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Thursday
May 15, 1997

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1131

[DA–97–01]

Milk in the Central Arizona Marketing Area; Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; suspension.

SUMMARY: This document continues to suspend certain provisions of the Central Arizona Federal milk marketing order. The continued suspension eliminates the requirement that a cooperative association ship at least 50 percent of its receipts to other handler pool plants to maintain pool status of a manufacturing plant operated by the cooperative. United Dairymen of Arizona, a cooperative association that represents nearly all of the producers who supply milk to the market, requested the suspension. The suspension is necessary to prevent uneconomical and inefficient movements of milk.

EFFECTIVE DATE: April 1, 1997 through March 31, 1999.

FOR FURTHER INFORMATION CONTACT: Clifford M. Carman, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2971, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202)720–9368, e-mail address Clifford__M__Carman@usda.gov.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued February 24, 1997; published March 3, 1997 (62 FR 9381).

The Department is issuing this final rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), 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 request modification or exemption from such order by filing 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 the law. A handler is afforded the opportunity for a hearing on the petition. After a 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 its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this rule will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $500,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. The $500,000 per year criterion for dairy farmers was used to establish a production guideline of 326,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. With respect to determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

For the month of August 1996, the milk of 102 producers was pooled on the Central Arizona milk order. Of these producers, 6 produced below the 326,000-pound production guideline and are considered as small businesses. Of the total number of producers whose milk was pooled during that month, 99 were members of United Dairymen of Arizona and 3 were independent producers.

For August 1996, there were 5 handlers operating pool plants under the Central Arizona milk order. Of these handlers, 2 are considered as small businesses.

This rule proposes to suspend the requirement that a cooperative association ship at least 50 percent of its receipts to other handler pool plants to maintain pool status of a manufacturing plant operated by the cooperative. This rule lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing. This rule will not result in any additional regulatory burden on handlers in the Central Arizona marketing area since this suspension has been continually in effect since April 1995.

Preliminary Statement

Notice of proposed rulemaking was published in the **Federal Register** on March 3, 1997 (62 FR 9381) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views and arguments thereon. One comment opposing the proposed suspension was received from a dairy farmer.

After consideration of all relevant material, including the proposal in the notice, the comment received, and other available information, it is hereby found and determined for the months of April 1, 1997, through March 31, 1999, the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1131.7, paragraph (c), the words ''50 percent or more of'', ''(including the skim milk and butterfat in fluid milk products transferred from its own plant pursuant to this paragraph that is not in

excess of the skim milk and butterfat contained in member producer milk actually received at such plant)'', and ''or the previous 12-month period ending with the current month''.

Statement of Consideration

This rule continues to suspend certain provisions of the Central Arizona order for the months of April 1, 1997, through March 31, 1999. The suspension removes the requirement that a cooperative association that operates a manufacturing plant in the marketing area must ship at least 50 percent of its milk supply during the current month or the previous 12-month period ending with the current month to other handlers' pool plants to maintain the pool status of its manufacturing plant.

The order permits a cooperative association's manufacturing plant, located in the marketing area, to be a pool plant if at least 50 percent of the producer milk of members of the cooperative association is physically received at pool plants of other handlers during the current month or the previous 12-month period ending with the current month.

Continuation of the current suspension of this shipping requirement was requested by United Dairymen of Arizona (UDA), a cooperative association that represents nearly all of the dairy farmers who supply the Central Arizona market. UDA states that the continued pool status of their manufacturing plant is threatened if the suspension is not continued. UDA contends that the same marketing conditions that warranted the suspension the last two years still exist. UDA maintains that members who increased their milk production to meet the projected demands of fluid handlers for distribution into Mexico continue to suffer the adverse impact of the collapse of the Mexican peso.

The commenter opposing the continuing suspension contends that the expanded milk production was not for projected demands of fluid handlers but rather for projected cheese demand. The comment points out that the suspension will lower the blend price as more milk will be pooled with the suspension than without it.

During each of the past two years, there has been an increase in total producer milk in the Central Arizona market. Meanwhile the total handler requirements for bulk milk deliveries have decreased. However, it should be noted that Class I utilization has been highly erratic from month-to-month. For example during the first four months of 1996 fluid utilization on a daily average basis was up 2.6 percent, but for all of 1996, Class I was down 0.7 percent. The decrease in total handler deliveries and their erratic movements are likely a result of changing Class I sales by Central Arizona handlers into Mexico because of the devaluation of the Mexican peso. The situation has not stabilized adequately to assure a reliable fluid milk market for Central Arizona handlers.

Pool status of UDA's manufacturing plant would be jeopardized absent continuation of the suspension. Without the suspension, costly and inefficient movements of milk would have to be made to maintain pool status of producers who have historically supplied the market and to prevent disorderly marketing in the Central Arizona marketing area.

UDA requested that the suspension be granted for an indefinite period beginning in April 1997. After reviewing the marketing conditions of the Central Arizona marketing area and their relationship with the uncertain value of the Mexican peso, this suspension will be for a two-year period.

Accordingly, it is appropriate to suspend the aforesaid provision for the months of April 1, 1997, through March 31, 1999.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area, and to permit the continued pooling of the milk of dairy farmers who have historically supplied the market without the need for making costly and inefficient movements of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective less than 30 days from the date of publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1131

Milk marketing orders.

For the reasons set forth in the preamble 7 CFR Part 1131, is amended as follows:

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. The authority citation for 7 CFR Part 1131 continues to read as follows:

Authority: 7 U.S.C. 601–674.

§ 1131.7 [Suspended in part]

2. In § 1131.7(c), the words ''50 percent or more of'', ''(including the skim milk and butterfat in fluid milk products transferred from its own plant pursuant to this paragraph that is not in excess of the skim milk and butterfat contained in member producer milk actually received at such plant)'', and ''or the previous 12-month period ending with the current month'' are suspended for the months of April 1, 1997, through March 31, 1999.

Dated: May 9, 1997.

Michael V. Dunn,

Assistant Secretary, Marketing and Regulatory Programs.

[FR Doc. 97–12709 Filed 5–14–97; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q; Docket No. R–0971]

Prohibition Against Payment of Interest on Demand Deposits

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interpretation.

SUMMARY: The Board has amended an interpretation to provide an exception to the current limitations on premiums given on demand deposit accounts. Section 11 of the Banking Act of 1933 prohibits the payment of interest on demand deposits, and Regulation Q implements this prohibition. As an exception to this rule, an interpretation permits premiums up to $10 for deposits of less than $5000 and up to $20 for deposits of $5000 or more not more than twice per year (Interpretation). The Interpretation also limits the timing of such premiums to the opening of a new account or an addition to an existing account.

The Board has amended the Interpretation to provide an additional exception that permits premiums given without regard to the balance in a demand deposit account and the duration of the account balance, since from an economic point of view such premiums do not constitute interest on the account. Accordingly, depository institutions are permitted to give such premiums, without regard to the amount

of the premium, provided that the premiums are not related to or dependent on the balance in the account and the duration of the account balance, without violating Regulation Q.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Rick Heyke, Staff Attorney, Legal Division, Board of Governors of the Federal Reserve System (202/452–3688). For the hearing impaired only, Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

Section 11 of the Banking Act of 1933 prohibits the payment of interest on demand deposits (12 U.S.C. 371a). Regulation Q implements this prohibition (12 CFR 217.3). As an exception to this rule, the Interpretation permits premiums up to $10 for deposits of less than $5000 and up to $20 for deposits of $5000 or more not more than twice per year (12 CFR 217.101). The Interpretation limits the timing of the premiums to the opening of a new account or an addition to an existing account. The Board has revised the Interpretation to permit in addition premiums, without regard to the amount of the premium, provided that the premiums are not related to or dependent on the balance in an account and the duration of the account balance.

The premium limitations in Regulation Q originally applied to all types of deposits and were established in part to prevent evasion of interest rate ceilings at the retail level prior to the deregulation of interest rates on time and savings deposits (including NOW accounts) pursuant to the Depository Institutions Deregulation and Monetary Control Act of 1980. The premium limitations were agreed upon by the Depository Institutions Deregulation Committee (''DIDC'') and supported by all the depository institution regulators in an effort to preserve a relatively level playing field during the period of deposit interest rate deregulation, which ended in 1986. Since then, banks have been permitted to offer premiums on interest bearing accounts, including NOW, time, and savings accounts, without regard to the premium limitations, and the limitations have only applied to demand deposit accounts.

Because the existing exemption is restricted to the opening of or an addition to[1] a deposit account, it has constrained the ability of depository institutions to offer incentives to use their products, including encouraging the use of new services such as ATM or debit cards. On June 23, 1981, the Executive Secretary of the DIDC advised one bank that wanted to offer promotions to deposit customers who signed up for an ATM card and another bank that wanted to offer promotions to deposit customers who used an ATM card more than three times per month, that the promotions would constitute impermissible premiums because they would not coincide with opening or adding to an account. In effect, the Interpretation, coupled with these rulings, holds that premiums from use of a debit card, which reduces the amount on deposit, constitute interest on the deposit.

The Board believes that in cases where a premium is not related to or dependent on the balance in a demand deposit account and the duration of that balance, the premium generally should not be viewed as interest.

In light of all the foregoing, the Board is amending its Interpretation effective on date of publication in the **Federal Register** to except from the Regulation's restriction any premiums that are not related to the balance in an account and the duration of the account balance.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish a regulatory flexibility analysis for any final rule for which the agency was required to publish a general notice of proposed rulemaking. Under 12 U.S.C. 553(b), a general notice of proposed rulemaking is not required for interpretative rules. Accordingly, no regulatory flexibility analysis is required in this case.

The amendment of the Interpretation will reduce the regulatory burden imposed by the Board's Regulation Q on all depository institutions, large and small. Therefore, the Board believes that the amendment will not have a significant adverse economic impact on a substantial number of small entities.

Under 12 U.S.C. 553(d), a 30 day period between publication date and effective date is not required for interpretative rules. Accordingly, this interpretation is effective on date of publication in the **Federal Register**.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act notice of 1995 (44 U.S.C. Ch. 3506; 5 CFR Part 1320, Appendix A.1), the Board has reviewed the rule under authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the rule.

List of Subjects in 12 CFR Part 217

Banks, Banking, Federal Reserve System.

Authority and Issuance

For the reasons set forth in the preamble, the Board amends part 217 of chapter II of title 12 as set forth below:

PART 217—PROHIBITION AGAINST THE PAYMENT OF INTEREST ON DEMAND DEPOSITS (REGULATION Q)

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

Authority: 12 U.S.C. 248, 371a, 461, 505, 1818, and 3105.

§ 217.101 [Amended]

2. In § 217.101, paragraph (a)(1) is amended by removing ''or renewal of,'', and a new paragraph (b) is added after paragraph (a) concluding text to read as follows:

§ 217.101 Premiums on deposits.

* * * * *

(b) Notwithstanding paragraph (a) of this section, any premium that is not, directly or indirectly, related to or dependent on the balance in a demand deposit account and the duration of the account balance shall not be considered the payment of interest on a demand deposit account and shall not be subject to the limitations in paragraph (a) of this section.

By order of the Board of Governors of the Federal Reserve System, May 9, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–12706 Filed 5–14–97; 8:45 am]

BILLING CODE 6210–01–P

[1] Premiums are also permitted on renewing a deposit, but this has been moot since time deposits were deregulated, and is eliminated in the revision.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–CE–27–AD; Amendment 39–10026; AD 97–10–14]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplanes (formerly Beech Aircraft Corporation)

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to Raytheon Aircraft Company

(Raytheon) Model 1900D airplanes (formerly referred to as Beech Aircraft Corporation Model 1900D). This action requires inspecting the stabilon attachment angles for the correct thickness, repetitively inspecting for cracks, and replacing the attachment angles that are the incorrect thickness with ones of the correct thickness. Recent reports of the affected airplanes having the incorrect size stabilon attachment angles prompted this action. The actions specified by this AD are intended to prevent separation of the stabilon from the airplane, which could cause loss of airplane stability during flight.

DATES: Effective July 7, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 7, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96–CE–27–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. Steven E. Potter, Aerospace Engineer, Wichita Aircraft Certification Service, 1801 Airport Rd., Rm. 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4124; facsimile (316) 946–4407.

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 to Raytheon Model 1900D airplanes was published in the **Federal Register** on October 23, 1996 (61 FR 54965). The action proposed to require:

—Inspecting the left and right stabilon attachment angles for proper thickness, which is .090-inch thick;

—If the attachment angles are not the correct thickness (.090-inch thick), the proposed AD would require:

—Repetitively inspecting the stabilon attachment angles for cracks until cracks are visible,

—Replacing the attachment angles with attachment angles of the correct thickness (.090-inch thick) when cracks become visible, and

—If no cracks are visible during the inspections, replacing the attachment angles with attachment angles of the correct thickness.

—The replacement of the stabilon attachment angles with angles of the correct thickness will terminate the inspection requirements of this AD.

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.

Accomplishment of this action would be in accordance with Beechcraft Mandatory Service Bulletin No. 2651, Issued: January, 1996.

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 215 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 hour per airplane to accomplish the initial inspection, 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 $12,900 or $60 per airplane. This figure is only accounting for the initial inspection and possible replacement of the stabilon attachment angles and is not considering the number of repetitive inspections that may be incurred over the life of the airplane.

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, 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 a new airworthiness directive (AD) to read as follows:

97–10–14. Raytheon Aircraft Company (formerly Beech Aircraft Corporation): Amendment 39–10026; Docket No. 96–CE–27–AD.

Applicability: Model 1900D airplanes (serial numbers UE–1 through UE–215), certificated in any category.

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

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD, and thereafter as indicated in the body of this AD, unless already accomplished.

To prevent separation of the stabilons from the airplane, which could cause loss of airplane stability during flight, accomplish the following:

(a) Inspect the left and right stabilon attachment angles for proper thickness, which is .090-inch thick in accordance with the ACCOMPLISHMENT INSTRUCTIONS

section of Beechcraft Mandatory Service Bulletin (MSB) No. 2651, Issued: January, 1996.

(b) If the attachment angles are not the correct thickness and measure only .071-inch thick, accomplish the following in accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Beechcraft MSB No. 2651, Issued: January, 1996:

(1) Repetitively inspect the stabilon attachment angles for cracks, at intervals not to exceed 50 hours TIS, until cracks are visible;

(2) When cracks are visible, prior to further flight, replace the attachment angles with attachment angles of the correct thickness (.090-inch thick); and

(3) If no cracks are visible during any of the inspections required by this AD, within the next 600 hours TIS after the effective date of this AD, replace the 0.071-inch thick attachment angles with 0.090-inch thick attachment angles.

(c) Replacing the 0.071-inch thick stabilon attachment angles with 0.090-inch thick attachment angles at any time after the effective date of this AD terminates the repetitive inspection requirements of this AD.

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

(e) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Service, 1801 Airport Rd., Rm. 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita Aircraft Certification Office.

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

(f) The inspections and replacements required by this AD shall be done in accordance with Beechcraft Mandatory Service Bulletin No. 2651, Issued: January, 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 Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085. Copies 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.

(g) This amendment (39–10026) becomes effective on July 7, 1997.

Issued in Kansas City, Missouri, on May 7, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–12516 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–11]

Revision of Class E Airspace; Bishop, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the legal description for the Class E airspace area at Bishop, CA. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this action is to remove overlapping descriptions of controlled airspace.

EFFECTIVE DATE: 0901 UTC July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 21, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR part 71) by revising the Class E airspace area at Bishop, CA (62 FR 13562). This action corrects the Class E airspace description at Bishop, CA, by removing reference to airspace currently defined at V–381 from the Bishop, CA, E5 legal description. The airspace associated with V–381 is otherwise thoroughly and appropriately described. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this action is to remove overlapping descriptions of controlled airspace.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposals to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be revised subsequently in this Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace area at Bishop, CA, by removing reference to airspace currently defined as V–381 from the Bishop, CA, E5 legal description. The airspace associated with V–381 is otherwise thoroughly and appropriately described. A review of airspace classification and air traffic procedures has made this action necessary. The intended effect of this action is to remove overlapping descriptions of controlled airspace.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AWP CA E5 Bishop, CA

Beatty VORTAC
(lat. 36°48′02″ N, long. 116°44′52″ W)
Bishop VOR/DME
(lat. 37°22′37″ N, long. 118°21′59″ W)

That airspace extending upward from 700 feet above the surface within a 4.3-mile radius of the Bishop VOR and that airspace within 2.2 miles each side of the Bishop VOR 337° radial extending from the 4.3-mile radius to 27.8 miles northwest of the VOR. That airspace extending upward from 1,200 feet above the surface within 8 miles southwest and 11 miles northeast of the Bishop VOR 157° and 337° radials, extending from 16 miles northwest of the VOR to 19.1 miles southeast of the VOR. That airspace extending upward from 12,500 feet MSL within 4.3 miles each side of a direct course between the Bishop VOR and Lidat Intersection, 36.5 miles 12,500 feet MSL, 10,500 feet MSL Lidat Intersection and within 4.3 miles each side of a direct course between Bishop VOR and Beatty VORTAC 69.5 miles 12,500 feet MSL, 10,500 feet MSL Beatty.

* * * * *

Issued in Los Angeles, California, on May 5, 1997.

Sabra W. Kaulia,

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

[FR Doc. 97–12754 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301 and 601

[TD 8719]

RIN 1545–AU41 and 1545–AV19

Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to the procedure for requesting a change in accounting method and to the standards for granting an extension of time to request a change in accounting method. The regulations provide for a longer period of time for filing an application for change in accounting method with the Commissioner. The regulations also provide that an extension of time to file an application for change in accounting method will be granted only in unusual and compelling circumstances. The regulations affect taxpayers requesting a change in method of accounting for federal income tax purposes. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: These regulations are effective May 15, 1997.

For dates of applicability of these regulations, see §§ 1.446–1T(e)(3)(iii), 301.9100–1T(h) and 601.204T(e) of these regulations.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Oseekey at (202) 622–4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Regulations on Income Taxes (26 CFR part 1), the Regulations on Procedure and Administration (26 CFR part 301), and the Statement of Procedural Rules (26 CFR part 601) relating to the requirements for changes in method of accounting and extensions of time to make elections. Proposed and temporary regulations relating to extensions of time to make elections were published in the **Federal Register** for June 27, 1996 (61 FR 29714 and 61 FR 33365). These regulations extend the time for filing an application for change in accounting method under § 1.446–1(e)(3)(i) and amend §§ 301.9100–1T and 301.9100–3T to provide that an extension of time to file an application for change in accounting method beyond the year provided in these regulations will be granted only in unusual and compelling circumstances.

Explanation of Provisions

Section 446(e) requires that a taxpayer obtain the Commissioner's consent before changing a method of accounting. Sections 1.446–1(e)(3)(i) and 601.204(b) require the taxpayer to file a Form 3115, Application for Change in Accounting Method, with the Commissioner within the first 180 days of the taxable year in which the taxpayer desires to make the change. Sections 301.9100–1T and 301.9100–3T provide limited relief for extending the time to file a Form 3115 (not to exceed 90 days from the deadline for filing the Form 3115 except in unusual and compelling circumstances).

Sections 1.446–1(e)(3)(i) and 601.204(b) are amended to provide that a taxpayer must file a Form 3115 with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting. Taxpayers are encouraged to file the Form 3115 as early as possible during the year of change to provide the IRS adequate time to process the application prior to the original due date of the taxpayer's return.

In addition, §§ 301.9100–1T and 301.9100–3T are amended to provide that an extension of time to file a Form 3115 (*i.e.*, beyond the taxable year) will only be granted in unusual and compelling circumstances.

These amendments are effective for Forms 3115 filed on or after May 15, 1997.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Sections 1.446–1(e)(3)(i) and 601.204(b) require a taxpayer to file a Form 3115, Application for Change in Accounting Method, with the Commissioner within the first 180 days of the taxable year in which the taxpayer desires to make the change. The temporary regulations in this document, §§ 1.446–1T(e)(3)(i) and 601.204T(b), merely extend the time for filing the Form 3115 and, therefore, do not contain a new collection of information. Thus, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Cheryl L. Oseekey of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, ncome taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 601

Administrative practice and procedure, Freedom of information, Reporting and recordkeeping requirements, Taxes.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 601 are amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.446–1, paragraph (e)(3)(i) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 1.446–1 General rule for methods of accounting.

* * * * *

(e)(3) * * * For any Form 3115 filed on or after May 15, 1997, see § 1.446–1T(e)(3)(i)(B).

Par. 3. Section 1.446–1T is added to read as follows:

§ 1.446–1T General rule for methods of accounting (temporary).

(a) through (d) [Reserved] For further guidance, see § 1.446–1 (a) through (d).

(e) *Requirement respecting the adoption or change of accounting method.*

(1) and (2) [Reserved] For further guidance, see § 1.446–1(e) (1) and (2).

(3)(i)(A) [Reserved] For further guidance, see § 1.446–1(e)(3)(i).

(B) For any Form 3115 filed on or after May 15, 1997, permission to change a taxpayer's method of accounting will not be granted unless the taxpayer agrees to the Commissioner's prescribed terms and conditions for effecting the change, including the taxable year or years in which any adjustment necessary to prevent amounts from being duplicated or omitted is to be taken into account.

(ii) and (iii) [Reserved] For further guidance, see § 1.446–1(e)(3) (ii) and (iii).

PART 301—PROCEDURE AND ADMINISTRATION

Par. 4. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 5. In § 301.9100–1T, paragraph (h) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 301.9100–1T Extensions of time to make elections (temporary).

* * * * *

(h) * * * In addition, § 301.9100–3T(c)(2)(i) is effective for any Form 3115 filed on or after May 15, 1997.

Par. 6. In § 301.9100–3T, paragraph (c)(2)(i) is revised to read as follows:

§ 301.9100–3T Other extensions (temporary).

* * * * *

(c) * * *

(2) * * *

(i) Subject to the procedure described in § 1.446–1T(e)(3)(i) of this chapter (requiring the advance written consent of the Commissioner);

* * * * *

PART 601—STATEMENT OF PROCEDURAL RULES

Par. 7. The authority citation for part 601 continues to read as follows:

Authority: 26 U.S.C. 301 and 552, unless otherwise noted.

Par. 8. Section 601.204, paragraph (b) is amended by adding a sentence at the end of the paragraph to read as follows:

§ 601.204 Changes in accounting periods and in methods of accounting.

* * * * *

(b) * * * For any Form 3115 filed on or after May 15, 1997, see § 601.204T(b)(2).

Par. 9. Section 601.204T is added to read as follows:

§ 601.204T Changes in accounting periods and in methods of accounting (temporary).

(a) [Reserved] For further guidance, see § 601.204(a).

(b) *Methods of accounting.* (1) [Reserved] For further guidance, see § 601.204(b).

(2) For any Form 3115 filed on or after May 15, 1997, application for permission to change the method of accounting employed shall be made on Form 3115 and filed with the Commissioner during the taxable year in which the taxpayer desires to make the change in method of accounting. Permission to change the method of accounting will not be granted unless the taxpayer and the Commissioner agree to the terms and conditions under which the change will be effected.

(c) and (d) [Reserved] For further guidance, see § 601.204 (c) and (d).

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: May 2, 1997.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 97–12514 Filed 5–14–97; 8:45 am]

BILLING CODE 4830–01–U

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in June 1997.

EFFECTIVE DATE: June 1, 1997.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179) for TTY and TDD).

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during June 1997.

