213. Because HUD cannot approve an application until the 30-day comment period is

closed, the section 213 letter should not only comment on the application, but also state that HUD may consider the letter to be the final comments and that no additional comments will be forthcoming from the unit of general local government.

(3) Letter of Intent and Narrative

All the items in this section must be included in the application submitted to the HUD Office. The HA must state in its cover letter to the application whether it will accept a reduction in the number of rental certificates or rental vouchers and the minimum number of rental certificates or rental vouchers it will accept, since the funding is limited and HUD may only have enough funds to approve a smaller amount than the number of rental certificates or rental vouchers requested.

(4) Certification, Waiting List Information and Other Non-Elderly Disabled Families Residing in the Community

In order to support the requested number of rental vouchers or certificates being requested on the form HUD-52515, the HA's application must include a certification statement from the owner of a covered development(s) (see paragraph B.(1)), that the development is a covered development, it was developed primarily for occupancy by the elderly, the owner has established preferences for the admission of elderly families and indicating the number of non-elderly disabled families on the Owner's waiting list for the development(s). HAs may contact the local HUD State or Area Office's Director, Multifamily Division, to get the addresses and telephone numbers of the developments falling under the programs listed in paragraph B.(1). The HA will then need to contact the management/owners of these developments within their jurisdiction to determine, in each case, if the development was originally designed primarily for occupancy by elderly families and if the owner has established a preference for the admission of elderly families in accordance with the applicable program regulation.

Owners of covered developments are encouraged to cooperate with HAs in a timely manner in making these determinations and (if applicable) in providing the certification that their development is a covered development (for example: a development under the Section 8 New Construction Program), and that it was developed primarily for occupancy by the elderly, and that the owner has established preferences for

the admission of elderly families. The owner will also concurrently provide the HA with names, addresses and telephone numbers of those families on the development's waiting list that are non-elderly disabled families.

HAs must also submit information supportive of the number of other non-elderly disabled families residing in the community who would qualify for one-bedroom or zero-bedroom units (not on the waiting lists of covered developments).

E. Corrections to Deficient Applications for Section 8 Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(1) Acceptable Applications

The local HUD Office will initially screen all applications and notify HAs of deficiencies by letter within 7 calendar days. If an application has deficiencies, the HA will have 14 calendar days from the date of the issuance of the HUD notification letter to submit the missing or corrected information to the HUD Office before the application can be considered for further processing by HUD. All HAs must submit corrections within 14 calendar days from the date of the HUD Office letter notifying the applicant of any such deficiency. Information received after 3 p.m. local time (i.e., the time in the appropriate HUD Office), of the 14th calendar day of the correction period will not be accepted and the application will be rejected as incomplete.

(2) Unacceptable Applications

(a) After the 14-calendar day deficiency correction period, the HUD Office will immediately notify any HA that submitted an application that the local HUD Office determines is not acceptable for processing. The HUD Office notification of rejection letter to the HA must state the basis for the decision.

(b) Applications for Section 8 rental assistance that fall into any of the following categories will not be processed:

(i) There is a pending civil rights suit against the HA instituted by the Department of Justice or there is a pending administrative action for civil rights violations instituted by HUD (including a charge of discrimination under the Fair Housing Act).

(ii) There has been an adjudication of a civil rights violation in a civil action brought against the HA by a private individual, unless the HA is operating in compliance with a court order or implementing a HUD-approved resident

selection and assignment plan or compliance agreement designed to correct the areas of noncompliance.

(iii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations, as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance.

(iv) HUD has denied application processing under Title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3), and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1), or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(v) The HA has serious unaddressed, outstanding Inspector General audit findings, Fair Housing and Equal Opportunity monitoring and compliance review findings, or HUD management review findings for its rental voucher or rental certificate programs. HA has serious underutilization of rental vouchers or certificates not attributable to the three month statutory delay for the reissuance of rental vouchers and certificates. The only exception to this category is if the HA has been identified under the policy established in section B.(4)(b) of this NOFA and the HA makes application with a designated contract administrator.

(vi) The HA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the HA to administer an additional increment of rental vouchers or rental certificates.

(vii) An HA application that does not comply with the requirements of 24 CFR 982.102 and this NOFA, after the expiration of the 14-calendar day technical deficiency correction period will be rejected from processing.

F. Application Selection Process for Section 8 Rental Vouchers and Certificates Pertinent to Certain Section 8 Project-Based Developments

(1) HUD Office Review

Upon receipt, the Office of Public Housing in the HUD Office will screen HA applications and stop processing any applications found unacceptable for further processing, as per paragraph E.(2) above.

If the HUD Office determines that the application is approvable, it will notify HUD Headquarters, Attention: Gerald

Benoit, Director, Operations Division, Room 4220, 451 Seventh St., S.W., Washington, D.C. 20410, that it is recommending that the application be funded. Headquarters shall be notified by the HUD Office within 30 days of the date of its receipt of the HA's application in response to this NOFA.

(2) Funding

Headquarters will fund, on a first-come, first-served basis, all applications determined approvable by HUD Headquarters and for which the Section 8 application is recommended for approval by the HUD Office. The "first-come" status of each HA's application shall be based on the date and time the application (concurrently submitted to HUD Headquarters and the local HUD Office—see paragraph b, Certain Section 8 Projects, under the paragraph entitled Addresses) is received in HUD Headquarters. As HAs are selected, the cost of funding the applications will be subtracted from the funds available. Any remaining funds will be added to those funds for use in funding applications related to designated housing allocation plans.