For annuity benefits, the interest assumptions will be 6.40 percent for the first 25 years following the valuation date and 5.00 percent thereafter. The annuity interest assumptions represent an increase (from those in effect for May 1997) of 0.10 percent for the first 25 years following the valuation date and are otherwise unchanged. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.25 percent for the period during which a benefit is in pay status, 4.50 percent during the seven-year period directly preceding the benefit's

placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. The lump sum interest assumptions represent an increase (from those in effect for May 1997) of 0.25 percent for the period during which a benefit is in pay status and for the seven years directly preceding that period; they are otherwise unchanged.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during June 1997, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 44 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—[ANNUITY VALUATIONS]

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, * * * , and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=
* * *	*		*		*	
June 1997	.0640	1–25	.0500	>25	N/A	N/A

TABLE II.—[LUMP SUM VALUATIONS]

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0<y\leq n_1$), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1<y\leq n_1+n_2$), interest rate i_2 shall apply from the valuation date for a period of $y-n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y>n_1+n_2$), interest rate i_3 shall apply from the valuation date for a period of $y-n_1-n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
*	*	*	*		*	*		*
44	06–1–97	07–1–97	5.25	4.50	4.00	4.00	7	8

Issued in Washington, D.C., on this 12th day of May 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–12774 Filed 5–14–97; 8:45 am]

BILLING CODE 7708–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972 Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS CARNEY (DDG 64) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Captain R.R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA

22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS CARNEY (DDG 64) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provision of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by revising the entry for the USS CARNEY to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS Carney	DDG 64	X	X	X	19.7
* *	*	*	*	*	*

Dated: May 1, 1997.

Approved:

R. R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 97–12765 Filed 5–14–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972 Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS LABOON (DDG 58) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: May 1, 1997.

FOR FURTHER INFORMATION CONTACT: Captain R. R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS LABOON (DDG 58) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provision of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a), pertaining to the location of the forward masthead light in the forward quarter of the vessel, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are

located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read as follows:

Authority: 33 U.S.C. 1605.

2. Table Five of § 706.2 is amended by revising the entry for the USS LABOON to read as follows:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After mast-head light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* *	*	*	*	*	*
USS Laboon	DDG 58	X	X	X	19.6
* *	*	*	*	*	*

Dated: May 1, 1997.

Approved:

R. R. Pixa,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 97–12766 Filed 5–14–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–97–010]

RIN 2115–AE46

Special Local Regulations: Fort Myers Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending the permanent special local regulations for the Fort Myers Beach Offshore Grand Prix. This event, previously scheduled to be held annually on the first Saturday and Sunday of June, will now be held annually during the third Saturday and Sunday of May, between 12 p.m. and 3 p.m. each day (Eastern Daylight Time). These amended regulations are necessary to provide for the safety of life on navigable waters during the event.

DATES: Effective: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: LTJG T. J. Stuhlreyer, Coast Guard Group St. Petersburg, FL at (813) 824–7533.

SUPPLEMENTARY INFORMATION:

Regulatory History

The amended regulations were published in the **Federal Register** as a Notice of Proposed Rulemaking on April 7, 1997 (62 FR 16513). No comments were received during the 30 day comment period.

Background and Purpose

The amended regulations are required to provide for the safety of life during the Fort Myers Beach Offshore Grand Prix because of the permanent change in the date of the event from the first Saturday and Sunday in June to the third Saturday and Sunday in May. There will be approximately 170 participants and spectator craft. The resulting congestion of navigable channels on the third weekend in May, vice the first weekend in June, creates an extra or unusual hazard in the navigable waters.

In accordance with 5 U.S.C. 553, good cause exists for making these regulations effective in less than 30 days after **Federal Register** publication. Delaying its effective date would be contrary to public interest since immediate action is needed to minimize potential danger to the public as the event is scheduled to be held in less than two weeks.

Discussion of Regulations

The amended regulations will permanently change the date of the Special Local Regulations for the Fort Myers Beach Grand Prix from the first Saturday and Sunday in June to the third Saturday and Sunday in May.

Regulatory Evaluation

This rule is not a significant regulatory action under Section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under Section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The proposed amended regulation would remain in effect for only 4 hours each day for two days.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities, as the regulations will be in effect for only

four hours on two separate days each year.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to section 2.B.2.e. (34)(h) of Commandant Instruction M16475.1B, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Final Regulations

In consideration of the foregoing, the Coast Guard amends part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The Authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46.

2. In § 100.717, paragraph (c) is revised to read as follows:

§ 100.717 Special Local Regulations; Fort Myers Beach, FL.

* * * * *

(c) *Effective dates:* This section is effective each day from 11 a.m. through 3 p.m. EDT annually during the third Saturday and Sunday of May.

Dated: May 7, 1997.

J.W. Lockwood,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 97–12791 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA 056–5023; FRL–5826–2]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: EPA is granting conditional interim approval of a State Implementation Plan (SIP) revision submitted by Virginia. This revision establishes and requires the implementation of an enhanced inspection and maintenance (I/M) program in the following Virginia Counties: Arlington, Fairfax, Fauquier, Loudoun, Prince William, and Stafford, and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park. The intended effect of this action is to conditionally approve the Commonwealth's proposed enhanced I/M program for an interim period to last 18 months, based upon the Commonwealth's good faith estimate of the program's performance. This action is being taken under section 110 of the Clean Air Act and section 348 of the National Highway Systems Designation Act.

EFFECTIVE DATE: This final rule is effective on June 16, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. They are also available for inspection at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, by telephone at: (215) 566–2174, or via e-mail at: magliocchetticatherine @epamail.epa.gov. The mailing address is U.S. EPA Region III, 841 Chestnut Street, Philadelphia, PA, 19107.

SUPPLEMENTARY INFORMATION:

I. Table of Contents
II. Background
III. Public Comments/Response to Comments
IV. Conditional Interim Approval
V. Final Rulemaking Action
VI. Further Requirements for Full I/M SIP Approval
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A. Executive Order 12866
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II. Background

On November 6, 1996 (61 FR 57343), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed conditional interim approval of Virginia's enhanced inspection and maintenance program, submitted to satisfy the applicable requirements of both the Clean Air Act (CAA) and the National Highway Systems Designation Act (NHSDA). The formal SIP revision was submitted by the Virginia Department of Environmental Quality on March 27, 1996.

As described in that notice, the NHSDA directs EPA to grant interim approval for a period of 18 months to approvable I/M submittals under this Act. The NHSDA also directs EPA and the states to review the interim program results at the end of that 18-month period, and to make a determination as to the effectiveness of the interim program. Following this demonstration, EPA will adjust any credit claims made by the state in its good faith effort, to reflect the emissions reductions actually measured by the state during the program evaluation period. The NHSDA is clear that the interim approval shall last for only 18 months, and that the program evaluation is due to EPA at the end of that period. Therefore, EPA believes Congress intended for these programs to start up as soon as possible, which EPA believes should be on or before November 15, 1997, so that at least six months of operational program data can be collected to evaluate the interim programs. EPA believes that in setting such a strict timetable for program evaluations under the NHSDA, Congress recognized and attempted to mitigate any further delay with the start-up of this program. If the Commonwealth fails to start its program according to this schedule, this conditional interim approval granted under the provisions of the NHSDA will convert to a disapproval after a finding letter is sent to the Commonwealth. Unlike the other specified conditions of this rulemaking, which are explicit conditions under section 110(k)(4) of the CAA and which will trigger an automatic disapproval should the Commonwealth fail to meet its commitments, the startdate provision will trigger a disapproval upon EPA's

notification to the Commonwealth by letter that the startdate has been missed. This letter will notify the Commonwealth that this rulemaking action has been converted to a disapproval and that the sanctions clocks associated with this disapproval has been triggered as a result of this failure. The startdate condition is not imposed pursuant to a commitment to correct a deficient SIP under section 110(k)(4); EPA is imposing the startdate condition under its general SIP approval authority of section 110 (k)(3), which does not require automatic conversion.

The program evaluation to be used by the Commonwealth during the 18-month interim period must be acceptable to EPA. The Environmental Council of States (ECOS) group has developed such a program evaluation process which includes both qualitative and quantitative measures, and this process has been deemed acceptable to EPA. For the quantitative long term measure, the core requirement is that a mass emission transient test (METT) be performed on 0.1% of the subject fleet, as required by the I/M Rule at 40 CFR 51.353 and 51.366. EPA has determined that METT evaluation testing is not precluded by NHSDA, and therefore, is still required to be performed by states implementing I/M programs under the NHSDA and the CAA.

As per the NHSDA requirements, this conditional interim rulemaking will expire on November 16, 1998. A full approval of Virginia's final I/M SIP revision (which will include the Commonwealth's program evaluation and final adopted state regulations) is still necessary under section 110 and under sections 182, 184 or 187 of the CAA. After EPA reviews the Commonwealth's submitted program evaluation and regulations, final rulemaking on the Commonwealth's full SIP revision will occur.

Specific requirements of the Virginia enhanced I/M SIP and the rationale for EPA's proposed action are explained in the NPR and will not be restated here.

III. Public Comments/Response to Comments

No comments were received with regard to this notice during the comment period.

IV. Conditional Interim Approval

Under the terms of EPA's November 6, 1996 proposed interim conditional approval rulemaking, the Commonwealth was required to make commitments (within 30 days) to remedy four major deficiencies with the I/M program SIP (as specified in the NPR), within twelve months of final interim approval. In a December 4, 1996 letter to EPA from Thomas H. Hopkins, Director of the Virginia Department of Environmental Quality, Virginia commits to satisfy the major deficiencies cited in the NPR, by dates certain specified in the letter. Since EPA is in receipt of the Commonwealth's commitments, EPA is today taking final conditional approval action upon the Virginia I/M SIP, under section 110 of the CAA. As discussed in detail later in this notice, this approval is being granted on an interim basis, for an 18-month period under authority of the NHSDA.

The conditions for approvability of the SIP are as follows:

(1) The Commonwealth must perform and submit the new modeling demonstration that illustrates how its program will meet the relevant enhanced performance standard, by September 15, 1997 (a date specified by the Commonwealth in the commitment letter to EPA). The Commonwealth's revised modeling must correspond to the actual I/M program configuration, including actual test methods and start dates for all I/M program tests, actual cutpoints to be in-place for the evaluation year, and all other program assumptions as they exist in the SIP. EPA expects that Virginia's new modeling demonstration will be done using an approved EPA model in order to meet this condition. Virginia should refer to EPA's guidance on modeling to determine which version of the model is appropriate and suitable for Virginia's use in meeting this commitment.

(2) The Commonwealth must submit to EPA as a SIP amendment, by September 15, 1997 (a date specified by the Commonwealth in the commitment letter to EPA), the final Virginia I/M regulation which requires a METT-based evaluation be performed on 0.1% of the subject fleet each year as per 40 CFR section 51.353(c)(3) and which meets all other program evaluation elements specified in 40 CFR section 51.353(c), including a program evaluation schedule, a protocol for the testing, and a system for collection and analysis of program evaluation data.

(3) By September 15, 1997 (a date specified by the Commonwealth in the commitment letter to EPA), Virginia must adopt and submit a final Virginia I/M regulation which requires and which specifies detailed, approvable test procedures and equipment specifications for all of the evaporative and exhaust tests to be used in the enhanced I/M program. The Commonwealth has committed to adopt approvable test procedures, standards and specifications for its two-mode ASM test. The draft regulations submitted to EPA with the commitment letter, containing the two-mode ASM procedures and specifications do not comply in all respects with EPA's ASM technical guidance EPA–AA–RSPD–IM–96–2. EPA expects that Virginia will remedy any remaining discrepancies between its regulation and approved EPA specifications by the September 15, 1997 date.

In addition to the above conditions, the Commonwealth must correct several minor, or de minimus, deficiencies related to CAA requirements for enhanced I/M. Although satisfaction of these deficiencies does not affect the conditional interim approval status of the Commonwealth's rulemaking, these deficiencies must be corrected in the final I/M SIP revision, to be submitted at the end of the 18-month interim period:

(1) The SIP lacks a detailed description of the elements to satisfy the test frequency requirements required under 40 CFR section 51.355(a), particularly regarding scheduling of vehicles for testing and the selection scheme for the biennial program inspections, as well as a description of how test frequency will be integrated with the registration denial motorist enforcement process;

(2) The SIP does not fully account for all exceptions from testing in the emissions reductions analysis. The state must account for testing exceptions and account for them in their performance standard modeling demonstration, per 40 CFR section 51.356(b)(2);

(3) Virginia must develop quality control procedures, test equipment specifications, quality control procedures manual, or other ordinance or documents to satisfy all the quality control requirements of 40 CFR section 51.359;

(4) Virginia must amend its regulation to allow that waivers be issued only by a single contractor or by the Commonwealth, per 40 CFR section 51.360(c)(1);

(5) The final SIP submittal must include the procedures document that adequately addresses the means by which the Commonwealth will comply with all the motorist compliance enforcement program oversight requirements set forth at 40 CFR section 51.362;

(6) Virginia must complete and submit as a SIP revision to EPA procedures manuals for use by the Commonwealth's quality assurance auditors to conduct covert and overt audits for program oversight purposes, per 40 CFR section 51.363(e);

(7) The Commonwealth must adopt, and submit as a SIP revision, a penalty schedule for inspectors and inspection stations, per 40 CFR section 51.364 (a) and (d);

(8) Virginia's SIP, either the regulation or the test equipment specifications, must require that the specific data elements identified in 40 CFR section 51.365(a) be collected and reported to the Commonwealth on a real-time basis;

(9) Virginia must finalize and submit the final ''Public Information Plan'' described in the SIP, to satisfy the requirements of 40 CFR section 51.368 (a) and (b);

(10) Virginia must formally submit the procedures and criteria to be used in meeting the repair performance monitoring requirements set forth in 40 CFR section 51.369(b) and a description of the repair technician training resources available in the community (when available), per 40 CFR section 51.369(c);

(11) Virginia must submit detailed recall compliance procedures and a commitment to annually report recall compliance information to EPA, per the requirements of 40 CFR section 51.370;

(12) Virginia must amend the SIP to include information regarding resource allocation for the on-road testing program, as well as methods for analyzing and reporting the results of on-road testing, per 40 CFR section 51.371. This may entail submittal of an on-road testing procedures manual or the request for proposals (RFP) for the contractor to be hired to operate the on-road testing program;

(13) Virginia must list in its schedule of implementation milestones deadlines by which all procedures documents not yet part of the SIP are to be finalized and submitted to EPA.

V. Final Rulemaking Action

EPA is conditionally approving the enhanced I/M program as a revision to the Virginia SIP, based upon certain conditions. This conditional approval satisfies the requirements of section 182(c)(3) of the CAA and the NHSDA for an enhanced I/M program. EPA also clarifies its proposal to approve the SIP under section 110 of the Clean Air Act as well. For the purposes of strengthening the SIP, EPA is also giving a limited approval under section 110 if the state fulfills all of its commitments within 12 months of this final rulemaking. This limited approval under section 110 will not expire at the end of the 18 month interim period. Thus, although an approved I/M SIP satisfying the requirements of section 182(c)(3) may no longer be in place after the termination of the interim SIP approval period provided by the NHSDA, this program will remain a part of the federally enforceable SIP.

Should the Commonwealth fail to fulfill the conditions, other than the startdate condition which will be treated as described above, by the deadlines contained in each condition, the latest of which is no more than one year after the date of EPA's final interim approval action, this conditional, interim approval will convert to a disapproval pursuant to CAA section 110(k)(4). In that event, EPA would issue a letter to notify the Commonwealth that the conditions had not been met, and that the approval has converted to a disapproval.

VI. Further Requirements for Full I/M SIP Approval

This approval is being granted on an interim basis for a period of 18 months, under the authority of section 348 of the National Highway Systems Designation Act of 1995. At the end of this period, the approval will lapse. At that time, EPA must take final rulemaking action upon the Commonwealth's SIP, under the authority of section 110 of the Clean Air Act. Final approval of the Commonwealth's plan will be granted based upon the following criteria:

(1) The Commonwealth has complied with all the conditions of its commitment to EPA,

(2) EPA's review of the Commonwealth's program evaluation confirms that the appropriate amount of program credit was claimed by the Commonwealth and achieved with the interim program,

(3) Final program regulations are submitted to EPA, and

(4) The Commonwealth's I/M program meets all of the requirements of EPA's I/M rule, including those de minimus deficiencies identified in this notice as minor for purposes of interim approval.

VII. Administrative Requirements

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

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

Conditional approvals of SIP submittals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 14, 1997.

Filing a petition for reconsideration by the Administrator of this final rule to conditionally approve the Virginia I/M SIP, on an interim basis, does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2) of the Administrative Procedures Act).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 2, 1997.

Thomas J. Maslany,

Acting Regional Administrator, Region III.

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart VV—Virginia

2. 52.2450 is amended by designating the existing text as paragraph (a) and by adding paragraphs (b), (c) and (d) to read as follows:

§ 52.2450 Conditional Approval.

* * * * *

(b) The Commonwealth of Virginia's March 27, 1996 submittal for an enhanced motor vehicle inspection and maintenance (I/M) program is conditionally approved based on certain contingencies, for an interim period to last eighteen months. If the Commonwealth fails to start its program according to the schedule it provided, or by November 15, 1997 at the latest, this conditional approval will convert to a disapproval after EPA sends a letter to the state. If the Commonwealth fails to satisfy the following conditions within 12 months of this rulemaking, this conditional approval will automatically convert to a disapproval as explained under section 110(k) of the Clean Air Act. The conditions for approvability are as follows:

(1) The Commonwealth must perform and submit the new modeling demonstration that illustrates how its program will meet the relevant enhanced performance standard, by September 15, 1997 (a date specified by the Commonwealth in the commitment letter to EPA). The Commonwealth's revised modeling must correspond to the actual I/M program configuration, including actual test methods and start dates for all I/M program tests, actual cutpoints to be in-place for the evaluation year, and all other program assumptions as they exist in the SIP. EPA expects that Virginia's new modeling demonstration will be done using an approved EPA model in order to meet this condition. Virginia should refer to EPA's guidance on modeling to determine which version of the model is appropriate and suitable for Virginia's use in meeting this commitment.

(2) The Commonwealth must submit to EPA as a SIP amendment, by September 15, 1997 (a date specified by the Commonwealth in the commitment letter to EPA), the final Virginia I/M regulation which requires a METT-based evaluation be performed on 0.1% of the subject fleet each year as per 40 CFR 51.353(c)(3) and which meets all other program evaluation elements specified in 40 CFR 51.353(c), including a program evaluation schedule, a protocol for the testing, and a system for collection and analysis of program evaluation data.

(3) By September 15, 1997 (a date specified by the Commonwealth in the commitment letter to EPA), Virginia must adopt and submit a final Virginia I/M regulation which requires and which specifies detailed, approvable test procedures and equipment specifications for all of the evaporative and exhaust tests to be used in the enhanced I/M program. The Commonwealth has committed to adopt approvable test procedures, standards and specifications for its two-mode ASM test. The draft regulations submitted to EPA with the commitment letter, containing the two-mode ASM procedures and specifications do not comply in all respects with EPA's ASM technical guidance EPA–AA–RSPD–IM–96–2. EPA expects that Virginia will remedy any remaining discrepancies between its regulation and approved EPA specifications by the September 15, 1997 date.

(c) In addition to the above conditions for approval, the Commonwealth must correct several minor, or de minimus deficiencies related to CAA requirements for enhanced I/M. Although satisfaction of these deficiencies does not affect the conditional approval status of the Commonwealth's rulemaking granted under the authority of § 110 of the Clean Air Act, these deficiencies must be corrected in the final I/M SIP revision prior to the end of the 18-month interim period granted under the National Highway Safety Designation Act of 1995:

(1) The SIP lacks a detailed description of the elements to satisfy the test frequency requirements required under 40 CFR 51.355(a), particularly regarding scheduling of vehicles for testing and the selection scheme for the biennial program inspections, as well as a description of how test frequency will be integrated with the registration denial motorist enforcement process;

(2) The SIP does not fully account for all exceptions from testing in the emissions reductions analysis. The state must account for testing exceptions and account for them in their performance standard modeling demonstration, per 40 CFR 51.356(b)(2);

(3) Virginia must develop quality control procedures, test equipment specifications, quality control procedures manual, or other ordinance or documents to satisfy all the quality control requirements of 40 CFR 51.359;

(4) Virginia must amend its regulation to allow that waivers be issued only by a single contractor or by the Commonwealth, per 40 CFR 51.360(c)(1);

(5) The final SIP submittal must include the procedures document that adequately addresses the means by which the Commonwealth will comply with all the motorist compliance enforcement program oversight requirements set forth at 40 CFR 51.362;

(6) Virginia must complete and submit as a SIP revision to EPA procedures manuals for use by the Commonwealth's quality assurance auditors to conduct covert and overt audits for program oversight purposes, per 40 CFR 51.363(e);

(7) The Commonwealth must adopt, and submit as a SIP revision, a penalty schedule for inspectors and inspection stations, per 40 CFR 51.364 (a) and (d);

(8) Virginia's SIP, either the regulation or the test equipment specifications, must require that the specific data elements identified in 40 CFR 51.365(a) be collected and reported to the Commonwealth on a real-time basis;

(9) Virginia must finalize and submit the final ''Public Information Plan'' described in the SIP, to satisfy the requirements of 40 CFR 51.368 (a) and (b);

(10) Virginia must formally submit the procedures and criteria to be used in meeting the repair performance monitoring requirements set forth in 40 CFR 51.369(b) and a description of the repair technician training resources available in the community (when available), per 40 CFR 51.369(c);

(11) Virginia must submit detailed recall compliance procedures and a commitment to annually report recall compliance information to EPA, per the requirements of 40 CFR 51.370;

(12) Virginia must amend the SIP to include information regarding resource allocation for the on-road testing program, as well as methods for analyzing and reporting the results of on-road testing, per 40 CFR 51.371. This may entail submittal of an on-road testing procedures manual or the request for proposals (RFP) for the contractor to be hired to operate the on-road testing program;

(13) Virginia must list in its schedule of implementation milestones deadlines by which all procedures documents not yet part of the SIP are to be finalized and submitted to EPA.

(d) EPA is also approving this Enhanced I/M SIP revision under section 110(k), for its strengthening effect on the plan.

[FR Doc. 97–12790 Filed 5–14–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961119321–7071–02; I.D. 110796G]

Fisheries of the Exclusive Economic Zone Off Alaska; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulations (I.D. 110796G), which were published in the **Federal Register** April 11, 1997, pertaining to the groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI). This action corrects regulations by requiring groundfish weight to be reported to the nearest 0.001 mt and removes a redundant paragraph.

EFFECTIVE DATE: May 12, 1997.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, NMFS, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

A final rule was published in the **Federal Register** on April 11, 1997 (62 FR 17753), that implemented several revisions to recordkeeping and reporting requirements established for the GOA and BSAI groundfish fisheries. This final rule becomes effective on May 12, 1997.

Need for Correction

As published, the instructions to revise the regulations contained errors that resulted in the omission of several intended revisions to regulatory text. NMFS is correcting these errors as follows and makes no substantive changes.

1. In § 679.5, paragraphs (a)(10)(ii) through (v) were not listed in amendatory language instruction number 4 (page 17756, column 2, line 16) of the final rule, but text implementing those changes in the regulations was published. This action corrects the amendatory language instruction by specifying that § 679.5(a)(10)(ii) through (v) were changed by replacing ''0.01 mt'' to read ''0.001 mt.''

2. In § 679.5(i)(3)(ii), (iii), and (iv) and § 679.5(j)(4)(ii), (iii), and (iv), this action changes ''0.01 mt'' to read ''0.001 mt'' and removes § 679.5(a)(10)(i)(C) which duplicates text found at § 679.5(a)(10)(i)(B).

The corrected final rule will become effective on May 12, 1997, as originally announced in the **Federal Register**.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements.

Dated: May 7, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For reasons set out in the preamble, the following corrections are made to the final rule amending 50 CFR part 679, which was published beginning on page 17753 in the **Federal Register** for April 11, 1997, in FR Doc. 97–9390 as follows:

PART 679––FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

§ 679.5 [Corrected]

2. On page 17756, in the second column, instruction paragraph 4. for § 679.5 is corrected by adding the following instructions in the last line before the words ''to read as follows:''

4. * * * the reference to ''0.01 mt'' is corrected to read ''0.001 mt'' in paragraphs (i)(3)(ii) through (iv) and (j)(4)(ii) through (iv); paragraph (a)(10)(i)(C) is removed; and paragraphs (a)(10)(ii) through (v) are revised * * *.

[FR Doc. 97–12532 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 94
Thursday, May 15, 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

Federal Crop Insurance Corporation

7 CFR Parts 416 and 457

Pea Crop Insurance Regulations; and Common Crop Insurance Regulations, Dry Pea Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

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

DATES: Written comments on this proposed rule will be accepted until close of business June 16, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Interested persons are invited to submit written comments to the Director, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: Arden Routh, Insurance Management Specialist, Product Development Division, Federal Crop Insurance Corporation, at Kansas City, MO, address listed above, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866

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

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003 through September 30, 1998.

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by OMB under the provisions of 44 U.S.C. chapter 35.

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

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

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,676,932 hours.

FCIC is requesting comments on the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information gathering technology.

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

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

Unfunded Mandates Reform Act of 1995

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

Executive Order No. 12612

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

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. New provisions included in this rule will not impact small entities to a greater extent than on large entities. Under the current regulations, a producer is required to complete an application and acreage

report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity.

The insured must also annually certify to the previous years production if adequate records are available to support the certification. The producer must maintain the production records to support the certified information for at least three years. This regulation does not alter those requirements.

The amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

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

Executive Order No. 12372

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

Executive Order No. 12998

This rule has been reviewed in accordance with Executive Order No. 12998. The provisions of this rule will not have retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

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

Background

1. FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.140, Dry Pea Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring dry peas found at 7 CFR part 416 (Pea Crop Insurance Regulations). FCIC also proposes to amend 7 CFR part 416 to limit its effect for Dry Peas to the 1997 and prior crop years. FCIC proposes to separately publish crop provisions in Part 457 to cover Green Peas.

This rule makes minor editorial and format changes to improve the Pea Crop Insurance Regulations compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring dry peas as follows:

1. Section 1—Remove the definition of ''county,'' to default to the definition contained in the Basic Provisions (§ 457.8). The current definition includes land identified by an FSA farm serial number for the county that is physically located in another county; the new definition does not. This change will require land in another county to be insured using the actuarial materials for the county where the land is located. Add definitions for the terms ''adequate stand,'' ''base price,'' ''contract price,'' ''contract seed peas,'' ''days,'' ''dry peas,'' ''FSA,'' ''final planting date,'' ''good farming practices,'' ''interplanted,'' ''irrigated practice,'' ''local market price,'' ''nurse crop (companion crop),'' ''planted acreage,'' ''practical to replant,'' ''price election,'' ''production guarantee (per acre),'' ''replanting,'' ''salvage value,'' ''seed company,'' ''seed company contract,'' ''timely planted,'' and ''written agreement'' for clarification purposes. The definition of ''dry peas'' includes fall-planted Austrian Winter Peas if we agree in writing. The definition also stipulates that peas grown for seed will be considered contract seed peas only if the insured acreage is enrolled in a state seed certification program and at least 50 percent of the expected production from the insured acreage is contracted at a fixed price. Contract seed peas not meeting these requirements will be insurable at the price election established for smooth green and yellow varieties of commercial dry edible peas.

2. Section 2—Allow separate dry pea types to qualify for optional units rather than only basic units as previously allowed. This change makes basic unit division provisions for dry peas consistent with provisions for other crops. Clarify unit division for non-irrigated corners of acreage irrigated by center-pivot systems.

3. Section 3—Specify that the insured may select only one price election (percentage of the contract price for contract seed peas) for all the dry peas in the county insured under the policy, unless the Special Provisions provide different price elections by type, in which case the insured may select one price election for each dry pea type designated in the Special Provisions. This change is proposed to be consistent with other crop provisions that allow insurance by type. The price elections selected are not required to have the same percentage relationship to the maximum price offered for each type. Also specify that the price election for spring-planted contract seed peas produced under a seed company contract will be based on the contract price.

4. Section 4—Change the contract change date from December 31 to November 30 for all counties to provide adequate time to permit insured producers to become familiar with any changes and make informed decisions before the sales closing date. The sales closing date was moved up 30 days by the Federal Crop Insurance Reform Act of 1994.

5. Section 5—Change the cancellation and termination dates from April 15 to March 15 to standardize the cancellation and termination dates with the sales closing dates.

6. Section 6—Add a requirement that insureds who produce spring-planted contract seed peas under a seed company contract to submit a copy of the seed company contract on or before the report of acreage. This change is made to establish liability under the contract.

7. Section 7(a)(3)—Permit consideration for requests to insure dry peas interplanted with another crop or planted into an established grass or legume. This makes insurance available by written agreement for production practices that are not normally followed in an area.

8. Section 7(c)—Permit insurance of Austrian Winter Peas if the insurance provider agrees in writing that there is an adequate stand in the spring to produce the yield used to determine the production guarantee and the insured requested insurance on or before the sales closing date.

9. Section 8(b)—Clarify that any acreage damaged prior to the final planting date must be replanted unless

we agree that it is not practical to replant.

10. Section 9(a)—Provide that coverage on Austrian Winter Peas will begin on acreage that has an adequate stand on the earlier of March 16 or on the date the acreage is accepted for insurance; however, such coverage will not attach before March 1.

11. Section 9(b)—Change the end of insurance period date from September 15 to September 30 to ensure that coverage is provided through the normal harvest period.

12. Section 10(c)—Clarify that insect and disease damage due to insufficient or improper application of pest or disease control measures are not an insurable cause of loss.

13. Section 12(b)—Modify the calculations used to determine dry pea claim amounts to allow the aggregation of production guarantees and production to count when more than one dry pea type is in one unit. This modification is necessary to accommodate the insurance of multiple types of dry peas within a single unit.

14. Section 12—No adjustment for quality deficiencies will be allowed for Austrian Winter Peas since the type is commonly sold only after removing any deficiencies.

15. Section 12(e)—Allow quality adjustment for smooth green and yellow varieties (including peas grown for seed that do not qualify to be insured as seed peas) that grade lower than U.S. No. 2 instead of the current U.S. No. 3. This change is consistent with the crop quality anticipated by the dry pea industry, and specifically by the American Dry Pea and Lentil Association (ADPLA). The ADPLA assesses the Fair Average Quality (FAQ) of each crop years' production. The historical FAQ for smooth green and yellow varieties is between U.S. No. 1 and 2. FCIC will increase premium rates as appropriate if this change is adopted in the final rule.

16. Currently, coverage is provided for late planted acreage under The Late Planting Agreement Option. This option will not be applicable to the proposed provisions. FCIC will later propose late and prevented planting provisions that will be added to the Basic Provisions (§ 457.8). These provisions will provide late and prevented planting coverage for pea producers.

17. Section 13—Provide for insurance coverage by written agreement. FCIC has a long standing policy of permitting certain modifications of the insurance contract by written agreement for some policies. This amendment allows FCIC to tailor the policy to a specific insured in certain instances. The new section will cover the procedures for, and duration of, written agreements.

Good cause is shown to allow 30 days for comments after this rule is published in the **Federal Register**. This rule improves dry pea crop insurance coverage and brings it under the Common Crop Insurance Policy Basic Provisions for consistency among policies. Although, the contract change date is December 31, 1997, the final rule must be published by July 7, 1997. Publication is required by this date to achieve revision and timely distribution of the actuarial documents thereby allowing the reinsured companies and insureds sufficient time to implement the new provisions. Therefore, public interests requires the agency to act immediately to make these provisions available for the 1998 crop year.

List of Subjects in 7 CFR Parts 416 and 457

Crop Insurance, Dry pea, Pea crop insurance regulations.

Proposed Rule

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation hereby proposes to amend 7 CFR parts 416 and 457 as follows:

PART 416—PEA CROP INSURANCE REGULATIONS FOR THE 1986 THROUGH THE 1997 CROP YEARS

1. The authority citation for 7 CFR part 416 is revised to read as follows:

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

2. The part heading is revised to read as set forth above.

3. The part heading ''Subpart—Regulations for the 1986 through the 1997 Crop Years'' is removed.

4. Section 416.7 is amended by revising the introductory text of paragraph (d) to read as follows:

§ 416.7 The application and policy.

* * * * *

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

* * * * *

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

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

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

5. Section 457.140 is added to read as follows:

§ 457.140 Dry pea crop insurance provisions.

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

FCIC policies:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Dry Pea Crop Provisions

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

1. Definitions

Adequate stand. A population of live plants per unit of acreage which will produce at least the yield used to establish your production guarantee.

Base price. The price per pound (excluding any discounts or incentives that may apply) that is stated in the contract seed pea processor contract and that will be paid to the producer for at least 50 percent of the total production under contract with the seed company.

Combining. A harvesting process that uses a machine to separate the peas from the pods and other vegetable matter and place the peas into a temporary storage receptacle.

Contract price. A fixed price per pound, (excluding any discounts or incentives that may apply), that is stated in the seed company contract.

Contract seed peas—Dry peas produced for the purpose of producing seed to be planted at a future date and that are grown:

(1) On acreage enrolled in the seed certification program administered by the state in which the peas are produced; and

(2) Under a contract with a seed company. The contract must stipulate a fixed price for at least fifty percent of the anticipated production from the acreage planted to the contract seed peas, and must be executed before you report your acreage.

Days. Calendar days.

Dry peas—Peas of the following types:

(1) All spring-planted smooth green and yellow varieties of commercial dry edible peas, and peas that are grown for the purpose of producing seed to be planted at a future date that do not meet the requirements contained in the definition of contract seed peas;

(2) All fall-planted varieties of Austrian Winter Peas (if we agree in writing (see section 7(c));

(3) All spring-planted varieties of lentils; and

(4) All spring-planted varieties of contract seed peas.

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

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

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

Harvest. Combining of dry peas.

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

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

Local market price. The cash price per pound for the U.S. No. 2 grade of dry peas or lentils offered by buyers in the area in which you normally market the insured crop. Such price will be the prevailing dollar amount these buyers are willing to pay for dry peas or lentils containing the maximum limits of quality deficiencies allowable for the U.S. No. 2 grade. Factors not associated with grading under the United States Standards for Whole Dry Peas, Split Peas and Lentils will not be considered.

Nurse crop (companion crop). A crop planted into the same acreage as another crop, that is intended to be harvested separately, and which is planted to improve growing conditions for the crop with which it is grown.

Planted acreage. Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed that has been properly prepared for the planting method and production practice. Dry peas must initially be planted in rows to be considered planted. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

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

Price Election. In addition to the provisions of the definition of price election in section 1 of the Basic Provisions (§ 457.8) the price election for spring-planted contract seed peas produced under a seed company contract will be the result of multiplying the contract price by a percentage (not to exceed 100 percent) that you elect.

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

Replanting. Performing the cultural practices necessary to prepare the land to replace the pea seed and then replacing the pea seed in the insured acreage with the expectation of growing a successful crop.

Salvage value. The highest price per pound that will be paid for the damaged dry peas as determined by us.

Seed company. Any business enterprise regularly engaged in the processing of contract seed peas, that possesses all licenses and permits for marketing contract seed peas required by the state in which it operates, and that possesses or has contracted for facilities, with enough drying, screening, and bagging or packaging equipment to accept and process the contract seed peas within a reasonable amount of time after harvest.

Seed company contract—A written agreement between the producer and the seed company, containing at a minimum:

(a) The producer's promise to plant and grow one or more specific varieties of contract seed peas, and deliver the production from those varieties to the seed company;

(b) The seed company's promise to purchase all the production stated in the contract;

(c) A date by which the crop must be harvested to be accepted by the processor; and

(d) A fixed price or a method to determine such price based on published independent information, that will be paid to the producer for the production stated in the contract.

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

Written agreement. A written document that alters designated terms of this policy in accordance with section 14.

2. Unit Division

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

(b) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, variety, and planting period, other than as described in this section.

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

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

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

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

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

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

(4) Each optional unit must meet one or more of the following criteria unless otherwise specified by a written agreement, as applicable:

(i) *Optional Units by Dry Pea Type:* A separate optional unit may be established for each dry pea type designated in section 1 (Definitions).

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

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

system is used may qualify as a separate optional unit provided that all requirements of this section are met.

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

In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election (percentage of the contract price for spring-planted contract seed peas) for all the dry peas in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election (percentage of the contract price for spring-planted contract seed peas) for each dry pea type so designated in the Special Provisions. The price elections you choose for each type are not required to have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you may choose 80 percent of the maximum price election for another type. However, if you elect the Catastrophic Risk Protection level of insurance for any dry pea type, that level of coverage will be applicable to all insured acreage in the county. When you elect a price election for one or more dry pea type that is applicable to the limited level of coverage and a price election applicable to the additional level of coverage for the remaining dry pea types, the administrative fees applicable to both the limited and additional levels of coverage will apply.

4. Contract Changes

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Basic Provisions (§ 457.8), the cancellation and termination dates are March 15.

6. Report of Acreage

In addition to the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), if you are insuring spring-planted contract seed peas grown under contract with a seed company you must submit a copy of the seed company contract to us on or before the acreage reporting date.

7. Insured Crop

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the dry pea types in the county (except Austrian Winter Peas unless you request insurance for such peas in accordance with section 7(c)) for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That are planted for harvest as dry peas and which, if grown under a seed company contract, are not excluded from such contract for or during the crop year; and

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

(i) Interplanted with another crop;

(ii) Planted into an established grass or legume; or

(iii) Planted as a nurse crop.

(b) An instrument in the form of a ''lease'' under which you retain control of the acreage on which the insured crop is grown and that provides for delivery of the crop under substantially the same terms as a seed company contract may be treated as a contract under which you have an insurable interest in the crop.

(c) Austrian Winter Peas will be insured only if you request insurance in writing for such dry peas and we agree to provide coverage by written agreement. Your request to insure Austrian Winter Peas must be submitted to us not later than the sales closing date. We will not agree to insure Austrian Winter Peas unless an adequate stand exists in the spring to produce at least the production guarantee.

(d) Any acreage of dry peas which is destroyed and replanted to different insurable type of dry peas will be considered insured acreage.

8. Insurable Acreage

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8):

(a) We will not insure any acreage that does not meet the rotation requirements shown in the Special Provisions; or

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that the majority of producers in the area would normally not further care for the crop, must be replanted unless we agree that it is not practical to replant. We will not require you to replant if it is not practical to replant the type of dry peas originally planted.

9. Insurance Period

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

(a) Coverage for Austrian Winter Peas will begin on acreage that has an adequate stand on the earlier of March 16 or on the date we agree to accept the acreage for insurance; however, insurance will not begin before March 1; and

(b) The calendar date for the end of the insurance period is September 30 of the calendar year in which the crop normally is harvested.

10. Causes of Loss

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

(a) Adverse weather conditions;

(b) Fire;

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

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

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption; or

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

11. Duties in the Event of Damage or Loss

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

12. Settlement of Claim

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

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

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

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

(1) Multiplying the insured acreage of each dry pea type, excluding contract seed peas, by its respective production guarantee;

(2) Multiplying each result in section 12(b)(1) by the respective price election for each insured type;

(3) Totaling the results in section 12(b)(2);

(4) Multiplying the insured acreage of each contract seed pea type by its respective production guarantee;

(5) Multiplying each result in section 12(b)(4) by the applicable base price;

(6) Multiplying each result in section 12(b)(5) by your selected price election percentage;

(7) Totaling the results in section 12(b)(6);

(8) Totaling the results in section 12(b)(3) and section 12(b)(7);

(9) Multiplying the total production to be counted of each dry pea type, excluding contract seed peas, if applicable, (see section 12(d)) by the respective price election;

(10) Totaling the value of all contract seed pea production (see section 12(c));

(11) Totaling the results in section 12(b)(9) and section 12(b)(10);

(12) Subtracting the result in section 12(b)(11) from the result in section 12(b)(8); and

(13) Multiplying the result by your share.

(c) The value of contract seed pea production to count for each type in the unit will be determined as follows:

(1) For production meeting the minimum quality requirements contained in the seed pea processor contract and for production that does not meet such requirements due to uninsured causes:

(i) Multiplying the actual value or base price per pound, whichever is greater, by the price election percentage you selected; and

(ii) Multiplying the result by the number of pounds of such production.

(2) For mature production not meeting the minimum quality requirements contained in the seed pea processor contract due to insurable causes, and immature production that is appraised:

(i) Multiplying the actual value by the price election percentage you selected; and

(ii) Multiplying the result by the number of pounds of such production.

(d) The total pea production to count (in pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

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

(A) That is abandoned;

(B) That is put to another use without our consent;

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

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

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production of dry peas, excluding Austrian Winter Peas, may be adjusted for quality deficiencies in accordance with section 12 (c) or (e), if applicable); and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

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

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

(2) All harvested production from the insurable acreage.

(e) Mature production of smooth green and yellow peas, lentils, and contract seed peas that are not deliverable under the contract or are sold under the contract for less than the contract price, may be adjusted for quality deficiencies. No adjustment for quality deficiencies will be allowed for Austrian Winter Peas.

(1) Production will be eligible for quality adjustment if:

(i) Deficiencies in quality, in accordance with the United States Standards for Whole Dry Peas, Split Peas, and Lentils, result in production grading U.S. No. 3 or worse because of defects, color, skinned production (lentils only), odor, material weathering, or distinctly low quality; or

(ii) Substances or conditions are present that are identified by the Food and Drug Administration or other public health organizations of the United States as being injurious to human or animal health.

(2) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions and which occurs within the insurance period;

(ii) The deficiencies, substances, or conditions result in a net price for the damaged production that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader licensed to grade dry peas under the authority of the United States Agricultural Marketing Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. Test weight for quality adjustment purposes may be determined by our loss adjuster.

(3) Dry Pea production that is eligible for quality adjustment, as specified in sections 12(e) (1) and (2), will be reduced as follows:

(i) The value per pound of the qualifying damaged production and the local market price will be determined on the earlier of the date such damaged production is sold or the date of final inspection for the unit. The value per pound for the qualifying damaged production will be the value determined in the local area to the extent feasible. We may obtain prices from any buyer of our choice. If we obtain prices from one or more buyers located outside your local market area, we will reduce such prices by the additional costs required to deliver the dry peas to those buyers. Discounts used to establish the net value of the damaged production will be limited to those that are usual, customary, and reasonable. The value will not be reduced for:

(A) Moisture content;

(B) Damage due to uninsured causes; or

(C) Drying, handling, processing, or any other costs associated with normal harvesting, handling, and marketing of the dry peas; except, if the value of the damaged production can be increased by conditioning, we may reduce the value of the production after it has been conditioned by the cost of conditioning but not lower than the value of the production before conditioning;

(ii) The value per pound of the damaged or conditioned production will be divided by the local market price to determine the quality adjustment factor;

(iii) The number of pounds of the damaged or conditioned production will then be multiplied by the quality adjustment factor to determine the production to count to be included in section 12(d); and

(iv) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

13. Written Agreements

Terms of this policy which are specifically designated for the use of written agreements may be altered by written agreement in accordance with the following:

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

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

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

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

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

Signed in Washington, D.C., on May 8, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–12707 Filed 5–14–97; 8:45 am]

BILLING CODE 3410–88–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 601

[REG–209837–96 and REG–105299–97]

RIN 1545–AU42 and 1545–AV20

Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the procedure for requesting a change in accounting method and to the standards for granting an extension of time to request a change in accounting method. The regulations provide for a longer period of time for filing an application for change in accounting method with the Commissioner. The regulations also provide that an extension of time to file an application for change in accounting method will be granted only in unusual and compelling circumstances. The

regulations affect taxpayers requesting a change in method of accounting for federal income tax purposes. The text of those temporary regulations also serves as the text of these proposed regulations.

DATES: Written comments must be received by August 13, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–209837–96 and REG–105299–97), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–209837–96 and REG–105299–97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Taxpayers may also submit comments electronically via the internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax____regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Oseekey, (202) 622–4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend Regulations on Income Taxes (26 CFR part 1), the Regulations on Procedure and Administration (26 CFR part 301), and the Statement of Procedural Rules (26 CFR part 601) relating to the requirements for changes in method of accounting and extensions of time to make elections. Proposed and temporary regulations relating to extensions of time to make elections were published in the **Federal Register** for June 27, 1996 (61 FR 29714 and 61 FR 33365). These regulations extend the time for filing an application for change in accounting method under § 1.446–1(e)(3)(i) and amend §§ 301.9100–1T and 301.9100–3T to provide that an extension of time to file an application for change in accounting method will be granted only in unusual and compelling circumstances.

The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the rules provided by the regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Sections 1.446–1(e)(3)(i) and 601.204(b) require a taxpayer to file a Form 3115, Application for Change in Accounting Method, with the Commissioner within the first 180 days of the taxable year in which the taxpayer desires to make the change. The proposed regulations in this document merely extend the time for filing the Form 3115 and, therefore, do not contain a new collection of information. Thus, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS (a signed original and eight (8) copies if the comments are written). All comments will be available for public inspection and copy. A public hearing may be scheduled if requested in writing by a person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Cheryl L. Oseekey of the Office of Assistant Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

26 CFR Part 601

Administrative practice and procedure, Freedom of information, Reporting and recordkeeping requirements, Taxes.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1, 301, and 601 are proposed to be amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805. * * *

Par. 2. Section 1.446–1 is amended by revising paragraph (e)(3)(i) to read as follows:

§ 1.446–1 General rule for methods of accounting.

[The text of proposed paragraph (e)(3)(i) is the same as the text in § 1.446–1T(e)(3)(i) published elsewhere in this issue of the **Federal Register**].

PART 301—PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805. * * *

Par. 4. In § 301.9100–1, paragraph (h) is added to read as follows:

§ 301.9100–1 Extensions of time to make elections.

[The text of proposed paragraph (h) is the same as the text of § 301.9100–1T(h) published June 27, 1996, at 61 FR 33368, and amended elsewhere in this issue of the **Federal Register**].

Par. 5. In proposed § 301.9100–3, published June 27, 1996, at 61 FR 33409, paragraph (c)(2)(i) is revised to reads as follows:

§ 301.9100–3 Other extensions.

[The text of proposed paragraph (c)(2)(i) is the same as the text in § 301.9100–3T(c)(2)(i) published elsewhere in this issue of the **Federal Register.**]

PART 601—STATEMENT OF PROCEDURAL RULES

Par. 6. The authority citation for part 601 continues to read as follows:

Authority: 26 U.S.C. 301 and 552. * * *

Par. 7. In § 601.204, paragraph (b) is revised to read as follows:

§ 601.204 Changes in accounting periods and in methods of accounting.

[The text of proposed paragraph (b) is the same as the text in § 601.204T(b)

published elsewhere in this issue of the **Federal Register**].

Margaret Milner Richardson,

Commissioner of Internal Revenue.