When remaining budget authority is insufficient to fund the last selected HA application in full, HUD Headquarters will fund that application to the extent of the funding available, unless the HA's application indicates it will only accept a higher number of units. In that event, the next selected application shall be one which has indicated a willingness to accept the lesser amount of funding for units available.

(3) Program Type

If an HA's application specifically requests funding for either rental vouchers or rental certificates, and funding for the specified program is not available, HUD will award the available form of assistance, notwithstanding the program type specified in the HA application.

G. Other Matters

Catalog of Federal Domestic Assistance

The Federal Domestic Assistance numbers for this program are: 14.855 and 14.857.

Environmental Impact

This NOFA provides funding under, and does not alter environmental requirements of, 24 CFR part 982. This NOFA provides funding only for the tenant-based assistance, which is a categorical exclusion not subject to the individual environmental clearance requirements cited in 24 CFR 50.4. The regulations referred to above, therefore, do not contain environmental review

requirements. Accordingly, under 24 CFR 50.19(c)(5), this NOFA is categorically excluded from environmental review requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this notice will not have substantial direct effect on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of the Department, the States, and local governments, including HAs.

Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice does not have potential for significant impact on family formation, maintenance, and general well-being within the meaning of the Executive Order and, thus, is not subject to review under the Order. This is a funding notice and does not alter program requirements concerning family eligibility.

Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

a. *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period

beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

b. *Disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 HUD Reform Act. Section 103 of the Department of Housing and Urban Development Reform Act of 1989, and HUD's implementing regulation codified at subpart B of 24 CFR part 4, applies to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708-3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Prohibition Against Lobbying Activities. Applicants for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995,

Public Law 104-65 (December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any

prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF-LLL disclosing such payments must be submitted. The certification and the SF-LLL are included in the application package.

The Lobbying Disclosure Act of 1995, Public Law 104-65 (December 19, 1995), which repealed Section 112 of the HUD Reform Act and resulted in the elimination of the regulations at 24 CFR Part 86, requires all persons and entities who lobby covered Executive or Legislative Branch officials to register with the Secretary of the Senate and the

Clerk of the House of Representatives and file reports concerning their lobbying activities.

IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

Dated: April 7, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97-9334 Filed 4-9-97; 8:45 am]

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Part IV

The President

Proclamation 6983—National Former
Prisoner of War Recognition Day, 1997

Presidential Documents

Title 3—**Proclamation 6983 of April 8, 1997****The President****National Former Prisoner of War Recognition Day, 1997****By the President of the United States of America****A Proclamation**

Throughout the annals of American military history, our men and women in uniform have placed themselves in great peril for the benefit of our Nation. Many of these courageous guardians of our freedoms have been held against their will as prisoners of war. The American people, including those now serving in our Armed Forces, continue to hold in the highest esteem these men and women who suffered the loss of their personal freedom and, in some instances, their lives.

Although there is no threat of a major conflict in our immediate future, we face continuing military challenges, and our Armed Forces still deploy “in harm’s way” to maintain American interests and stability throughout the world. Whether attempting to keep the peace in Bosnia, evacuating American citizens from Albania, or patrolling the world’s seas and skies, our service men and women risk capture by unfriendly foreign forces.

American prisoners of war have always proudly struggled for their freedom and have demonstrated a profound dedication to their country. Although international law, as set forth in the Geneva Convention, confers a protected status on prisoners of war, many Americans faced difficult conditions, including torture, but they persevered, taking comfort in their love of God, family, and country. We can never know the extent of the brutality and hardships many of them encountered, but we can express our sincere admiration for their courage and bravery.

As we observe National Former Prisoner of War Recognition Day, we honor and recognize all American service personnel who endured detention or captivity in the service of their Nation. We take comfort in knowing that despite enduring daily physical and mental trials, many survived and returned to productive lives at home. But we remember and pay homage and respect to those who made the ultimate sacrifice while in enemy hands. Today, we enjoy the freedoms that generations of American men and women have fought to defend. Let us extend to Americans who were prisoners of war, and to their families, our profound gratitude for their unselfish contribution to the preservation of our country. We will never forget.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim April 9, 1997, as National Former Prisoner of War Recognition Day. I call upon all Americans to join in remembering former American prisoners of war who suffered the hardships of enemy captivity. I also call upon Federal, State, and local government officials and private organizations to observe this day with appropriate ceremonies, programs, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-first.

William Clinton

[FR Doc. 97-9475

Filed 4-9-97; 8:45 am]

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FEDERAL REGISTER WORKSHOP

**THE FEDERAL REGISTER: WHAT IT IS AND
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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** Sponsored by the Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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- WHEN:** May 6, 1997 at 9:00 am to 12:00 noon
- WHERE:** Harry S. Truman Library
Whistle Stop Room
U.S. Highway 24 and Delaware Street
Independence, MO 64050

Long Beach, CA

- WHEN:** May 20, 1997 at 9:00 am to 12:00 noon
- WHERE:** Glenn M. Anderson Federal Building
501 W. Ocean Blvd.
Conference Room 3470
Long Beach, CA 90802

San Francisco, CA

- WHEN:** May 21, 1997 at 9:00 am to 12:00 noon
- WHERE:** Phillip Burton Federal Building and
Courthouse
450 Golden Gate Avenue
San Francisco, CA 94102

Anchorage, AK

- WHEN:** May 23, 1997 at 9:00 am to 12:00 noon
- WHERE:** Federal Building and U.S. Courthouse
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