[FR Doc. 97–12513 Filed 5–14–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE22

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for 10 Plant Taxa From Maui Nui, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 10 plant taxa: *Clermontia samuelii* (‘oha wai), *Cyanea copelandii* ssp. *haleakalaensis* (haha), *Cyanea glabra* (haha), *Cyanea hamatiflora* ssp. *hamatiflora* (haha), *Dubautia plantaginea* ssp. *humilis* (na‘ena‘e), *Hedyotis schlechtendahliana* var. *remyi* (kopa), *Kanaloa kahoolawensis* (kohe malama malama o Kanaloa), *Labordia tinifolia* var. *lanaiensis* (kamakahala), *Labordia triflora* (kamakahala), and *Melicope munroi* (alani). All 10 taxa are endemic to the Maui Nui group of islands, in the Hawaiian Islands. This group includes Maui, Molokai, Lanai, and Kahoolawe. *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora*, and *Dubautia plantaginea* ssp. *humilis* are endemic to the island of Maui. *Hedyotis schlechtendahliana* var. *remyi* and *Labordia tinifolia* var. *lanaiensis* are endemic to the island of Lanai. *Kanaloa kahoolawensis* is endemic to the island of Kahoolawe, although pollen studies indicate it may have been a dominant species on Oahu until 800 years ago. *Labordia triflora* is endemic to Molokai, and *Melicope munroi* is found on Lanai but was also known historically from Molokai. The 10 plant taxa and their habitats have been variously affected or are currently threatened by one or more of the following: Competition, predation or habitat degradation from alien species, natural disasters, and random environmental events. This proposal, if made final, would implement the Federal protection provisions provided by the Act.

DATES: Comments from all interested parties must be received by July 14, 1997. Public hearing requests must be received by June 30, 1997.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Manager, Pacific Islands Ecoregion Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Robert P. Smith, Manager, Pacific Islands Ecoregion Office, see **ADDRESSES** section, or telephone 808–541–2749 or FAX 808–541–2756.

SUPPLEMENTARY INFORMATION:

Background

Clermontia samuelii, Cyanea copelandii ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora*, and *Melicope munroi* are, or were, known from four Hawaiian Islands: Molokai, Lanai, Maui, and Kahoolawe. The current and historical distribution by island for each of the 10 taxa is presented in Table 1.

The Hawaiian archipelago includes eight large volcanic islands (Niihau, Kauai, Oahu, Molokai, Lanai, Kahoolawe, Maui, and Hawaii), as well as offshore islets, shoals, and atolls set on submerged volcanic remnants at the northwest end of the chain. The archipelago covers a land area of about 16,600 square kilometers (sq km) (6,400 sq miles (mi)), extending roughly between latitude 18°50′ to 28°15′ N and longitude 154°40′ to 178°70′ W, and ranging in elevation from sea level to 4,200 meters (m) (13,800 feet (ft)) (Department of Geography 1983). The regional geological setting is a mid-oceanic volcanic island archipelago set in a roughly northwest to southeast line, with younger islands to the southeast. The four main central islands of Maui, Molokai, Lanai, and Kahoolawe are part of a large volcanic mass of six major volcanoes, which were united as a single island during times of lower sea level. This island, called Maui Nui, covered about 5,200 sq km (2,000 sq m). The youngest island in this group, Maui, consists of two volcanoes—the older West Maui, 1.3 million years old, and the younger Haleakala, 0.4 to 0.8 million years old. The islands progress in age from Haleakala (or East Maui), through Kahoolawe (1 million years old), West Maui, Lanai (1.2 to 1.5 million years old), to Molokai. Molokai consists of three volcanoes: East Molokai (1.3 to 1.5 million years old), West Molokai (1.5 to 1.8 million years old), and Kalaupapa Peninsula (1.2 million years old). The older islands are increasingly eroded (Macdonald *et al.* 1986). The topography of the Hawaiian Islands comprising Maui Nui is extremely diverse. On the youngest part of the island of Maui, gently sloping unweathered shield volcanoes with very poor soil development are juxtaposed with older, heavily weathered valleys with steep walls, well-developed streams, and gently sloped flood plains. The older volcanoes, West Maui and Molokai, are generally more weathered. On a typical older island, sea cliffs and large amphitheater-headed valleys on the windward (northeast) side contrast with erosionally younger, dissected slopes on the leeward (southwest) side (Department of Geography 1983).

TABLE 1.—SUMMARY OF ISLAND DISTRIBUTION OF THE PROPOSED SPECIES

Species	Island within Maui Nui			
	M	Mo	L	Ka
Clermontia samuelii	C			
Cyanea copelandii ssp. haleakalaensis	C			
Cyanea glabra	C			
Cyanea hamatiflora ssp. hamatiflora	C			
Dubautia plantaginea ssp. humilis	C			
Hedyotis schlechtendahliana ssp. remyi			C	
Kanaloa kahoolawensis				C*
Labordia tinifolia var. lanaiensis			C	

TABLE 1.—SUMMARY OF ISLAND DISTRIBUTION OF THE PROPOSED SPECIES—Continued

Species	Island within Maui Nui			
	M	Mo	L	Ka
Labordia triflora		C		
Melicope munroi		H	C	

KEY
C = current; population last observed within the past 20 years.
H = historical; population not seen for over 20 years.
M-Maui
Mo-Molokai
L-Lanai
Ka-Kahoolawe
*Kanaloa kahoolawensis was most likely a dominant species in the lowland areas of Oahu, and possibly Maui, up until 800 years ago, according to pollen records.

The climate of the Hawaiian Islands reflects the tropical setting buffered by the surrounding ocean (Department of Geography 1983). The prevailing winds are northeast trades with some seasonal fluctuation in strength. There are also winter storm systems and occasional hurricanes. Temperatures vary over the year an average of 5 °Celsius (C) (11 °Fahrenheit (F)) or less, with daily variation usually exceeding seasonal variation in temperature. Temperature varies with elevation and ranges from a maximum recorded temperature of 37.7 °C (99.9 °F), measured at 265 m (870 ft) elevation, to a minimum of −12.7 °C (9.1 °F) recorded at 4,205 m (13,795 ft) elevation. Annual rainfall varies greatly by location, with marked windward to leeward gradients over short distances. Minimum average annual rainfall is less than 250 millimeters (mm) (10 inches (in.)); the maximum average precipitation is well in excess of 11,000 mm (450 in.) per year. Precipitation is greatest during the months of October through April. A dry season is apparent in leeward settings, while windward settings generally receive tradewind-driven rainfall throughout the year (Department of Geography 1983).

The native-dominated vegetation of the Hawaiian Islands varies greatly according to elevation, moisture regime, and substrate. The most recent classification of Hawaiian natural communities recognizes nearly 100 native vegetation types. Within these types are numerous island-specific or region-specific associations, comprising an extremely rich array of vegetation types within a very limited geographic area. Major vegetation formations include forests, woodlands, shrublands, grasslands, herblands, and pioneer associations on lava and cinder substrates (Gagné and Cuddihy 1990).

In Hawaii, lowland, montane, and subalpine forest types extend from sea level to above 3,000 m (9,800 ft) in elevation. Coastal and lowland forests are generally dry or mesic and may be open or closed-canopied. The stature of lowland forests is generally under 10 m (30 ft). Three of the taxa proposed for listing (*Cyanea copelandii* ssp. *haleakalaensis, Labordia tinifolia* var. *lanaiensis,* and *Labordia triflora*) have been reported from lowland mesic forest habitat. Montane wet forests, occupying elevations between 915 and 1,830 m (3,000 and 6,000 ft), occur on the windward slopes and summits of the islands of Kauai, Oahu, Molokai, Maui, and Hawaii. The forests may be open- to closed-canopied, and may exceed 20 m (65 ft) in stature. Montane wet forests are usually dominated by several species of native trees and tree ferns. Four of the proposed taxa (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra,* and *Cyanea hamatiflora* ssp. *hamatiflora*) have been reported from montane wet forest habitat.

Hawaiian shrublands are also found from coastal to alpine elevations. The majority of Hawaiian shrubland types are in dry and mesic settings, or on cliffs and slopes too steep to support trees. One of the proposed taxa, *Kanaloa kahoolawensis,* has been reported from coastal dry shrubland on Kahoolawe. Two of the proposed taxa, *Dubautia plantaginea* ssp. *humilis* and *Melicope munroi,* have been reported from lowland wet shrublands, and *Hedyotis schlechtendahliana* var. *remyi* has been reported from lowland mesic shrublands.

The land that supports these 10 plant taxa is owned by various private parties, the State of Hawaii (including forest reserves and natural area reserves), and the Federal government (Department of the Interior, National Park Service).

Discussion of the 10 Plant Taxa

Clermontia samuelii

Clermontia samuelii, was first described by C.N. Forbes from a collection he made in 1919 (Degener and Degener 1958, Forbes 1920). Harold St. John described *C. hanaensis* in 1939, based on a specimen collected by C.N. Forbes in 1920 (Degener and Degener 1960, St. John 1939). Later, St. John formally described *C. gracilis, C. kipahuluensis,* and *C. rosacea* (St. John 1987a). In the most recent treatment of this endemic Hawaiian genus, Lammers considers all four species to be synonymous with *C. samuelii,* and divides the species into two subspecies—ssp. *hanaensis* (including the synonyms *C. hanaensis* and *C. kipahuluensis*) and ssp. *samuelii* (including *C. gracilis and C. rosacea*) (Lammers 1989, 1990).

Clermontia samuelii, a member of the bellflower family (Campanulaceae), is a terrestrial shrub 1.2 to 5 m (4 to 16 ft) tall. The leaves are elliptical, sometimes broader at the tip, with blades 5 to 10 cm (2 to 4 in.) long and 1.8 to 4.5 cm (0.7 to 1.8 in.) wide. The upper surfaces of the leaves are dark green, often tinged purplish, and may be sparsely hairy. The lower surfaces of the leaves are pale green, and sparsely to densely hairy. The leaf margins are thickened, with shallow, ascending, rounded teeth. The tips and bases of the leaves are typically sharply pointed. The inflorescences (flowering clusters) bear 2 to 5 flowers on a main stem that is 4 to 18 mm (0.2 to 0.7 in.) long. The stalk of each individual flower is 12 to 28 mm (0.5 to 1.1 in.) long. The hypanthium (cup-like structure at the base of the flower) is widest on the top, 8 to 14 mm (0.3 to 0.6 in.) long, and 5 to 10 mm (0.2 to 0.4 in.) wide. The sepals and petals are similar in color (rose or greenish white to white), curved, and tubular. The flowers are 36 to 55 mm (1.4 to 2.2 in.) long and 5 to 10 mm (0.2 to 0.4 in.) wide. The lobes of the sepals and petals are erect, and extend 0.2 to 0.5 times beyond the tube. Berries of this species have not yet been observed. *C. samuelii* ssp. *hanaensis* is differentiated from *C. samuelii* ssp. *samuelii* by the greenish white to white flowers; longer, narrower

leaves with the broadest point near the base of the leaves; and fewer hairs on the lower surface of the leaves. The species is separated from other members of this endemic Hawaiian genus by the size of the flowers and the hypanthium (Lammers 1990).

Historically, *Clermontia samuelii* has been reported from eight locations on Haleakala, East Maui, from Keanae Valley on the windward (northeastern) side to Manawainui on the more leeward (southeastern) side of Haleakala (Hawaii Heritage Program (HHP) 1991a1 to 1991a4, 1991b1 to 1991b4; Medeiros and Loope 1989). Currently, *C. samuelii* ssp. *hanaensis* is known from several populations limited to the northeastern side of Haleakala, totaling fewer than 300 individuals. The populations occur on State owned land, within a Natural Area Reserve and a Forest Reserve (FR) (Arthur C. Medeiros, Biological Resources Division—U.S. Geological Survey (BRD), pers. comm. 1995). *C. samuelii* ssp. *samuelii* is known from 5 to 10 populations totalling 50 to 100 individuals. Most of the populations occur on the back walls of Kipahulu Valley, within Haleakala National Park, with 2 or 3 of the populations on adjacent State owned land (Robert Hobdy, Hawaii Division of Forestry and Wildlife (DOFAW) and A.C. Medeiros, pers. comms. 1995). *C. samuelii* ssp. *hanaensis* is found at, or below, 915 m (3,000 ft) elevation (A.C. Medeiros, pers. comm. 1995), while *C. samuelii* ssp. *samuelii* is typically found between 1,800 to 2,100 m (6,000 to 6,900 ft) elevation (HHP 1991b1, 1991b2, 1991b4). Both taxa are found in montane wet forest dominated by *Metrosideros polymorpha* (o'hi'a) with an understory of *Cibotium* sp. (hapu'u) and various native shrubs. Associated plant taxa include *Dubautia* sp. (na'ena'e), *Clermontia* sp. ('oha wai), *Hedyotis* sp. (pilo), *Vaccinium* sp. (ohelo), *Carex alligata, Melicope* sp. (alani), and *Cheirodendron trigynum* ('olapa) (HHP 1991a1, 1991a2, 1991b4).

Threats to *Clermontia samuelii* ssp. *hanaensis* include habitat degradation and/or destruction by feral pigs (*Sus scrofa*) and competition with alien plant taxa such as *Tibouchina herbacea* (glorybush) and two species of *Hedychium* (ginger) (A.C. Medeiros, pers. comm. 1995; Fredrick R. Warshauer, BRD, pers. comm. 1995). In addition, two extremely invasive alien plant taxa, *Miconia calvescens* (velvet tree) and *Clidemia hirta* (Koster's curse), are found in nearby areas and may invade this habitat if not controlled (A.C. Medeiros, pers. comm. 1995). The habitat of *Clermontia samuelii* ssp. *samuelii* was extensively damaged by pigs in the past, and pigs are still a major threat to the populations on State owned lands. The populations of *Clermontia samuelii* ssp. *samuelii* within the park have been fenced and pigs have been eradicated. Due to the large populations of pigs in adjacent areas, the park populations must constantly be monitored to prevent further ingress (R. Hobdy and A.C. Medeiros, pers. comms. 1995). Rats (mainly *Rattus rattus*) and slugs are known to eat leaves, stems, and fruits of other members of this genus, and therefore are a potential threat to both subspecies (Loyal Mehrhoff, U.S. Fish and Wildlife Service (USFWS), *in litt.* 1995).

Cyanea copelandii ssp. *haleakalaensis*

Cyanea haleakalaensis was first described in 1971 by St. John, from a collection made by G.Y. Kikudome in 1951 (St. John 1971). In 1987, St. John (St. John 1987b) merged the two genera *Cyanea* and *Delissea*, formally recognizing only *Delissea*, the genus with priority. This resulted in the combination *D. haleakalaensis*. Lammers retains both genera in the currently accepted treatment of the Hawaiian members of the family, and in 1988 he recognized *C. haleakalaensis* as a subspecies of *C. copelandii*, publishing the new combination *C. copelandii* ssp. *haleakalaensis* (Lammers 1988, 1990). *C. copelandii* ssp. *copelandii* was previously listed as an endangered species (59 FR 10305).

Cyanea copelandii ssp. *haleakalaensis*, a member of the bellflower family, is a vine-like shrub 0.3 to 2 m (1 to 7 ft) tall, with sprawling stems. The sap of this species is a tan latex. Stems are unbranched or sparingly branched from the base. The leaves are elliptical, 10 to 19 cm (4 to 7 in.) long, and 3.5 to 8.5 cm (1.4 to 3.3 in.) wide. The upper surfaces of the leaves have no hairs, while the lower surfaces are hairy. The margins of the leaves are thickened, with small, widely spaced, sharp teeth. The leaf stalks are 2.5 to 10 cm (1 to 4 in.) long. The inflorescences are 5 to 12-flowered and hairy. The main inflorescence stalks are 20 to 45 mm (0.8 to 1.8 in.) long. The hypanthium is oval and widest at the top, 6 to 10 mm (0.2 to 0.4 in.) long, about 5 mm (0.2 in.) wide, and hairy. The corolla (petals collectively) is yellowish but appears pale rose in color due to a covering of dark red hairs. The corolla is 37 to 42 mm (1.4 to 1.6 in.) long and about 5 mm (0.2 in.) wide. The corolla tube is gently curved and the lobes spread about 0.25 times beyond the tube. The berries are dark orange, oval, and 7 to 15 mm (0.3 to 0.6 in.) long. This subspecies is differentiated from the other subspecies by the elliptical leaves, which are also shorter. This species differs from others in this endemic Hawaiian genus by the vine-like stems and the yellowish flowers that appear red due to the covering of hairs (Lammers 1990).

Cyanea copelandii ssp. *haleakalaensis* was historically reported from six locations on the windward (northeastern) side of Haleakala, East Maui, from Waikamoi to Kipahulu Valley (Chock and Kikudome (299) 1950; Forbes (1680.M) 1919, (1708.M) 1919, (2616.M) 1920, (2675.M) 1920; Hobdy (887) 1980; Kikudome (454) 1951; Lamoureux and DeWreede (3917) 1967; Rock (25660b) 1954; St. John (24732) 1950; Warshauer and Kepler (FRW 2698) 1980; Warshauer and McEldowney (FRW 2769) 1980; Wagner *et al.* (5912) 1988). Currently, this taxon is known from two populations: One population of about 200 individuals in Kipahulu Valley, within Haleakala National Park; and one population of 35 individuals on lower Waikamoi flume, which is privately owned. Typical habitat is stream banks and wet scree slopes in montane wet or mesic forest dominated by *Acacia koa* (koa) and/or *Metrosideros polymorpha* (Hobdy (887) 1980; Medeiros and Loope 1989; National Tropical Botanical Garden (NTBG) 1994; Wagner *et al.* (5912) 1988; R. Hobdy and A.C. Medeiros, pers. comms. 1995). *C. copelandii* ssp. *haleakalaensis* is found at elevations between 730 and 1,340 m (2,400 and 4,400 ft) (Hobdy (887) 1980; Wagner *et al.* (5912) 1988; Warshauer and Kepler (FRW 2698) 1980; Warshauer and McEldowney (FRW 2769) 1980; A.C. Medeiros, pers. comm. 1995). Associated species include *Perrottetia sandwicensis* (olomea), *Psychotria hawaiiensis* (kopiko 'ula), *Broussaisia arguta* (kanawao), and *Hedyotis acuminata* (au) (Wagner *et al.* (5912) 1988).

The major threats to *Cyanea copelandii* ssp. *haleakalaensis* are habitat degradation and/or destruction by feral pigs and competition with several alien plant taxa (Higashino *et al.* 1988; Hobdy (887) 1980; NTBG 1994; R. Hobdy, A.C. Medeiros, and F.R. Warshauer, pers. comms. 1995). Rats (mainly *Rattus rattus*) and slugs (mainly *Milax gagetes*) are known to eat leaves, stems, and fruits of other members of this genus, and therefore are a potential threat to this species (L. Mehrhoff, *in litt.* 1995). In addition, *C. copelandii* ssp. *haleakalaensis* is threatened by random environmental events since it is known from only two populations.

Cyanea glabra

Cyanea glabra was first collected on West Maui by Willam Hillebrand who named it *Cyanea holophylla* var. *obovata* (Hillebrand 1888). In 1943, F.E. Wimmer named it *C. knudsenii* var. *glabra*, based on a specimen collected by Forbes on East Maui (Wimmer 1943). In 1981, St. John elevated *C. knudsenii* var. *glabra* to full species status as *C. glabra* (St. John 1981). Lammers, in the most recent treatment of the Hawaiian members of the family, upheld the species name, and included *C. holophylla* var. *obovata* as well as the following synonyms in *C. glabra*: *C. scabra* var. *variabilis*, *Delissea glabra*, *D. holophylla* var. *obovata*, and *D. scabra* var. *variabilis* (Lammers 1990, Rock 1919).

Cyanea glabra, a member of the bellflower family, is a branched shrub. The leaves of juvenile plants are deeply pinnately lobed, while those of the adult plants are more or less entire and elliptical. Adult leaves are 23 to 36 cm (9 to 14 in.) long and 7 to 12 cm (3 to 5 in.) wide. The upper surfaces of the leaves are green and hairless, while the lower surfaces are pale green and hairless to sparsely hairy. The margins of the adult leaves are thickened and shallowly toothed to irregularly lobed. Six to eight flowers are borne in each inflorescence. The main inflorescence stalk is 20 to 55 mm (0.8 to 2.2 in.) long, while the individual flower stalk is 12 to 25 mm (0.5 to 1.0 in.) long. The hypanthium is widest at the top, 7 to 10 mm (0.3 to 0.4 in.) long, and about 5 mm (0.2 in.) wide. The corolla is white, often with a pale lilac tinge, 50 to 60 mm (2 to 2.4 in.) long, and about 8 mm (0.3 in.) wide. The tube of the corolla is curved. The lobes are spreading, 0.25 to 0.33 times as long as the tube, and are covered by small, sharp projections. The berries are yellowish orange, elliptical, and 10 to 15 mm (0.4 to 0.6 in.) long. The calyx (sepals collectively) persist on the berry. This species is differentiated from others in this endemic Hawaiian genus by the size of the flower and the pinnately lobed juvenile leaves (Lammers 1990).

Cyanea glabra has been reported historically from two locations on West Maui (Hillebrand 1888; Steve Perlman, NTBG, pers. comm. 1992) and five locations on Haleakala, East Maui (HHP 1991c1 to 1991c5). This species is currently known from only two populations: One population of 12 individuals in Kauaula Gulch on West Maui, on privately owned land (S. Perlman, pers. comm. 1995); and one scattered population of approximately 200 individuals in Kipahulu Valley, within Haleakala National Park (A.C. Medeiros, pers. comm. 1995). Typical habitat is wet forest dominated by *Acacia koa* and/or *Metrosideros polymorpha*, at elevations between 975 to 1,340 m (3,200 to 4,400 ft) (A.C. Medeiros, pers. comm. 1995).

The primary threat to *Cyanea glabra* is slugs (A.C. Medeiros, pers. comm. 1995). Additional threats are habitat degradation and/or destruction by feral pigs, flooding, and competition with several alien plant taxa (R. Hobdy and A.C. Medeiros, pers. comms. 1995). Rats are a potential threat to *C. glabra*, since they are known to eat plant parts of other members of the bellflower family (L. Mehrhoff, *in litt.* 1995; A.C. Medeiros, pers. comm. 1995). Leaf damage in the form of stippling and yellowing by the twospotted leafhopper (*Saphonia rufofascia*) has been observed on other native species within the area of *C. glabra* on West Maui and is a potential threat to this species (Kenneth Wood, NTBG, pers. comm. 1995). Random environmental events are a threat to this species, with only two populations remaining.

Cyanea hamatiflora ssp. *hamatiflora*

Cyanea hamatiflora was first collected by Joseph Rock in 1910 and described in 1913 (Rock 1913). In 1987, St. John (St. John 1987b) merged the two genera *Cyanea* and *Delissea*, formally recognizing only *Delissea*, the genus with priority. This resulted in the combination *D. hamatiflora*. In 1988, Lammers upheld *Cyanea* as a separate genus and combined *C. carlsonii* with this species, resulting in two subspecies: The federally endangered *C. hamatiflora* ssp. *carlsonii* (59 FR 10305) and the nominative *C. hamatiflora* ssp. *hamatiflora* (Lammers 1988, 1990).

Cyanea hamatiflora ssp. *hamatiflora*, a member of the bellflower family, is a palm-like tree 3 to 8 m (10 to 26 ft) tall. The latex is tan in color. The leaves are elliptical with the broadest point at the tip, or they may be narrowly oblong. The leaf blades are 50 to 80 cm (20 to 30 in.) long, 8 to 14 cm (3 to 5.5 in.) wide, and have no stem. The upper surface of the leaf is sparsely hairy to hairless and the lower surface is hairy at least along the midrib and veins. The leaf margins are minutely round-toothed. The inflorescence is 5 to 10 flowered with main stalks 15 to 30 mm (0.6 to 1.2 in.) long. The stalks of individuals flowers are 5 to 12 mm (0.2 to 0.5 in.) long. The hypanthium is widest at the top, 12 to 30 mm (0.5 to 1.2 in.) long, and 6 to 12 mm (0.2 to 0.5 in.) wide. The corolla is magenta in color, 60 to 80 mm (2 to 3 in.) long, 6 to 11 mm (0.2 to 0.4 in.) wide, and hairless. The tube of the corolla is slightly curved, with lobes 0.25 to 0.5 times as long as the tube. The corolla lobes all curve downward, making the flower appear one-lipped. The anthers (pollen-bearing structures) are hairless except for the lower two, which have apical tufts of white hairs. The fruit is a purplish red berry 30 to 45 mm (1.2 to 1.8 in.) long and 20 to 27 mm (0.8 to 1.1 in.) wide. The berry is crowned by persistent calyx lobes. This subspecies is differentiated from the previously listed subspecies (*C. hamatiflora* ssp. *carlsonii*) by its longer calyx lobes and shorter individual flower stalks. This species is separated from others in this endemic Hawaiian genus by fewer flowers per inflorescence and narrower leaves (Lammers 1990).

Cyanea hamatiflora ssp. *hamatiflora* was historically known from eight locations on the windward (northeastern) side of Haleakala, on Maui, stretching from Puu o Kakae to Manawainui (Degener (7977) 1927; Forbes (1294.M) 1919, (1654.M) 1919, (2607.M) 1920; Higashino and Haratani (10037) 1983; Higashino and Holt (9398) 1980; Higashino and Mizuro (2850) 1976; Hobdy (2630) 1986; Rock (8514) 1918; St. John (24730) 1951; Skottsberg (870) 1920; Warshauer and McEldowney (FRW 2614) 1980; Warshauer and McEldowney (FRW 2876) 1980). Currently, this taxon is known from two locations. Five or 6 populations totalling 50 to 100 individuals in Kipahulu Valley occur within Haleakala National Park (A.C. Medeiros, pers. comm. 1995), and 5 or 6 populations totalling 20 to 25 widely scattered individuals occur in the Waikamoi-Koolau Gap area on privately owned land (NTBG 1995; R. Hobdy, pers. comm. 1995). Typical habitat for this taxon is montane wet forest dominated by *Metrosideros polymorpha*, with a *Cibotium* sp. and/or native shrub understory, from 975 to 1,500 m (3,200 to 4,920 ft) elevation (NTBG 1995; Warshauer and McEldowney (FRW 2614) 1980; Warshauer and McEldowney (FRW 2876) 1980). Associated native plant taxa include *Dicranopteris linearis* (uluhe), *Cheirodendron trigynum*, *Broussaisia arguta*, *Cyanea solenocalyx* (haha), *Cyanea kunthiana* (haha), *Vaccinium* sp. (ohelo), *Melicope* sp., and *Myrsine* sp. (kolea) (Higashino and Mizuro (2850) 1976; NTBG 1995).

The major threats to *Cyanea hamatiflora* ssp. *hamatiflora* are habitat degradation and/or destruction by feral pigs, landslides, and competition with the alien plant *Ageratina adenophora* (Maui pamakani) (NTBG 1995; R. Hobdy and A.C. Medeiros, pers. comms. 1995). Pig damage in the form of peeled bark

has been observed on individuals of *C. hamatiflora* ssp. *hamatiflora* (A.C. Medeiros, pers. comm. 1995). Rats and slugs are potential threats, since other Hawaiian members of this family are known to be eaten by rats and slugs (L. Mehrhoff, *in litt.* 1995). All populations of this taxon are in areas where rats and slugs have been observed (A.C. Medeiros, pers. comm. 1995).

Dubautia plantaginea ssp. *humilis*

Dubautia plantaginea ssp. *humilis* was first described in 1985, from specimens collected by Gerald Carr, Robert Robichaux, and Rene Sylva in Black Gorge on West Maui (Carr 1985, Carr 1990).

Dubautia plantaginea ssp. *humilis*, a member of the aster family (Asteraceae), is a dwarfed shrub less than 80 cm (30 in.) tall. The stems are hairless or occasionally strigullose (having straight hairs pressed against the stem). The leaves are opposite, narrow, 8 to 15 cm (3 to 6 in.) long, and 0.7 to 4.5 cm (0.3 to 1.8 in.) wide. The leaves usually have five to nine nerves, and are hairless or moderately strigullose. The leaf margins are toothed from the apex to near the middle. Between 20 to 90 flowering heads are found in each inflorescence, which is about 20 cm (8 in.) long and 28 cm (11 in.) wide. Eight to 20 florets (small flower that is part of a dense cluster) are found in each head, borne on a flat receptacle. The bracts on the receptacle are about 5 mm (0.2 in.) long, sharply toothed, and fused together. The corolla is yellow, and may purple with age. The fruit is an achene (a dry, one-celled, indehiscent fruit) 2.5 to 4 mm (0.08 to 0.2 in.) long. The taxon is self-incompatible, meaning flowers must be pollinated by pollen from a different plant. This subspecies differs from the other two subspecies (*D. plantaginea* ssp. *magnifolia* and *D. plantaginea* ssp. *plantaginea*) by having fewer heads per inflorescence but more florets per head. The species differs from other Hawaiian members of the genus by the number of nerves in the leaves and by the close resemblance of the leaves to the genus *Plantago* (Carr 1985, 1990).

Dubautia plantaginea ssp. *humilis* has only been reported from two locations in Iao Valley, on West Maui. Both populations are on privately owned land, and the two populations total fewer than 300 individuals. Typical habitat is wet, barren, wind-blown cliffs, between 350 to 400 m (1,150 to 1,300 ft) elevation. Associated native plant taxa include *Metrosideros polymorpha*, *Pipturus albidus* (mamaki), *Eragrostis variabilis* (kawelu), *Carex* sp., *Hedyotis formosa*, *Lysimachia remyi*, *Bidens* sp. (ko‘oko‘olau), *Pritchardia* sp. (loulu), and the federally endangered *Plantago princeps* (‘ale) (Hawaii Plant Conservation Center 1990; HHP 1991d1, 1991d2; R. Hobdy, pers. comm. 1995).

Threats to *Dubautia plantaginea* ssp. humilis include landslides and several alien plant taxa (HPCC 1990; HHP 1991d1; R. Hobdy, pers. comm. 1995). Random environmental events are also a threat, with only two known populations less than a half mile apart within the same valley.

Hedyotis schlechtendahliana var. *remyi*

Hillebrand described a new species, *Kadua remyi*, based on collections on Lanai and East Maui by Reverend John Lydgate (Hillebrand 1888). F. Raymond Fosberg combined the genus *Kadua* with *Hedyotis* in 1943, and combined *K. remyi* with *Hedyotis schlechtendahliana*. Fosberg considered the Lanai plants different enough from the Maui plants to create a separate variety, *H. schlechtendahliana* var. *remyi*. This variety has been upheld in the most recent revision of the Hawaiian members of this genus (Wagner *et al.* 1990).

Hedyotis schlechtendahliana var. *remyi*, a member of the coffee family (Rubiaceae), is a few branched subshrub from 60 to 600 cm (24 to 240 in.) long, with weakly erect or climbing stems that may be somewhat square, smooth, and glaucous (with a fine waxy coating that imparts a whitish or bluish hue to the stem). The leaves are opposite, glossy, thin or somewhat thickened, egg-shaped or with a heart-shaped base and a very pointed tip, and 3 to 6 cm (1.2 to 2.4 in.) long. The margins of the leaves curl under. The veins of the leaves are impressed on the upper surface with hairs along the veins and raised on the lower surface. The lower surface of the leaves are usually glaucous, like the stems. The leaf stalks are up to 1 cm (0.4 in.) long, slightly fused to the stem, and bear stipules (appendages on the base of the leaf stalks).

The inflorescence stalks are 2 to 15 mm (0.1 to 0.6 in.) long, square, usually glaucous, and borne at the ends of the stems. The flowers have either functional male and female parts or only functional female parts. Leaf-like bracts are found at the base of each flower. The hypanthium is top-shaped and 1.5 to 2.2 mm (0.06 to 0.09 in.) wide. The calyx lobes are usually leaf-like and oblong to broadly egg-shaped, 2 to 8 mm (0.08 to 0.3 in.) long, and 1.5 to 2.5 mm (0.08 to 0.09 in.) wide, enlarging somewhat in fruit. The corolla is cream-colored, fleshy, usually glaucous, trumpet-shaped, with a tube 6 to 17 mm (0.2 to 0.7 in.) long and lobes 1.5 to 10 mm (0.06 to 0.4 in.) long when the anthers are ripe. The stamens reach only to 1 to 3 mm (0.04 to 0.1 in.) below the sinuses of the corolla lobes. The styles are woolly on the lower portions, and two to four lobed. The fruits are top-shaped to sub-globose capsules 2 to 4 mm (0.1 to 0.2 in.) long and 3 to 7 mm (0.1 to 0.3 in.) in diameter. The fruits break open along the walls of the cells within the fruit. Seeds are dark brown, irregularly wedge-shaped and angled, and darkly granular. This variety is distinguished from the other variety by the leaf shape, narrow flowering stalks, and flower color. It is distinguished from others in the genus by the distance between leaves and the length of the sprawling or climbing stems (Wagner *et al.* 1990).

Historically, *Hedyotis schlechtendahliana* var. *remyi* was known from five locations on the northwestern portion of Lanaihale on the island of Lanai (Degener *et al.* (24193) 1957; Forbes (33.L) 1913, (315.L) 1917); Fosberg (12463) 1939; HHP 1991e1 to 1991e3; Hillebrand 1888; Hillebrand and Lydgate (s.n.) n.d.; Munro (s.n.) 1913, (s.n.) 1914, (257, 335) 1928, (506) 1930; Nagata and Ganders (2524) 1982; Rock (8116) 1910; St. John and Eames (18738) 1938; Wagner *et al.* 1990). Currently, this species is known from six individuals in three populations on Kaiholeha-Hulupoe ridge, Kapohaku drainage, and Waiapaa drainage on Lanaihale (HHP 1991e1 to 1991e3; R. Hobdy, pers. comm. 1995). *H. schlechtendahliana* var. *remyi* typically grows in mesic windswept shrubland with a mixture of dominant plant taxa that may include *Metrosideros polymorpha*, *Dicranopteris linearis*, and/or *Styphelia tameiameiae* (pukiawe) at elevations between 730 and 900 m (2,400 to 3,000 ft). Associated plant taxa include *Dodonaea viscosa* (‘a‘al‘ii), *Sadleria* sp. (‘ama‘u), *Dubautia* sp. (na‘ena‘e), *Myrsine* sp., and several others (HHP 1991e1 to 1991e3; Lau (2866) 1986; Nagata and Ganders (2524) 1982).

The primary threats to *Hedyotis schlechtendahliana* var. *remyi* are habitat degradation and/or destruction by axis deer (*Axis axis*); competition with alien plant taxa such as *Psidium cattleianum*, *Myrica faya* (firetree), *Leptospermum scoparium* (New Zealand tea), and *Schinus terebinthifolius* (Christmas berry); and random environmental events and/or reduced reproductive vigor due to the small number of remaining individuals and populations (HHP 1994e1 to 1991e3; Joel Lau, The Nature Conservancy of Hawaii, pers. comm. 1995).

Kanaloa kahoolawensis

Kanaloa kahoolawensis was previously unknown to science until its discovery by Steve Perlman and Ken Wood in 1992 on a steep rocky spire on the coast of Kahoolawe. David Lorence and Wood have determined that this plant represents a new genus, and have named the species *Kanaloa kahoolawensis* (Lorence and Wood 1994).

Kanaloa kahoolawensis, a member of the legume family (Fabaceae), is a densely branched shrub 0.75 to 1 m (2.5 to 3.5 ft) tall. The branches are sprawling and 0.75 to 1.5 m (2.5 to 5 ft) long. New growth is densely covered with brown and white hairs. The twigs are brown, ribbed or angled, and become whitish gray with corky fissures. The leaves are clustered near twig tips and have two persistent stipules. The leaf stalk is 6 to 24 mm (0.2 to 0.9 in.) long. The leaves are divided into three pairs of leaflets, with a leaf nectary (nectar-bearing gland) at the joint between each pair of leaflets. The leaflet pairs are 22 to 55 mm (0.8 to 2 in.) long. The main stalk of the leaf terminates in a short, brown appendage. The leaflets are egg-shaped, unequal-sided, 1.4 to 4.2 cm (0.6 to 1.7 in.) long, and 0.9 to 3.2 cm (0.4 to 1.3 in.) wide. One to three inflorescences are found in the leaf axils (joint between leaf and stem), developing with the flush of new leaves. The main stalk of the inflorescence is 8 to 30 mm (0.3 to 1.2 in.) long. The inflorescence is a globose head 6 to 8 mm (0.3 to 0.3 in.) in diameter, with small bracts 1 to 1.5 mm (0.04 to 0.06 in.) long at the base. Each inflorescence has 20 to 54 white flowers. The calyx of the male flowers has limbs that are wider at the tip; densely covered with long, white hairs; and have lobes that overlap when the flower is in bud. The corolla lobes also overlap when the flower is in bud, and the petals are 1.5 to 1.8 mm (0.06 to 0.07 in.) long. The petals are hairy on the outside at the tip, and are not fused at the base. Ten stamens are found in the male flowers, fused at the base. Male flowers have only vestigial female parts. Female flowers have not been observed. The fruit is borne on a stalk about 5 mm (0.2 in.) long. Up to four fruit develop in each flowering head. The fruit is egg-shaped to subcircular, compressed, hairy at the base, and open along two sides. One slender, brown seed, about 2 mm (0.08 in.) long, is found in each fruit. There is no other species of legume in Hawaii that bears any resemblance to this species or genus (Lorence and Wood 1994).

The only known location of *Kanaloa kahoolawensis* is a rocky stack on the southern coast of the island of Kahoolawe, which is owned by the State of Hawaii (Lorence and Wood 1994). While there are no previous records of the plant, pollen core studies on the island of Oahu revealed a legume pollen that could not be identified until this species was discovered. The pollen cores indicate that *K. kahoolawensis* was a codominant with *Dodonaea viscosa* and *Pritchardia* sp. from before 1210 B.C. to 1565 A.D., at which point *K. kahoolawensis* disappeared from the pollen record and *D. viscosa* and *Pritchardia* sp. declined dramatically (Athens *et al.* 1992, Athens and Ward 1993, Lorence and Wood 1994). Only two living individuals and 10 to 12 dead individuals are known (D. Lorence, NTBG, pers. comm. 1995). The only known habitat is mixed coastal shrubland on steep rocky talus slopes at 45 to 60 m (150 to 200 ft) elevation. Associated native plant taxa include *Sida fallax* (‘ilima), *Senna gaudichaudii* (kolomona), *Bidens mauiensis* (ko‘oko‘olau), *Lipochaeta lavarum* (nehe), *Portulaca molokinensis* (‘ihi), and *Capparis sandwichiana* (pua pilo). In addition, the area is also a nesting site for Bulwer’s petrel (*Bulweria bulwerii*) and wedge-tailed shearwater (*Puffinus pacificus*) (Lorence and Wood 1994).

The major threats to *Kanaloa kahoolawensis* are landslides and the alien plant taxa *Emelia fosbergii, Chloris barbata* (swollen finger grass), and *Nicotiana glauca* (tobacco tree) (Lorence and Wood 1994). Goats (*Capra hircus*) played a major role in the destruction of vegetation on Kahoolawe before they were removed (Cuddihy and Stone 1990), and *K. kahoolawensis* probably survived only because the rocky stack is almost completely separated from the island and inaccessible to goats (Lorence and Wood 1994). Rats are a potential threat to this species, since it has seeds similar in appearance and presentation to the federally endangered *Caesalpinia kavaiensis*, which is eaten by rats. Rats may have been the cause of the decline of this species 800 years ago (L. Mehrhoff, *in litt.* 1995). Random environmental events and/or reduced reproductive vigor are also a threat to this species, because only two individuals are known.

Labordia tinifolia var. *lanaiensis*

Hillebrand determined, but did not name, a new variety of *Labordia tinifolia* based on specimens he collected on the islands of Kauai, West Maui, Lanai, and Hawaii. E.E. Sherff named the variety *L. tinifolia* var. *lanaiensis* in 1938 (Sherff 1938). In the revision of the Hawaiian members of this family, Wagner *et al.* (1990), retained the nomenclature, but included only those plants from Lanai and Mapulehu on Molokai (previously considered *L. triflora*) as *L. tinifolia* var. *lanaiensis*. This endemic Hawaiian genus is currently being revised, and only the Lanai populations are included in *L. tinifolia* var. *lanaiensis*, while *L. triflora* is being resurrected for the Molokai population (see discussion of the next taxon, below) (Motley, in press).

Labordia tinifolia var. *lanaiensis*, a member of the logan family (Loganiaceae), is an erect shrub or small tree 1.2 to 15 m (4 to 49 ft) tall. The stems branch regularly into two forks of nearly equal size. The leaves are medium to dark green, oval to narrowly oval, 3.8 to 21 cm (1.5 to 8.3 in.) long, and 1.4 to 7.3 cm (0.6 to 2.9 in.) wide. The leaf stalks are 2.2 to 4 cm (0.9 to 1.6 in.) long. The stipules are fused together, forming a sheath around the stem that is 1 to 4 mm (0.04 to 0.2 in.) long. Three to 19 flowers are found in each inflorescence, and the entire inflorescence is pendulous and has a stalk 9 to 22 mm (0.4 to 0.8 in.) long. The flowers have a semen-like fragrance, and are borne on stalks 8 to 11 mm (0.3 to 0.4 in.) long. The corolla is pale yellowish green or greenish yellow, narrowly urn-shaped, and 6.5 to 19 mm (0.2 to 0.7 in.) long. The fruit is broadly oval, 8 to 17 mm (0.3 to 0.7 in.) long, 2 to 3 valved, and has a beak 0.5 to 1.5 mm (0.02 to 0.06 in.) long. The seeds are brown and about 1.8 mm (0.06 in.) long. This subspecies differs from the other two subspecies and other species in this endemic Hawaiian genus by having larger capsules and smaller corollas (Motley, in press; Wagner *et al.* 1990).

Labordia tinifolia var. *lanaiensis* was historically known from the entire length of the summit ridge of Lanaihale, on the island of Lanai (HHP 1991f1 to 1991f12; Motley, in press; Sherff 1938). Currently, *L. tinifolia* var. *lanaiensis* is known from only one population at the southeastern end of the summit ridge of Lanaihale. This population is on privately owned land and totals 300 to 1,000 scattered individuals. The typical habitat of *L. tinifolia* var. *lanaiensis* is lowland mesic forest, associated with such native species as *Dicranopteris linearis* and *Scaevola chamissoniana* (naupaka kuahiwi), at elevations between 760 and 915 m (2,500 and 3,000 ft) (HHP 1991f3; Motley, in press; R. Hobdy and J. Lau, pers. comms. 1995).

Labordia tinifolia var. *lanaiensis* is threatened by deer and several alien plant taxa (R. Hobdy, pers. comm. 1994;

J. Lau, pers. comm. 1995). The single population is also threatened by random environmental factors.

Labordia triflora

Hillebrand named *Labordia triflora* based on a specimen he collected on Molokai in the early 1800s (Hillebrand 1888). Wagner *et al.* considered this species to be synonymous with *L. tinifolia* var. *lanaiensis* (Wagner *et al.* 1990). Timothy Motley of the University of Hawaii (UH) is revising this endemic Hawaiian genus, and has resurrected *L. triflora* as a valid species (Motley, in press).

Labordia triflora, a member of the logan family, is very similar to *L. tinifolia* var. *lanaiensis*, described above, except in the following characteristics. Stems of *L. triflora* are climbing. The leaf stalks are only 1 to 3 mm (0.04 to 0.1 in.) long. The inflorescence stalks are 40 to 50 mm (1.6 to 2 in.) long. Each flower stalk is 10 to 25 mm (0.4 to 1 in.) long (Motley, in press).

Until 1990, *Labordia triflora* was known only from the type collection at Mapulehu, on the island of Molokai. This collection was made by Hillebrand in 1870 (Motley, in press). In 1990, Joel Lau of The Nature Conservancy of Hawaii, rediscovered the species in Kua Gulch on Molokai (Motley, in press; J. Lau, pers. comm. 1995). Only 10 individuals are known, all occurring on privately owned land (J. Lau, pers. comm. 1995). Of these individuals, only two are male plants (Timothy Motley, University of Hawaii, pers. comm. 1993). This species occurs in mixed lowland mesic forest, at an elevation of 800 m (2,600 ft). Associated species include *Pouteria sandwicensis* (‘ala ‘a), the federally endangered *Cyanea mannii* (haha), and *Tetraplasandra* sp. (‘ohe) (Motley, in press).

The threats to *Labordia triflora* include habitat degradation and/or destruction by pigs and goats, rats that eat seeds, and competition with the alien plant species *Schinus terebinthifolius* (Motley in press; T. Motley, pers. comm. 1993). Random environmental events and reduced reproductive vigor also threaten this species, as only 10 individuals remain in one population.

Melicope munroi

In 1944, St. John described *Pelea munroi*, based on a collection by George C. Munro in 1915 (St. John 1944). The genus *Pelea* has since been submerged with *Melicope*, creating the combination *M. munroi* (Hartley and Stone 1989).

Melicope munroi, a member of the citrus family (Rutaceae), is a sprawling shrub up to 3 m (10 ft) tall. The new growth of this species is minutely hairy. The leaves are opposite, broadly elliptical, 6 to 11 cm (2.4 to 4.3 in.) long, and 3.5 to 7.5 cm (1.4 to 3.0 in.) wide. The veins of the leaf are parallel, in 8 to 12 pairs, and are connected by arched veins near the margin of the leaf. The margins of the leaves are sometimes rolled under. The leaf stalks are 4 to 12 mm (0.2 to 0.5 in.) long. The inflorescence is found in the axil of the leaf and contains one to three flowers. The inflorescence stalk is 10 to 15 mm (0.4 to 0.5 in.) long, and the individual flower stalk is 15 to 35 mm (0.6 to 1.4 in.) long. Male flowers have not been reported. Female flowers have ovoid sepals about 2.5 mm (0.1 in.) long and deltate petals about 8 mm (0.3 in.) long. The fruit is about 18 mm (0.7 in.) wide, and the 4 carpels (egg-bearing structures) are fused about one-third of their length. This species differs from other Hawaiian members of the genus in the shape of the leaf and the length of the inflorescence stalk (Stone *et al.* 1990).

Historically known from the Lanaihale summit ridge of Lanai and above Kamalo on Molokai, *Melicope munroi* is currently known from only the Lanaihale summit ridge (HHP 1991g1 to 1991g10). The one widely scattered population totals an estimated 300 to 500 individuals (J. Lau, pers. comm. 1995). *M. munroi* is typically found in lowland mat fern shrubland, at elevations of 790 to 1020 m (2,600 to 3,350 ft). Associated native plant taxa include *Diplopterygium pinnatum*, *Dicranopteris linearis*, *Metrosideros polymorpha*, *Cheirodendron trigynum*, *Coprosma* sp. (pilo), *Broussaisia arguta*, *Melicope* sp., and *Machaerina angustifolia* (‘uki) (HHP 1991g3 to 1991g10).

The major threats to *Melicope munroi* are deer and the alien plant taxa *Leptospermum scoparium* and *Psidium cattleianum* (HHP 1991g3 to 1991g10; J. Lau, pers. comm. 1995). Random environmental events also threaten the one remaining population.

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Endangered Species Act (16 U.S.C. 1533), which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered or threatened in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. One of the 10 proposed taxa, *Cyanea glabra* (as *C. scabra* var. *variabilis*) was considered to be endangered in that document. One taxon, *Labordia tinifolia* var. *lanaiensis*, was considered to be threatened and two taxa, *L. triflora* and *Melicope munroi* (as *Pelea munroi*), were considered to be extinct. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intent to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over two years old be withdrawn. A one-year grace period was given to proposals already over two years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), February 21, 1990 (55 FR 6183), and September 30, 1993 (58 FR 51144). Six of the species in this proposal (including synonymous taxa) were at one time or another considered category 1 or category 2 candidates for Federal listing. Category 1 species were those for which the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals but for which listing proposals had not yet been published because they were precluded by other listing activities. Category 2 species were those for which listing as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not currently available to support proposed rules. Two taxa, *Labordia tinifolia* var. *lanaiensis* and *L. triflora*, were considered category 2 species in the 1980 and 1985 notices of review. *Melicope munroi* (as *Pelea munroi*) was considered a category 1* in

the 1980 and 1985 notices. Category 1* species were those that could possibly be extinct.

In the 1990 and 1993 notices, *Dubautia plantaginea* ssp. *humilis*, *Hedyotis schlechtendahliana* var. *remyi*, and *Melicope munroi* were considered category 2 species. *Labordia tinifolia* var. *lanaiensis* was considered more abundant than previously thought and moved to category 3C in the 1990 notice. Category 3C species were those that had proven to be more abundant or widespread than previously believed and/or were not subject to any identifiable threat. *Labordia triflora* was considered a synonym of *L. tinifolia* var. *lanaiensis* in the 1990 notice. As published in the **Federal Register** (61 FR 7596) on February 28, 1996, the Service discontinued the designation of category 2 and category 3 candidate species.

Since the last notice, new information suggests that the numbers and distribution are sufficiently restricted and the taxa are imminently threatened for the previously designated category 2 and category 3C species mentioned above, as well as six additional taxa (*Clermontia samuelii*, *Cyanea copelandii* ssp. *haleakalaensis*, *Cyanea glabra*, *Cyanea hamatiflora* ssp. *hamatiflora*, the newly discovered *Kanaloa kahoolawensis*, and the resurrected *Labordia triflora*), to warrant listing.

The processing of this proposed listing rule conforms with the Service's final listing priority guidance for fiscal year 1997, published in the **Federal Register** on December 5, 1996 (61 FR 64475–64481). The guidance clarifies the order in which the Service will process rulemakings following two related events: (1)The lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Public Law 104–6); and (2) the restoration of significant funding for listing through passage of the omnibus budget reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. Tier 3 includes the processing of new proposed listings for species facing high magnitude threats. This proposed rule for 10 plant taxa from Maui Nui in the Hawaiian Islands falls under Tier 3. The Pacific Islands Ecoregion currently has no outstanding Tier 1 or 2 species, therefore processing of Tier 3 activities is encouraged under the Listing Priority Guidance. This proposed rule has been updated by the Pacific Islands Ecosystem Office to reflect any changes in distribution, status and threats since the expiration date of the listing moratorium.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists of endangered and threatened species. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). The threats facing the 10 taxa in this proposed rule are summarized in Table 2. The factors and their application to *Clermontia samuelii* C. Forbes ('oha wai), *Cyanea copelandii* Rock ssp. *haleakalaensis* (St. John) Lammers (haha), *Cyanea glabra* (F. Wimmer) St. John (haha), *Cyanea hamatiflora* Rock ssp. *hamatiflora* (haha), *Dubautia plantaginea* Gaud. ssp. *humilis* G. Carr (na'ena'e), *Hedyotis schlechtendahliana* Steud. var. *remyi* (Hillebr.) Fosb. (kopa), *Kanaloa kahoolawensis* Lorence & K.R. Wood (kohe malama malama o Kanaloa), *Labordia tinifolia* A. Gray var. *lanaiensis* Sherff (kamakahala), *Labordia triflora* Hillebr. (kamakahala), and *Melicope munroi* (St. John) B. Stone (alani) follow.

TABLE 2.—SUMMARY OF THREATS

Species	Alien mammals				Alien plants	Inverte-brates	Substrate loss	Limited Nos*
	Pigs	Goats	Deer	Rats				
Clermontia samuelii	X			P	X	P		
Cyanea copelandii ssp. haleakalaensis.	X			P	P	P		X1
Cyanea glabra	X			P	X	X	X	X1
Cyanea hamatiflora ssp. hamatiflora.	X			P	X	P	X	
Dubautia plantaginea ssp. humilis.					X		X	X1
Hedyotis schlechtendahliana var. remyi.			X		X			X1,2
Kanaloa kahoolawensis				P	X		X	X1,2
Labordia tinifolia var. lanaiensis.			X		X			X1
Labordia triflora	X	X		X	X			X1,2
Melicope munroi			X		X			X1

X = Immediate and significant threat.
P = Potential threat.
* = No more than 100 individuals and/or no more than 5 populations; 1 = No more than 5 populations; 2 = No more than 10 individuals.

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Native vegetation on all of the main Hawaiian Islands has undergone extreme alteration because of past and present land management practices including ranching, deliberate alien animal and plant introductions, and agricultural development (Cuddihy and Stone 1990, Wagner *et al.* 1985). The primary threats facing the 10 plant taxa included in this ruling are ongoing and threatened destruction and adverse modification of habitat by feral animals and competition with alien plants (see Factor E).

Eight of the 10 taxa in this rule are variously threatened by feral animals (See Table 2). Animals such as pigs,

goats, axis deer, and cattle were introduced either by the early Hawaiians or more recently by European settlers for food and/or commercial ranching activities. Over the 200 years following their introduction, their numbers increased and the adverse impacts of feral ungulates on native vegetation have become increasingly apparent. Beyond the direct effect of trampling and grazing native plants, feral ungulates have contributed significantly to the heavy erosion still taking place on most of the main Hawaiian islands (Cuddihy and Stone 1990).

Pigs (*Sus scrofa*), originally native to Europe, Africa, and Asia, were introduced to Hawaii by the Polynesian ancestors of Hawaiians, and later by western immigrants. The pigs escaped domestication and invaded primarily wet and mesic forests of Kauai, Oahu, Molokai, Maui, and Hawaii. Pigs pose an immediate threat to one or more populations of five of the proposed taxa in wet and mesic habitats. While foraging, pigs root and trample the forest floor, encouraging the establishment of alien plants in the newly disturbed soil. Pigs also disseminate alien plant seeds through their feces and on their bodies, accelerating the spread of alien plants through native forests (Cuddihy and Stone 1990, Stone 1985). Pigs are vectors of *Psidium cattleianum* (strawberry guava) and *Schinus terebinthifolius* (Christmas berry), which threaten several of the proposed taxa (Cuddihy and Stone 1990, Smith 1985, Stone 1985). On Maui, pigs threaten both subspecies of *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis,* the only known population of *Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora,* and the only known population of *Labordia triflora* (NTBG 1994; A.C. Medeiros, R. Hobdy, and J. Lau, pers. comms. 1995; F.R. Warshauer, pers. comm. 1995).

Goats (*Capra hircus*), native to the Middle East and India, were first successfully introduced to the Hawaiian Islands in 1792. Feral goats now occupy a wide variety of habitats from lowland dry forests to montane grasslands on Kauai, Oahu, Molokai, Maui, and Hawaii, where they consume native vegetation, trample roots and seedlings, accelerate erosion, and promote the invasion of alien plants (Scott *et al.* 1986, Stone 1985, van Riper and van Riper 1982). On Molokai, goats threaten the only known population of *Labordia triflora* (T. Motley, pers. comm. 1993).

In 1920, a group of 12 axis deer (*Axis axis*) was introduced to the island of Lanai and about 60 years later the population was estimated at 2,800 (Tomich 1986). Axis deer degrade habitat by trampling and overgrazing vegetation, which removes ground cover and exposes the soil to erosion. Extensive red erosional scars caused by decades of deer activity are evident on Lanai (Cuddihy and Stone 1990). Activity of axis deer threatens all populations of *Hedyotis schlechtendahliana* var. *remyi, Labordia tinifolia* var. *lanaiensis,* and *Melicope munroi* on Lanai (HHP 1991g8 to 1991g10; J. Lau, pers. comm. 1995).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity. This is a potential threat to all of the proposed taxa, but would seriously impact the eight taxa whose low numbers and/or few populations make them especially vulnerable to disturbances (*Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora,* and *Melicope munroi*).

C. Disease and Predation

Disease is not known to be a significant threat to any of the proposed taxa. None of the 10 proposed taxa are known to be unpalatable to pigs, deer, or goats. Feral pigs not only destroy native vegetation through their rooting activities and dispersal of alien plant seeds (see Factor A), but they also feed on plants, preferring the pithy interior of large tree ferns and fleshy-stemmed plants from the bellflower family (Stone 1985, Stone and Loope 1987). There is direct evidence of pigs eating bark off individuals of *Cyanea hamatiflora* ssp. *hamatiflora* (A.C. Medeiros, pers. comm. 1995), and predation is a possible threat to other members of the bellflower family (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis,* and *Cyanea glabra*). Predation is also a possible threat to the one other taxon, *Labordia triflora,* known from areas where pigs have been reported (A.C. Medeiros and R. Hobdy, pers. comms. 1995; F.R. Warshauer, pers. comm. 1995).

Two rat species, the black rat (*Rattus rattus*) and the Polynesian rat (*Rattus exulans*), and to a lesser extent other introduced rodents, eat large, fleshy fruits and strip the bark of some native plants, particularly fruits of the native plants in the bellflower family (Cuddihy and Stone 1990, Tomich 1986, Wagner *et al.* 1985). It is possible that rats eat the fruits of *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra,* and *Cyanea hamatiflora* ssp. *hamatiflora,* which produce fleshy fruits and stems, and grow in areas where rats occur (A.C. Medeiros, pers. comm. 1995; L. Mehrhoff, *in litt.* 1995). Rats also eat the seeds of *Labordia triflora* (T. Motley, pers. comm. 1993). Rats are a potential threat to *Kanaloa kahoolawensis,* which has seeds of a type preferred by rats (L. Mehrhoff, *in litt.* 1995).

Slugs (including *Milax gagates*) are widespread in Hawaii and a serious threat to many native plant taxa, in addition to possibly being an attractant to pigs (Howarth 1985). Slugs feed preferentially on plants with fleshy leaves, stems, and fruits, including all taxa in the family Campanulaceae in Hawaii (L. Mehrhoff, *in litt.* 1995). Slugs are the primary threat to *Cyanea glabra.* All recent observations of this species have shown slug damage on both juveniles and adults (A.C. Medeiros, pers. comm. 1995). Slugs are also a potential threat to the following proposed taxa with fleshy tissues: *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis,* and *Cyanea hamatiflora* ssp. *hamatiflora* (A.C. Medeiros, pers. comm. 1995; L. Mehrhoff, *in litt.* 1995).

Twospotted leafhopper (*Sophonia rufofascia*) is a recently introduced insect that feeds on leaves, damaging them typically in the form of stippling and chlorosis. In addition to mechanical feeding damage, this insect may be a vector of a plant virus and is suspected of causing severe dieback of the native fern *Dicranopteris linearis* (uluhe), and economic damage to crops and ornamental plants in Hawaii. The twospotted leafhopper is a potential threat to all native taxa, since it has shown no host preference. It is a particularly grave threat to *Cyanea glabra,* since leafhoppers have been observed near the West Maui population (Adam Asquith, USFWS, pers. comm. 1994; K. Wood, pers. comm. 1995).

D. The Inadequacy of Existing Regulatory Mechanisms

Of the 10 proposed taxa, 8 have populations located on private land, 2 on State land, and 4 on Federal land within Haleakala National Park. While four of the taxa occur in more than one of those four ownership categories, five are known only from private land, and *Kanaloa kahoolawensis* is found only on State land.

Sections 2(c)(1) and 7(a)(1) of the Act direct Federal agencies to seek to conserve all listed endangered and

threatened plants, but requires no such activities if the plants are not federally listed. There are no State laws or existing regulatory mechanisms at the present time to protect or prevent further decline of these plants on private land, except for minimal protection offered to those that occur on land classified as a conservation district.

Populations of one of the proposed taxa, *Clermontia samuelii,* occur in a State Natural Area Reserve, which has rules and regulations for the protection of resources (HRS, sect. 195–5).

The majority of the populations of the 10 proposed taxa are located on land classified within conservation districts and owned by the State of Hawaii or private companies or individuals. Regardless of the owner, lands in these districts are regarded as necessary for the protection of endemic biological resources and the maintenance or enhancement of the conservation of natural resources. Activities permitted in conservation districts are chosen by considering how best to make multiple use of the land (HRS, sect. 205–2). Some uses, such as maintaining animals for hunting, are based on policy decisions, while others, such as preservation of endangered species, are mandated by both Federal and State laws. Due to lack of staff and funding, land uses within conservation districts are rarely adequately enforced. In addition, requests for amendments to district boundaries or variances within existing classifications can be made by government agencies and any person with a property interest in the land (HRS, sect. 205–4). Before decisions about these requests are made, the impact of the proposed reclassification on ''preservation or maintenance of important natural systems or habitat'' (HRS, sects. 205–4, 205–17) as well as the maintenance of natural resources is required to be taken into account (HRS, sects. 205–2, 205–4). Before any proposed land use that will occur on State land, is funded in part or whole by county or State funds, or will occur within land classified as conservation district, an environmental assessment is required to determine whether or not the environment will be significantly affected (HRS, chapt. 343). If it is found that an action will have a significant effect, preparation of a full Environmental Impact Statement is required. Hawaii environmental policy, and thus approval of land use, is required by law to safeguard ''* * * the State's unique natural environmental characteristics * * *'' (HRS, sect. 344–3(1)) and includes guidelines to ''protect endangered species of individual plants and animals * * *'' (HRS, sect. 344–4(3)(A)). Federal listing, because it automatically invokes State listing, would also implement these other State regulations protecting the plants.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

All 10 of the taxa proposed for listing are threatened by competition with one or more alien plant taxa (see Table 2). The most significant of these appear to be *Psidium cattleianum* (strawberry guava), *Schinus terebinthifolius* (Christmas berry), *Rubus rosifolius* (thimbleberry), *Clidemia hirta* (Koster's curse), *Miconia calvescens* (velvet tree), *Myrica faya* (firetree), *Paspalum conjugatum* (Hilo grass), *Psidium guajava* (common guava), *Casuarina equisetifolia* (ironwood tree), *Leptospermum scoparium* (New Zealand tea), and *Ageratina adenophora* (Maui pamakani). There are a number of other alien plant taxa that pose a significant threat to populations of the proposed plants.

Psidium cattleianum (strawberry guava), an invasive shrub or small tree native to tropical America, has become widely naturalized on all of the main islands, forming dense stands that exclude other plant species in disturbed areas (Cuddihy and Stone 1990). This alien plant grows primarily in mesic and wet habitats and is dispersed mainly by feral pigs and fruit-eating birds (Smith 1985, Wagner *et al.* 1990). *P. cattleianum* is considered to be one of the greatest alien plant threats to Hawaiian rain forests and is a threat on Maui to one of two known populations of *Cyanea copelandii* ssp. *haleakalaensis* and *Cyanea glabra* (Higashino *et al.* 1988; A.C. Medeiros, pers. comm. 1995). On Lanai, this invasive alien plant threatens all populations of *Hedyotis schlechtendahliana* var. *remyi,* the only two known populations of *Labordia tinifolia* var. *lanaiensis,* and the only known population of *Melicope munroi* (HHP 1991e1 to 1991e3; R. Hobdy, pers. comm. 1994; J. Lau, pers. comm. 1995).

Schinus terebinthifolius (Christmas berry), introduced to Hawaii before 1911, is a fast-growing tree or shrub invading most mesic to wet lowland areas of the major Hawaiian Islands (Wagner *et al.* 1990). *S. terebinthifolius* is distributed mainly by feral pigs and fruit-eating birds and forms dense thickets that shade out and displace other plants (Cuddihy and Stone 1990, Smith 1985, Stone 1985). This species is a threat to one population of *Hedyotis schlechtendahliana* var. *remyi,* both populations of *Labordia tinifolia* var. *lanaiensis,* and the only known population of *Labordia triflora* (HHP 1991e2; R. Hobdy, pers. comm. 1994; J. Lau, pers. comm. 1995).

Rubus rosifolius (thimbleberry), native to Asia, is naturalized in disturbed mesic to wet forest on all of the main Hawaiian Islands and is perhaps the most widespread of all species of *Rubus* introduced to Hawaii (Cuddihy and Stone 1990). On Maui, this species threatens one of two populations of *Cyanea copelandii* ssp. *haleakalaensis* as well as *Cyanea glabra* (NTBG 1994; A.C. Medeiros, pers. comm. 1995).

Clidemia hirta (Koster's curse), a noxious shrub native to tropical America, is found in mesic to wet forests on at least six islands in Hawaii (Almeda 1990, Hawaii Department of Agriculture 1981, Smith 1992). *C. hirta* was first reported on Oahu in 1941 and had spread through much of the Koolau Mountains by the early 1960s. This noxious plant forms a dense understory, shading out other plants and hindering plant regeneration (Cuddihy and Stone 1990). This prolific alien plant has recently spread to five other islands and, on Maui is a potential threat to *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis* and *Cyanea glabra* (A.C. Medeiros, pers. comm. 1995).

Miconia calvescens (velvet tree) is a recently naturalized species native to tropical America. This species has become invasive in the Hilo and Pahoa areas of the island of Hawaii, and has become established on East Maui. This species has the potential to be very disruptive, as it has become an understory dominate where introduced to similar habitat in Tahiti (Almeda 1990, Cuddihy and Stone 1990). This species occurs on Maui near populations of *Clermontia samuelii* and poses a potential threat (A.C. Medeiros, pers. comm. 1995).

Myrica faya (firetree), native to the Azores, Madeira, and the Canary Islands, was introduced to Hawaii before 1900 for wine-making, firewood, or an ornamental. Trees were planted in forest reserves in the 1920s. By the mid-1980s *M. faya* had infested over 34,000 hectares (83,980 acres) throughout the State, with the largest infestations on the island of Hawaii. It is now considered a noxious weed (Cuddihy and Stone 1990, DOA 1981). *M. faya* can form a dense stand with no ground cover beneath the canopy. This lack of ground cover may be due to dense shading or to chemicals released by the tree that prevent other species from growing. *M. faya* also fixes nitrogen and increases nitrogen levels in Hawaii's typically nitrogen-poor volcanic soils. This may encourage the invasion of alien plants that would not normally be

able to grow as well as native species in the low-nitrogen soils of Hawaii (Cuddihy and Stone 1990). On Lanai, this species threatens *Hedyotis schlechtendahliana* var. *remyi* and *Labordia tinifolia* var. *lanaiensis* (HHP 1991e3; R. Hobdy, pers. comm. 1994).

Paspalum conjugatum (Hilo grass) is naturalized in moist to wet disturbed areas on all of the main Hawaiian Islands except Niihau and Kahoolawe, and produces a dense ground cover (Cuddihy and Stone 1990). In Maui's Kipahulu Valley, this grass threatens one of two populations of *Cyanea copelandii* ssp. *haleakalaensis* as well as *Cyanea glabra* (NTBG 1994; A.C. Medeiros, pers. comm. 1995). On West Maui, *P. conjugatum* threatens *Dubautia plantaginea* ssp. *humilis* (HPCC 1990).

Psidium guajava (common guava), a shrub or small tree native to the New World tropics, is naturalized on all of the main islands, except, perhaps, Niihau and Kahoolawe (Wagner *et al.* 1990). *P. guajava* is a serious weed that invades disturbed sites, forming dense thickets in dry as well as mesic and wet forests (Smith 1985, Wagner *et al.* 1990). On Maui, this species threatens one of the two known populations of *Cyanea copelandii* ssp. *haleakalaensis* as well as *Cyanea glabra*, and *Dubautia plantaginea* ssp. *humilis* (HPCC 1990; Higashino *et al.* 1988; A.C. Medeiros, pers. comm. 1995).

Casuarina equisetifolia (ironwood) is a large, fast-growing tree that reaches up to 20 m (65 ft) in height (Wagner *et al.* 1990). This large tree shades out other plants, takes up much of the available nutrients, and possibly releases a chemical agent that prevents other plants from growing beneath it (Neal 1965, Smith 1985). *C. equisetifolia* is invading the wet cliffs of Iao Valley and is a threat to *Dubautia plantaginea* ssp. *humilis* (HPCC 1990; HHP 1991d1; R. Hobdy, pers. comm. 1995).

Leptospermum scoparium (New Zealand tea), brought to Hawaii as an ornamental plant and now naturalized in disturbed mesic to wet forest on three islands, threatens *Hedyotis schlechtendahliana* var. *remyi, Labordia tinifolia* var. *lanaiensis*, and *Melicope munroi* (Wagner *et al.* 1990; J. Lau, pers. comm. 1995).

Ageratina adenophora (Maui pamakani), native to tropical America, has become naturalized in dry areas to wet forest on Oahu, Molokai, Lanai, Maui, and Hawaii (Wagner *et al.* 1990). This noxious weed forms dense mats with other alien plants and prevents regeneration of native plants (Anderson *et al.* 1992). On Maui, one of the two known populations of *Cyanea copelandii* ssp. *haleakalaensis* as well as *Cyanea glabra*, and *Cyanea hamatiflora* ssp. *hamatiflora* are threatened by this species (NTBG 1995; R. Hobdy, pers. comm. 1995).

Rubus argutus (prickly Florida blackberry) was introduced to the Hawaiian Islands in the late 1800s from the continental U.S. (Haselwood and Motter 1983). The fruits are easily spread by birds to open areas such as disturbed mesic or wet forests, where the species forms dense, impenetrable thickets (Smith 1985). One of two known populations of *Cyanea copelandii* ssp. *haleakalaensis* as well as *Cyanea glabra* are threatened by this species (A.C. Medeiros, pers. comm. 1995).

Hedychium coronarium (white ginger) was introduced to Hawaii in the late 1800s, probably by Chinese immigrants. It escaped from cultivation and is found in wet and mesic forests on most of the main Hawaiian islands. The large, vigorous herbs mainly reproduce vegetatively, forming very dense stands that exclude all other growth. *H. gardnerianum* (kahili ginger) was introduced to Hawaii before 1940 from the Himalayas, and now has major infestations on the islands of Hawaii, Maui, and Kauai. This species is considered a more serious threat to native forests because it produces abundant fruit (Cuddihy and Stone 1990, Wagner *et al.* 1990). Both species of *Hedychium* threaten *Clermontia samuelii* (A.C. Medeiros, pers. comm. 1995), and *H. gardnerianum* is a threat to *Labordia tinifolia* var. *lanaiensis* (R. Hobdy, pers. comm. 1994).

Tibouchina herbacea (glorybush), a relative of Koster's curse, first became established on the island of Hawaii in the late 1970s and, by 1982, was collected in Lanilili on West Maui (Almeda 1990). Although the disruptive potential of this alien plant is not fully known, *T. herbacea* appears to be invading mesic and wet forests of Hawaii and Maui (Cuddihy and Stone 1990), and is considered a threat to *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis*, and *Cyanea glabra* (R. Hobdy and A.C. Medeiros, pers. comms. 1995).

Sporobolus africanus (smutgrass) was introduced from Africa and has become naturalized on all the main islands of Hawaii except Niihau and Kahoolawe. It is typically found in disturbed areas such as road sides and pastures (O'Connor 1990), and on Maui is a threat to *Dubautia plantaginea* ssp. *humilis* (HPCC 1990).

Pluchea symphytifolia (sourbush) is native to Mexico, the West Indies, and northern South America. This species is naturalized in dry forests and ranges into mesic and wet forests on all the main Hawaiian islands (Wagner *et al.* 1990). It is a fast growing shrub and can form dense thickets (Smith 1985). *P. symphytifolia* is a threat to *Dubautia plantaginea* ssp. *humilis* on West Maui (HPCC 1990).

Emelia fosbergii is a pantropical weed of unknown origin. In Hawaii it is a common weed in disturbed lowland dry habitats on all the main islands (Wagner *et al.* 1990). *E. fosbergii* is a threat to the only known population of *Kanaloa kahoolawensis* (Lorence and Wood 1994).

Nicotiana glauca (tree tobacco) was brought to Oahu as an ornamental from Argentina in the 1860s. It is now naturalized in all warm temperate regions of the world. On Oahu, Lanai, Maui, and Kahoolawe, this species is naturalized in disturbed open, dry habitats (Symon 1990). *N. glauca* is a threat to the only known population of *Kanaloa kahoolawensis* (Lorence and Wood 1994).

Chloris barbata (swollen finger grass) is native to Central America, the West Indies, and South America. In Hawaii it is naturalized in disturbed dry areas on all the main islands, and is a threat to the only known population of *Kanaloa kahoolawensis* (Lorence and Wood 1994, O'Connor 1990).

Erosion, landslides, rockslides, and flooding due to natural weathering result in the death of individual plants as well as habitat destruction. This especially affects the continued existence of taxa or populations found on cliffs, steep slopes, and stream banks that have limited numbers and/or narrow ranges such as the West Maui population of *Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea* ssp. *humilis*, and *Kanaloa kahoolawensis* (Lorence and Wood 1994; R. Hobdy, pers. comm. 1995).

The small number of populations and individuals of many of these taxa increases the potential for extinction from a single human-caused or natural environmental disturbance. In addition, the small gene pool may depress reproductive vigor. Four of the proposed plant taxa, *Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora*, and *Melicope munroi*, are each known from a single population. Four additional proposed taxa have five or fewer populations (*Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Dubautia plantaginea* ssp. *humilis, and Hedyotis schlechtendahliana* var. *remyi*), and three of the taxa are estimated to number no more than 10 individuals (*Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis*, and

Labordia tinifolia). All of the proposed taxa either number fewer than 15 populations or total fewer than 800 individuals (see Table 2).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to propose this rule. Based on this evaluation, this rulemaking will list these 10 species as endangered: *Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra, Cyanea hamatiflora* ssp. *hamatiflora, Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora,* and *Melicope munroi.* The 10 taxa are threatened by one or more of the following: Habitat degradation and/or predation by pigs, goats, deer, rats, and invertebrates; competition for space, light, water, and nutrients by alien plant taxa; and substrate loss. Eight of the proposed taxa have five or fewer populations, and three of the taxa are estimated to number no more than 10 individuals. Small population size and limited distribution make these taxa particularly vulnerable to extinction from reduced reproductive vigor or from random environmental events. Because these 10 taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act. Therefore, the determination of endangered status for these 10 taxa is warranted.

Critical habitat is not being proposed for the 10 taxa included in this rule for reasons discussed in the ''Critical Habitat'' section of this proposal.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the 10 taxa proposed in this rule. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

Designation of critical habitat is not prudent for the six taxa (*Dubautia plantaginea* ssp. *humilis, Hedyotis schlechtendahliana* var. *remyi, Kanaloa kahoolawensis, Labordia tinifolia* var. *lanaiensis, Labordia triflora,* and *Melicope munroi*) that are located primarily on non-Federal lands with limited Federal activities. It is likely that the publication of precise maps and descriptions of critical habitat in the **Federal Register** would increase the vulnerability of these plant species to incidents of collection and general vandalism. The listing of these plants as endangered elevates awareness of their rarity and makes them more sought after by curiosity seekers, researchers, and rare plant collectors. Such increased visits to the sites where these species are found could contribute to the decline of existing populations through vandalism. The remaining four taxa (*Clermontia samuelii, Cyanea copelandii* ssp. *haleakalaensis, Cyanea glabra,* and *Cyanea hamatiflora* ssp. *hamatiflora*) are located primarily on Federal lands within Haleakala National Park. These Federal lands are managed to some extent by the National Park Service for the protection of native ecosystems, which the Fish and Wildlife Service believes will facilitate the protection, conservation, and recovery of these four taxa. As a result, all 10 of these species will receive no significant benefit from the designation of critical habitat. Protection of the habitats of these 10 taxa will be addressed through the recovery process and through the section 7 consultation process. The Service believes that Federal involvement in areas where these plants occur can be identified without the designation of critical habitat. All involved parties and the major landowners have been notified.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing can encourage and result in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery plans be developed for listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Populations of four of the endangered taxa occur on U.S. National Park Service land. The Park Service actively monitors and manages rare and endangered species populations within Haleakala National Park, although it continually struggles for adequate funding to control feral pigs and alien plant taxa.

Populations of *Clermontia samuelii* ssp. *samuelii* on State land are being considered for a fencing project that may preclude the need for listing as endangered. This project is a cooperative effort between the Service and the State Division of Forestry and Wildlife.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered plants. With respect to the 10 proposed species in this rule, all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant species to/from the United States; transport such species in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale such a species in interstate or foreign

commerce; remove and reduce such a species to possession from areas under Federal jurisdiction; maliciously damage or destroy any such species from areas under Federal jurisdiction; or remove, cut, dig up, or damage or destroy any such species in knowing violation of any State law or regulation, including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few permits would ever be sought or issued because these 10 species are not common in cultivation or in the wild.

It is Service policy, published in the **Federal Register** (59 FR 34272) on July 1, 1994, to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. Such information is intended to clarify the potential impacts of a species' listing on proposed and ongoing activities within the species' range. Four of the species occur on Federal lands under the jurisdiction of the U.S. National Park Service. Collection, damage, or destruction of these species on Federal lands is prohibited without a Federal endangered species permit. Such activities on non-Federal lands would constitute a violation of section 9 if conducted in knowing violation of Hawaii State law or regulations or in violation of a State criminal trespass law (see Hawaii State Law section below). The Service is not aware of any trade in these species.

Requests for copies of the regulations concerning listed plants and inquiries regarding prohibitions and permits may be addressed to the Fish and Wildlife Service, Ecological Services, Permits Branch, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503–231–6241; FAX 503–231–6243).

Hawaii State Law

Federal listing will automatically invoke listing under the State's endangered species act. Hawaii's endangered species act states, ''Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the Federal Endangered Species Act shall be deemed to be an endangered species under the provisions of this chapter * * *'' (HRS, sect. 195D–4(a)). Therefore, Federal listing will accord the species listed status under Hawaii State law. State law prohibits cutting, collecting, uprooting, destroying, injuring, or possessing any listed species of plant on State or private land, or attempting to engage in any such conduct. The State law encourages conservation of such species by State agencies and triggers other State regulations to protect the species (HRS, sect. 195AD–4 and –5).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these species;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulation(s) on these 10 species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and addressed to the Ecoregion Manager (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments or Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Ecoregion (see **ADDRESSES** section).

Author: The author of this proposed rule is Marie M. Bruegmann, telephone 808–541–3441 or facsimile 808–541–3470 (see **ADDRESSES** section). Substantial data were contributed by the Hawaii Heritage Program, Hawaii Division of Forestry and Wildlife, and Biological Resources Division of the U.S. Geological Survey (formerly National Biological Service).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants, to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Flowering Plants							
*	*	*	*	*	*		*
Clermontia samuelii	‘Oha wai	U.S.A (HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*		*
Cyanea copelandii ssp. *haleakalaensis*.	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*		*
Cyanea glabra	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*		*
Cyanea hamatiflora ssp. *hamatiflora*.	Haha	U.S.A. (HI)	Campanulaceae—Bellflower.	E		NA	NA
*	*	*	*	*	*		*
Dubautia plantaginea ssp. *humilis*.	Na‘ena‘e	U.S.A. (HI)	Asteraceae—Sunflower.	E		NA	NA
*	*	*	*	*	*		*
Hedyotis schlechtendahliana var. *remyi*.	Kopa	U.S.A. (HI)	Rubiaceae—Coffee	E		NA	NA
*	*	*	*	*	*		*
Kanaloa kahoolawensis.	None	U.S.A. (HI)	Fabaceae—Legume	E		NA	NA
*	*	*	*	*	*		*
Labordia tinifolia var. *lanaiensis*.	Kamakahala	U.S.A. (HI)	Loganiaceae—Logan.	E		NA	NA
*	*	*	*	*	*		*
Labordia triflora	Kamakahala	U.S.A. (HI)	Loganiaceae—Logan.	E		NA	NA
*	*	*	*	*	*		*
Melicope munroi	Alani	U.S.A. (HI)	Rutaceae—Citrus	E		NA	NA
*	*	*	*	*	*		*

Dated: April 28, 1997.

John G. Rogers,

Director, Fish and Wildlife Service.

[FR Doc. 97–12689 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 62, No. 94

Thursday, May 15, 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

Research, Education, and Economics; Notice of Strategic Planning Task Force Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: The United States Department of Agriculture announces a meeting of the Strategic Planning Task Force.

SUPPLEMENTARY INFORMATION: The Secretary of Agriculture has appointed the Strategic Planning Task Force which is charged with the review of all Federally owned and funded agricultural research facilities. This 15 member task force is scheduled to meet at the Holiday Inn Gateway Center in Ames, Iowa beginning at 1:00 p.m. on May 28 and concluding at 4:00 p.m. on Friday, May 30. Since this is the first meeting of the Task Force, the agenda will focus on orientation of the members regarding the charge to the Task Force, the current intramural and extramural research program and related facilities, and future plans for conducting the review. The last day of the meeting will be spent touring the Iowa State University facilities, as well as the ARS and APHIS facilities in the Ames area.

TIMES AND DATES: May 28, 1997, 1:00 p.m.–8:00 p.m.; May 29, 1997, 8:00 a.m.–8:00 p.m.; and May 30, 1997, 8:00 a.m.–4:00 p.m.

PLACE: Holiday Inn Gateway Center, US 30 and Elwood Drive, Ames, IA 50014.

TYPE OF MEETING: Open to the public.

COMMENTS: The public may file written comments before or after the meeting with the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Mitch Geasler, Project Director, Strategic Planning Task Force, Room 212W, Jamie E. Whitten Building, USDA, 1400 Independence Avenue, SW., Washington, D.C. 20250. Telephone: (202) 720–3803.

Done at Washington, D.C. this 8th day of May 1997.

Catherine E. Woteki,

Acting Under Secretary, Research, Education, and Economics.

[FR Doc. 97–12770 Filed 5–12–97; 8:45 am]

BILLING CODE 3410–22–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–97–303]

Notice of Request for Extension and Revision of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products—7 CFR 51.

DATES: Comments on this notice must be received on or before July 14, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Douglas D. Shearer, Head, Field Operations Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2049—South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, Phone: (202) 720–2482, FAX: (202) 720–0393.

SUPPLEMENTARY INFORMATION:

Title: Regulations Governing Inspection, Certification and Standards for Fresh Fruits, Vegetables, and Other Products—7 CFR 51.

OMB Number: 0581–0125.

Expiration Date of Approval: September 30, 1997.

Type of Request: Extension and revision of a currently approved information collection.

Abstract: The Fresh Products Branch provides a nationwide inspection and grading service for fresh fruits, vegetables, and other products to shippers, importers, processors, sellers, buyers and other financially interested parties on a ''user-fee'' basis. The use of this service is voluntary and is made available only upon request or when specified by some special program or contract.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .0302205 hours per response.

Respondents: Shippers, importers, processors, sellers, buyers and others with a financial interest in lots of fresh fruits, vegetables and other products.

Estimated Number of Respondents: 51,800.

Estimated Number of Responses per Respondent: 4.09857.

Estimated Total Annual Burden on Respondents: $218,144 (6,416 total burden hours x $34.00 per hour).

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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Douglas D. Shearer, Head, Field Operations Section, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2049—South Building, 1400 Independence Avenue, S.W., Washington, D.C., 20250, FAX: (202) 720–0393. 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 become a matter of public record.

Dated: May 9, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–12708 Filed 5–14–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 39–97]

Foreign-Trade Zone 98—Birmingham, Alabama; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the City of Birmingham, Alabama, grantee of Foreign-Trade Zone 98, requesting authority to expand FTZ 98 to include additional sites in Birmingham, within the Birmingham Customs port of entry. 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 April 29, 1997.

FTZ 98 was approved on April 27, 1984 (Board Order 247, 49 FR 19367, 5/7/84) and expanded on May 8, 1986 (Board Order 330, 51 FR 17782, 5/15/86). The general-purpose zone currently consists of two sites in Birmingham: *Site 1* (116 acres)—within the 442-acre Airport North/Northeast Industrial Park, adjacent to the Birmingham International Airport; and *Site 2* (10 acres)—Shaw Warehouse Company facilities on 2nd Avenue South, 113–115 South 35th, and 3601 First Avenue South.

The applicant, in a major revision to its zone plan, now requests authority to expand the general-purpose zone to include six new sites in Birmingham (Proposed Sites 3–8): *Site 3* (283 acres)—''ACIPCO'' industrial area (owned by the City), Coalburg Road and Daniel Payne Drive, Birmingham; *Site 4* (29 acres)—Oxmoor Industrial Park (owned by the City), Oxmoor West Industrial Drive, Birmingham; *Site 5* (50 acres)—Air Cargo facility, Birmingham International Airport, Birmingham; *Site 6* (128,000 square feet, 13.9 acres)—Pizitz/McRae's Warehouse, 4500 First Avenue South, Birmingham; *Site 7* (100 acres)—Munger/Valley East II Industrial Park (owned by the City), immediately adjacent to the Valley East Industrial Park, Alabama Highway 79 and Sterilite Drive, Birmingham; and, *Site 8* (32 acres)—Airport Industrial Center (owned by Landonomics Group), adjacent to Birmingham International Airport, East Lake Boulevard, Birmingham. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

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 on the application 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 July 14, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 29, 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, Medical Forum Building, 7th Floor, 950 22nd Street North, Birmingham, Alabama 35203

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue NW., Washington, DC 20230.

Dated: May 8, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–12795 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 36–97]

Foreign-Trade Zone 90—Onondaga County, NY; Application for Expansion and Request for Export Manufacturing Authority M.S. Pietrafesa, L.P. (Tailored Apparel for Export)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Onondaga, New York, grantee of FTZ 90, requesting authority to expand its zone at the Woodard Industrial Park, and requesting authority, on behalf of M.S. Pietrafesa, L.P., to manufacture tailored apparel for export under zone procedures within FTZ 90, Onondaga County, New York (Syracuse Customs port of entry). 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 April 23, 1997.

FTZ 90 was approved on November 4, 1983 (Board Order 232, 48 FR 52107; 11/16/83). The zone currently consists of 21 acres within the 2,000-acre Woodard Industrial Area on Steelway Boulevard in the town of Clay, New York, some 5 miles from the Syracuse-Hancock International Airport.

The applicant is now requesting authority to expand and reorganize the zone by deleting 15 acres of the northeastern portion of the current zone site and adding two new parcels (16 acres) located along Morgan Road, contiguous to the southwestern boundary of the current site, Liverpool, New York. The new site is owned and will be operated by M.S. Pietrafesa, L.P.

The application also requests authority on behalf of M.S. Pietrafesa, L.P. (MSPLP) to manufacture men's and women's apparel under zone procedures for export only within FTZ 90. The MSPLP plant (143,000 sq. ft. on 10 acres) is used to manufacture designer tailored men's and women's suits, blazers, and trousers (Ralph Lauren, Coach brands) for the U.S. market and export. The proposal calls for the cutting and sewing of foreign-origin wool, wool/silk, silk/linen, and linen fabrics into the tailored apparel products noted above, which would be reexported to overseas markets. None of the foreign-origin fabric processed under FTZ procedures would be entered for U.S. consumption.

FTZ procedures would exempt MSPLP from quota requirements and Customs duty payments on the foreign fabric used in the production of tailored apparel for export. The application indicates that FTZ procedures will help improve the plant'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 on the application 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 July 14, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 29, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, Hancock International Airport, 4034 S. Service Road, Syracuse, NY 13212

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 7, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–12798 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 38–97]

Foreign-Trade Zone 181—Akron-Canton, Ohio Area; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the Akron-Canton Regional Airport Authority, grantee of FTZ 181, requesting authority to expand its zone to include an additional site in Mansfield, Ohio, adjacent to the Cleveland/Akron Customs port of entry. 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 April 28, 1997.

FTZ 181 was approved on December 23, 1991 (Board Order 546, 57 FR 41, 1/2/92). The general-purpose zone currently consists of a site (158 acres) within the 2,121-acre Akron-Canton Regional Airport in North Canton, Ohio. Two other applications are currently pending with the Board to expand the zone at sites in northeastern Ohio (Docket Nos. 56–96 and 74–96).

This application requests authority to further expand the general-purpose zone to include an additional site at the Mansfield Lahm Airport complex (2,347 acres), located on State Route 13 at South Airport Road, Mansfield. The complex includes the airport facility's four industrial parks and airport fueling facilities. The City of Mansfield owns the complex, except for one of the industrial parks which is owned by Armco Inc. The City plans to serve as operator of the zone site. No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

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 on the application 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 July 14, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15 day period (to July 29, 1997).

A copy of the application and accompanying exhibits will be available for public inspection at each of the following locations:

Clerk of Council's Office, City Administration Building, 3rd Floor, 30 North Diamond Street, Mansfield, Ohio 44902

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 8, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–12796 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 9–97]

Foreign-Trade Zone 21—Charleston, South Carolina; Application for Subzone Status, Bayer Corporation (Rubber Chemicals), Goose Creek, South Carolina; Amendment of Application

Notice is hereby given that the application of the South Carolina State Ports Authority, grantee of FTZ 21, requesting special-purpose subzone status for the rubber chemicals manufacturing plant of Bayer Corporation, in Goose Creek, South Carolina (Doc. 9–97, 62 FR 9159, 2/28/97) has been amended to expand the boundary of the plant site for which subzone status is requested.

The original application indicated that the plant, located within the Bushy Park Industrial Complex, Highway 501 in Goose Creek (Berkeley County), South Carolina, consisted of 100,000 square feet on 4.4 acres. The amendment requests to include within the subzone boundary an adjacent company-owned parcel (approx. 190,000 sq. ft. on 4.4 acres) east of the Bayer plant for the storage of raw material tanks.

The application otherwise remains unchanged.

The comment period is extended until June 16, 1997. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below.

A copy of the application and the amendment and accompanying exhibits are available for public inspection at each of the following locations:

U.S. Department of Commerce, Export Assistance Center, 81 Mary St., Charleston, South Carolina 29403

Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 5, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–12797 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–816]

Certain Stainless Steel Butt-Weld Pipe Fittings From Taiwan; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of administrative review.

SUMMARY: In response to a request by respondent Ta Chen Stainless Pipe Co., Ltd. (Ta Chen), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain stainless steel butt-weld pipe fittings (pipe fittings) from Taiwan. This review covers one manufacturer/exporter of the subject merchandise to the United States during the period December 23, 1992 through May 31, 1994.

We preliminarily determine that Ta Chen made sales of pipe fittings below the foreign market value (FMV) for this period of review (POR). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (USP) and the FMV.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 483–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1993, the Department published in the **Federal Register** the antidumping duty order on pipe fittings from Taiwan (58 FR 33250). On June 7, 1994, the Department published the notice of ''Opportunity to Request Administrative Review'' for the period December 23, 1992 through May 31, 1994 (59 FR 29411). In accordance with 19 CFR 353.22(a)(1), Ta Chen requested that we conduct a review of its sales for this period. On July 15, 1994, we published in the **Federal Register** a notice of initiation of an antidumping duty administrative review covering the period December 23, 1992 through May 31, 1994 (59 FR 36160). The Department is now conducting this administrative review in accordance with section 751 of the Tariff Act.

Scope of the Review

The products subject to this antidumping duty order are certain stainless steel butt-weld pipe fittings, whether finished or unfinished, under 14 inches inside diameter.

Certain welded stainless steel butt-weld pipe fittings (pipe fittings) are used to connect pipe sections in piping systems where conditions require welded connections. The subject merchandise is used where one or more of the following conditions is a factor: (1) corrosion of the piping system will occur if material other than stainless steel is used; (2) contamination of the material in the system by the system itself must be prevented; (3) high temperatures are present; (4) extreme low temperatures are present; (5) high pressures are contained within the system.

Pipe fittings come in a variety of shapes, with the following five shapes the most basic: ''elbows,'' ''tees,'' ''reducers,'' ''stub ends,'' and ''caps.'' The edges of finished pipe fittings are beveled. Threaded, grooved, and bolted fittings are excluded from this antidumping duty order. The pipe fittings subject to this order are classifiable under subheading 7307.23.00 of the Harmonized Tariff Schedule of the United States (HTS).

Although the HTS subheading is provided for convenience and Customs purposes, our written description of the scope of this order remains dispositive.

Use of Best Information Available

We preliminarily determine that the use of best information otherwise available (BIA), in accordance with section 776(c) of the Tariff Act, is appropriate for Ta Chen for the period December 23, 1992 through May 31, 1994. We find that in this review Ta Chen mischaracterized and failed to fully disclose its relationships with certain U.S. customers and, as a result, did not report its first U.S. sale to an unrelated party. Therefore, Ta Chen failed to provide the Department with the U.S. sales data necessary to calculate margins in this review. Although the bases for this determination are discussed below, much of the relevant information is proprietary in nature and cannot be discussed in this public notice. A more detailed analysis is found in the Department's proprietary Analysis Memorandum, on file in Room B–099 of the Main Commerce Building.

The Department's definition of related parties is found at section 771(13) of the Tariff Act. Section 771(13) states, *inter alia,* that:

> for purposes of determining United States price, the term ''exporter'' includes the person by whom or for whose account the merchandise is imported into the United States if—
>
> * * * * *
>
> (B) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer;
>
> (C) The exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business conducted by such person * * *

See Section 771(13) of the Tariff Act (emphasis added).

Throughout this administrative review Ta Chen insisted that it was not related to any U.S. customer. However, in a supplemental questionnaire response submitted in a companion case [1] (relevant portions of which have been incorporated into the record of this review), Ta Chen for the first time disclosed considerable new information concerning the instant review period which indicates that Ta Chen was related to two U.S. customers within the meaning of section 771(13) of the Tariff Act. Section 771(13)(C) holds that the term ''exporter'' includes the person by whom or for whose account the merchandise is imported into the United States if the exporter ''controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business conducted by such person.'' The record evidence leads us to conclude that Ta Chen exercised *de facto* operational control over these U.S. customers.

Our discussion below focuses on two parties, referred to here as Company A and Company B, which Ta Chen reported as unrelated customers. Prior to June, 1992 Ta Chen had sold pipe from the U.S. inventory of its wholly-owned subsidiary, Ta Chen International (TCI). In June 1992, after Ta Chen decided to stop selling its products from TCI's inventory, TCI and Company A (a U.S. company established in 1988 by the president of a Taiwanese firm), signed an agreement whereby Company A would purchase all of TCI's considerable U.S. inventory and would effectively replace TCI as the principal distributor of Ta Chen pipe products in the United States. In a separate June 1992 agreement between Ta Chen and Company A, Company A also committed itself to purchasing very substantial, and rapidly increasing, dollar values of Ta Chen products over the following two years. In September 1993, a member of Ta Chen's board of directors sold all of his stock in Ta Chen, allegedly severed all ties with Ta Chen, and incorporated a new entity, Company B. This new Company B purchased all of Company A's assets, including inventory, and assumed all of Company A's obligations regarding its lease of space from Ta Chen's president, purchase commitments, credit arrangements, etc.

During the instant period of review Ta Chen controlled both Company A's and then Company B's disbursements through physical custody of their signature stamps, whereby officials of TCI were authorized to execute checks and other instruments on behalf of Company A and Company B. Ta Chen also shared common sales department personnel and office equipment with Company A and Company B. Furthermore, Ta Chen's sales manager also served as sales manager for both Company A and Company B. Ta Chen also had full and unrestricted access, via a dedicated telephone connection, to Company A's and Company B's computer accounting systems, including their accounts receivable, accounts payable, payroll, and other company books. Ta Chen indicated that it was the sole supplier of stainless steel pipe and

[1] This document is Ta Chen's November 12, 1996 supplemental questionnaire response submitted in the 1994—1995 administrative review of welded stainless steel pipe from Taiwan, case number A–583–815.

pipe fittings to Company A and Company B and, further, that its president participated directly in negotiating the terms of certain sales Company A and Company B made to subsequent purchasers of pipe fittings in the United States. Finally, first Company A and, later, Company B, pledged their accounts receivable and inventory as security for a sizable line of credit obtained from a local bank by TCI. These companies also pledged their full cooperation in enforcing this lien in the event Ta Chen defaulted on its debt.

In addition, we note that for the instant period of review, record evidence strongly indicates that Ta Chen and Company B were related parties as defined by section 771(13)(B) of the Tariff Act. At least for some portion of 1992 until the end of September 1993 (*i.e.*, during the first POR), Ta Chen's board member simultaneously owned Company B and held equity interest in Ta Chen. Petitioners in the stainless steel pipe case have supplied a Dun & Bradstreet report on Company B and a supporting affidavit which indicates that while Company B was incorporated in 1993, the board member actually founded the company and made sales in 1992.

Based on this evidence of Ta Chen's connections with Company A and Company B, in particular its control over operational functions such as disbursements, sales personnel, and Ta Chen's involvement in Company A's and Company B's sales activities, we preliminarily determine that Ta Chen had a substantial interest in Company A and Company B during the 1992–1994 POR. Therefore, Ta Chen was related to Company A and Company B within the meaning of section 771(13) of the Tariff Act. Because Ta Chen reported U.S. sales to Company A and Company B instead of the first sale to an unrelated party, the use of best information otherwise available is warranted.

In selecting BIA, the Department has established a ''two-tier'' hierarchy:

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 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.

2. When a company substantially cooperated with our requests for information, but failed to provide the information 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 rate calculated in this review for any firm for the class or kind of merchandise in the same country of origin. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews 57 FR 28360, 28379 (June 24, 1992); see also Allied Signal v. United States, 996 F.2d 1195 (Fed. Cir. 1993).

We find that because Ta Chen failed to provide accurate information on its relationships to other companies and misreported its sales in this administrative review, Ta Chen failed to cooperate with the Department and has significantly impeded these proceedings. Accordingly, we are assigning Ta Chen a margin based on ''first-tier,'' or uncooperative, BIA.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average margin for Ta Chen for the period December 23, 1992 through May 31, 1994 to be 76.20 percent, i.e., the highest margin found for any respondent in the LTFV investigation. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Butt-Weld Pipe Fittings From Taiwan, 58 FR 33250 (June 16, 1993).

Parties to these proceedings may request disclosure within five days of publication of this notice and may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first business day thereafter. Interested parties may submit case briefs or written comments, or both, no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be submitted no later than 37 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of welded stainless steel pipe fittings from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for Ta Chen will be the rate established in the final results of this administrative review;

(2) For previously reviewed or investigated companies other than Ta Chen, 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 LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any other review conducted by the Department, the cash deposit rate will be 51.01 percent. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Butt-Weld Pipe Fittings From Taiwan, 58 FR 33250 (June 16, 1993).

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during each review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 8, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–12799 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–811]

Steel Wire Rope From the Republic of Korea; Notice of Termination in Part of Antidumping Duty Administrative Review

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

ACTION: Notice of termination in part of antidumping duty administrative review.

SUMMARY: On April 24, 1997, the Department of Commerce (the Department) published in the **Federal Register** the notice of initiation of the administrative review of the antidumping duty order on steel wire rope from the Republic of Korea. As a result of revocation of the order in part with respect to Manho Rope Manufacturing Co., Ltd. and Chun Kee Steel Wire Rope Co., Ltd., the Department is now terminating the review in part with respect to Manho Rope Manufacturing Co., Ltd., and Chun Kee Steel Wire Rope Co., Ltd., covering the period March 1, 1996, through February 28, 1997.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Rosenbaum or Thomas O. Barlow, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–4733.

SUPPLEMENTAL INFORMATION:

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the **Federal Register** on May 11, 1995 (60 FR 25130).

Background

On March 31, 1997, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers, petitioner in this proceeding, requested an administrative review of the antidumping duty order on steel wire rope from the Republic of Korea for the review period March 1, 1996, through February 28, 1997. Petitioner included Manho Rope Manufacturing Co., Ltd. (Manho), and Chun Kee Steel Wire Rope Co., Ltd. (Chun Kee), in its request. On March 31, 1997, Manho and Chun Kee also requested administrative reviews. On April 24, 1997, the Department published in the **Federal Register** (62 FR 19988) the notice of initiation of this administrative review.

On April 9, 1997, the Department revoked the antidumping duty order on steel wire rope from the Republic of Korea in part with respect to Manho and Chun Kee, effective for entries of subject merchandise entered or withdrawn from warehouse on or after March 1, 1996 (*see Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order* (62 FR 17171)). Therefore, we are terminating this review with respect to Manho and Chun Kee, which covers shipments of subject merchandise from the Republic of Korea during the period March 1, 1996, through February 28, 1997. The Department will order the suspension of liquidation ended for all such entries and will instruct the Customs Service to release any cash deposits or bonds. The Department will further instruct Customs to refund with interest any cash deposits on entries made on or after March 1, 1996.

This administrative notice is in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 7, 1997.

Susan Kuhbach,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–12801 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–815]

Certain Welded Stainless Steel Pipe From Taiwan; Preliminary Results of Antidumping Duty Administrative Reviews

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

ACTION: Notice of preliminary results of administrative reviews.

SUMMARY: In response to requests by respondent Ta Chen Stainless Pipe Co., Ltd. (Ta Chen), the Department of Commerce (the Department) is conducting administrative reviews of the antidumping duty order on certain welded stainless steel pipe from Taiwan (A–583–815). These reviews cover one manufacturer/exporter of the subject merchandise to the United States during the periods June 22, 1992 through November 30, 1993 and December 1, 1993 through November 30, 1994.

We preliminarily determine that Ta Chen made sales of welded stainless steel pipe (WSSP) below the foreign market value (FMV) for both periods of review (POR). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (USP) and the FMV.

We invite interested parties to comment on these preliminary results. Parties who submit comments are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Robert James at (202) 482–5222 or John Kugelman at (202) 483–0649, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act) and to the Department's regulations are in reference to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On December 30, 1992, the Department published in the **Federal Register** the antidumping duty order on WSSP from Taiwan (57 FR 62300). On November 26, 1993, the Department published the notice of ''Opportunity to Request Administrative Review'' for the period June 22, 1992 through November 30, 1993 (58 FR 62326). In accordance with 19 CFR 353.22(a)(1), Ta Chen requested that we conduct a review of its sales for this period. On January 18, 1994, we published in the **Federal Register** a notice of initiation of an antidumping duty administrative review covering the period June 22, 1992 through November 30, 1993. The Department subsequently published a notice of ''Opportunity to Request Administrative Review'' for the period December 1, 1993 through November 30, 1994 on December 6, 1994 (59 FR 62710). Again, Ta Chen requested a

review of its sales for this period. On January 13, 1995, we published in the **Federal Register** our notice of initiation of the second administrative review (60 FR 3192). The Department is now conducting these administrative reviews in accordance with section 751 of the Tariff Act.

Scope of the Review

The merchandise subject to this administrative review is certain welded austenitic stainless steel pipe (WSSP) that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium-nickel pipe designated ASTM A–312. The merchandise covered by the scope of the order also includes austenitic welded stainless steel pipes made according to the standards of other nations which are comparable to ASTM A–312.

WSSP is produced by forming stainless steel flat-rolled products into tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications of WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines, and paper process machines.

Imports of WSSP are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTS) subheadings: 7306.40.1000, 7306.40.5005, 7306.40.5015, 7306.40.5145, 7306.40.5060, and 7306.40.5075. Although these subheadings include both pipes and tubes, the scope of this investigation is limited to welded austenitic stainless steel pipes. The HTS subheadings are provided for convenience and Customs purposes; the written description of the scope of this order remains dispositive.

Use of Best Information Available

We preliminarily determine that the use of best information otherwise available (BIA), in accordance with section 776(c) of the Tariff Act, is appropriate for Ta Chen for the period June 22, 1992 through November 30, 1993 and the period December 1, 1993 through November 30, 1994. We find that in each review Ta Chen mischaracterized and failed to fully disclose its relationships with certain U.S. customers and, as a result, did not report its first U.S. sale to an unrelated party. Therefore, Ta Chen failed to provide the Department with the U.S. sales data necessary to calculate margins in these two reviews. Although the bases for this determination are discussed below, much of the relevant information is proprietary in nature and cannot be discussed in this public notice. A more detailed analysis is found in the Department's proprietary Analysis Memorandum, on file in Room B–099 of the Main Commerce Building.

The Department's definition of related parties is found at section 771(13) of the Tariff Act. Section 771(13) states, *inter alia*, that:

> for purposes of determining United States price, the term ''exporter'' includes the person by whom or for whose account the merchandise is imported into the United States if—
>
> * * * * *
>
> (B) Such person owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business of the exporter, manufacturer, or producer;
>
> (C) The exporter, manufacturer, or producer owns or controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business conducted by such person * * *

See Section 771(13) of the Tariff Act (emphasis added).

Throughout the first and second administrative reviews Ta Chen insisted that it was not related to any U.S. customer. However, in a supplemental questionnaire response submitted in the third (1994–1995) administrative review (relevant portions of which have been incorporated into the records of these reviews), Ta Chen for the first time disclosed information which clearly indicates that Ta Chen was related to two U.S. customers, within the meaning of section 771(13) of the Tariff Act, during the first and second review periods. Section 771(13)(C) holds that the term ''exporter'' includes the person by whom or for whose account the merchandise is imported into the United States if the exporter ''controls, directly or indirectly, through stock ownership or control or otherwise, any interest in the business conducted by such person.'' The record evidence leads us to conclude that Ta Chen exercised *de facto* operational control over these U.S. customers.

Our discussion below focuses on two parties, referred to here as Company A and Company B, which Ta Chen reported as unrelated customers. Prior to June, 1992 Ta Chen had sold pipe from the U.S. inventory of its wholly-owned subsidiary, Ta Chen International (TCI). In June 1992, after Ta Chen decided to stop selling its products from TCI's inventory, TCI and Company A (a U.S. company established in 1988 by the president of a Taiwanese firm), signed an agreement whereby Company A would purchase all of TCI's considerable U.S. inventory and would effectively replace TCI as the principal distributor of Ta Chen pipe products in the United States. In a separate June 1992 agreement between Ta Chen and Company A, Company A also committed itself to purchasing very substantial, and rapidly increasing, dollar values of Ta Chen products over the following two years. In September 1993, a member of Ta Chen's board of directors sold all of his stock in Ta Chen, allegedly severed all ties with Ta Chen, and incorporated a new entity, Company B. This new Company B purchased all of Company A's assets, including inventory, and assumed all of Company A's obligations regarding its lease of space from Ta Chen's president, purchase commitments, credit arrangements, etc.

During the first (1992–1993) and second (1993–1994) periods of review Ta Chen controlled both Company A's and then Company B's disbursements through physical custody of their signature stamps, whereby officials of TCI were authorized to execute checks and other instruments on behalf of Company A and Company B. Ta Chen also shared common sales department personnel and office equipment with Company A and Company B. Furthermore, Ta Chen's sales manager also served as sales manager for both Company A and Company B. Ta Chen also had full and unrestricted access, via a dedicated telephone connection, to Company A's and Company B's computer accounting systems, including their accounts receivable, accounts payable, payroll, and other company books. Ta Chen indicated that it was the sole supplier of stainless steel pipe and pipe fittings to Company A and Company B and, further, that its president participated directly in negotiating the terms of certain sales Company A and Company B made to subsequent purchasers of WSSP in the United States. Finally, first Company A and, later, Company B, pledged their accounts receivable and inventory as security for a sizable line of credit obtained from a local bank by TCI. These companies also pledged their full cooperation in enforcing this lien in the event Ta Chen defaulted on its debt.

In addition, we note that for the first period of review, record evidence strongly indicates that Ta Chen and Company B were related parties as defined by section 771(13)(B) of the Tariff Act. At least for some portion of 1992 until the end of September 1993 (*i.e.*, during the first POR), Ta Chen's

board member simultaneously owned Company B and held equity interest in Ta Chen. Petitioners have supplied a Dun & Bradstreet report on Company B and a supporting affidavit which indicates that while Company B was incorporated in 1993, the board member actually founded the company and made sales in 1992.

Based on this evidence of Ta Chen's connections with Company A and Company B, in particular its control over operational functions such as disbursements, sales personnel, and Ta Chen's involvement in Company A's and Company B's sales activities, we preliminarily determine that Ta Chen had a substantial interest in Company A and Company B during the 1992–1993 and 1993–1994 periods of review. Therefore, Ta Chen was related to Company A and Company B within the meaning of section 771(13) of the Tariff Act. Because Ta Chen reported U.S. sales to Company A and Company B instead of the first sale to an unrelated party, the use of best information otherwise available is warranted.

In selecting BIA, the Department has established a ''two-tier'' hierarchy:

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 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.

2. When a company substantially cooperated with our requests for information, but failed to provide the information 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 rate calculated in this review for any firm for the class or kind of merchandise in the same country of origin. See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews 57 FR 28360, 28379 (June 24, 1992); see also Allied Signal v. United States, 996 F.2d 1195 (Fed. Cir. 1993).

We find that because Ta Chen failed to provide accurate information on its relationships to other companies and misreported its sales in both the first and second administrative reviews, Ta Chen failed to cooperate with the Department and has significantly impeded these proceedings. Accordingly, we are assigning Ta Chen a margin based on ''first-tier,'' or uncooperative, BIA.

Preliminary Results of Review

As a result of our review, we preliminarily determine the weighted-average margin for Ta Chen for the periods June 22, 1992 through November 30, 1993 and December 1, 1993 through November 30, 1993 to be 31.90 percent, *i.e.*, the highest margin found for any respondent in the LTFV investigation. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300, 62301 (December 30, 1992).

Parties to these proceedings may request disclosure within five days of publication of this notice and may request a hearing within ten days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first business day thereafter. Interested parties may submit case briefs or written comments, or both, no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in the case briefs and comments, may be submitted no later than 37 days after the date of publication of this notice. Parties who submit arguments in these proceedings are requested to submit with the argument (1) a statement of the issues and (2) a brief summary of the argument. The Department will issue final results of these administrative reviews, including the results of our analysis of the issues in any such written comments or at a hearing.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of WSSP from Taiwan entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of these administrative reviews, as provided in section 751(a)(1) of the Tariff Act:

(1) The cash deposit rate for Ta Chen will be the rate established in the final results of these administrative reviews;

(2) For previously reviewed or investigated companies other than Ta Chen, 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 these reviews, or the LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in these or any other review conducted by the Department, the cash deposit rate will be 19.84 percent. See Amended Final Determination and Antidumping Duty Order; Certain Welded Stainless Steel Pipe From Taiwan, 57 FR 62300 (December 30, 1992).

This notice serves as a preliminary reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during each 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 administrative reviews and this notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 8, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–12800 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Computer System Security and Privacy Advisory Board; Meeting

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board will meet Wednesday, June 4, Thursday, June 5, and Friday, June 6, 1997, from 9:00 a.m. to 5:00 p.m. The Advisory Board was established by the Computer Security Act of 1987 (Pub. L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to

Federal computer systems. All sessions will be open to the public.

DATES: The meeting will be held on June 4, 5 and 6, 1997, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will take place at the National Institute of Standards and Technology, Gaithersburg, Maryland in the Administration Building, in Lecture Room A on June 4 and 5 and Lecture Room D on June 6.

AGENDA:

—Welcome and Overview
—Issues Update
—Federal Cryptographic Standards Update
—Computer Security Act of 1987—Overview and Perspectives
—Discussion and Recommendation Formulation
—Computer Security Training Guidelines
—Pending Business
—Public Participation
—Agenda Development for September Meeting
—Wrap-Up

PUBLIC PARTICIPATION: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Information Technology Laboratory, Building 820, Room 426, National Institute of Standards and Technology, Gaithersburg, MD 20899–0001. It would be appreciated if fifteen copies of written material were submitted for distribution to the Board by June 9, 1997. Approximately 20 seats will be available for the public and media.

At its March, 1997 meeting, the Board agreed to examine issues involving the Computer Security Act of 1987 and whether to make recommendations to the Secretary of Commerce and the Director of NIST regarding the Act and improving the security and privacy of Federal systems. The Board is interested in hearing a wide variety of perspectives on the effectiveness of the Act, as input to its deliberations on what changes or modifications to recommend. The Board believes this to be appropriate given the advances in information technology over the past decade and the age of the Act. Public input regarding the Act is therefore particularly encouraged.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Roback, Board Secretariat, Information Technology Laboratory, National Institute of Standards and Technology, Building 820, Room 426, Gaithersburg, MD 20899–0001, telephone: (301) 975–3696.

Dated: May 8, 1997.

Elaine Bunten-Mines,

Acting Associate Director.

[FR Doc. 97–12733 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 043097B]

Small Takes of Marine Mammals Incidental to Specified Activities; Lockheed Launch Vehicles at Vandenberg Air Force Base, CA

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

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S. Air Force for continuation of an authorization to take small numbers of harbor seals by harassment incidental to launches of Lockheed Martin launch vehicles (LMLVs) at Space Launch Complex 6 (SLC–6), Vandenberg Air Force Base, CA (Vandenberg). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to continue to authorize the incidental take, by harassment, of small numbers of harbor seals in the vicinity of Vandenberg for a period of 1 year.

DATES: Comments and information must be received no later than June 16, 1997.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application and previous **Federal Register** notices on this action may be obtained by writing to this address or by telephoning the contact listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead, Office of Protected Resources at 301–713–2055.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s); will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses; and the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth.

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which U.S. citizens can apply for an authorization to incidentally take small numbers of marine mammals by harassment for a period of up to one year. The MMPA defines ''harassment'' as:

> * * *any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

New subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On March 21, 1997, NMFS received an application from the U.S. Air Force, Vandenberg, requesting continuation of an authorization for the harassment of small numbers of harbor seals incidental to launches of LMLVs at SLC–6, Vandenberg. These launches would place commercial payloads into low earth orbit using its family of vehicles (LMLV–1, LMLV–2 and LMLV–3). Because of the requirements for circumpolar trajectories of the LMLV and its payloads, the use of SLC–6 is the only feasible alternative within the United States. As a result of the noise associated with the launch itself and the resultant sonic boom, these noises have the potential to cause a startle response to those harbor seals that haul out on the coastline south and southwest of Vandenberg and may be detectable to marine mammals west of the Channel Islands. Launch noise would be

expected to occur over the coastal habitats in the vicinity of SLC–6 while low-level sonic booms could be heard west of the Channel Islands.

Description of Habitat and Marine Mammals Affected by LMLVs

The only marine mammal anticipated to be incidentally harassed by LMLV launches is the harbor seal (*Phoca vitulina*). A description of the Southern California Bight population of harbor seals was provided on May 10, 1995 (60 FR 24840), in conjunction with publication of the previous notice of application for this activity. Interested reviewers are encouraged to refer to that document for the appropriate discussion. This document is available from NMFS (see **ADDRESSES**).

Potential Effects of LMLV Launches on Marine Mammals

The effect on harbor seals would be disturbance by sound that is anticipated to result in a negligible short-term impact to small numbers of harbor seals that are hauled out at the time of LMLV launches. No impacts are anticipated to animals that are in the water at the time of launch. Detailed descriptions of the expected impact from rocket launches on harbor seals and other marine mammals have been provided in previous notices (60 FR 24840, May 10, 1995; 60 FR 38308, July 26, 1995; 60 FR 43120, August 18, 1995; 60 FR 52653, October 10, 1995; and 61 FR 10727, March 15, 1996) and are not repeated here. These documents are available from NMFS (see **ADDRESSES**).

Conclusions

Based upon information provided by the applicant, and previous reviews of the incidental take of harbor seals by this activity, NMFS believes that the short-term impact of the launching of LMLVs is expected to result at worst, in a temporary reduction in utilization of the haulout as seals leave the beach for the safety of the water. The launching is not expected to result in any reduction in the number of harbor seals, and they are expected to continue to occupy the same area. In addition, there will not be any impact on the habitat itself. Based upon studies conducted for previous space vehicle launches at Vandenberg, significant long-term impacts on harbor seals at Vandenberg are unlikely.

Proposed Authorization

NMFS proposes to issue an incidental harassment authorization for 1 year for launches of LMLVs at SLC–6 provided the monitoring and reporting requirements currently in effect (see 60 FR 24840, May 10, 1995) are continued. NMFS has preliminarily determined that the proposed launches of LMLVs at SLC–6 would result in the harassment taking of only small numbers of harbor seals, will have a negligible impact on the harbor seal stock and will not have an unmitigable adverse impact on the availability for subsistence uses.

Information Solicited

NMFS requests interested persons to submit comments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: May 9, 1997.

Hilda Diaz-Soltero,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–12693 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050997B]

Endangered Species; Permits

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

ACTION: Issuance of permit 1034 (P770#72), permit 1035 (P45Y), permit 1036 (P45X), and modification 1 to permit 994 (P497D).

SUMMARY: Notice is hereby given that NMFS has issued a permit to the Coastal Zone and Estuarine Studies Division, Northwest Fisheries Science Center, NMFS at Seattle, WA (CZESD); two permits to the Columbia River Research Laboratory, U.S. Geological Survey at Cook, WA (USGS); and a modification to a permit to the Idaho Cooperative Fish and Wildlife Research Unit at Moscow, ID (ICFWRU) that authorize takes of Endangered Species Act-listed species for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The permits and modification to a permit were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on February 28, 1997 (62 FR 9178) that an application had been filed by CZESD (P770#72) for a scientific research permit. Permit 1034 was issued to CZESD on April 15, 1997. Permit 1034 authorizes CZESD takes of juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*); and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with two juvenile fish bypass studies at McNary Dam on the Columbia River. Study 1 is an evaluation of vertical barrier screens and outlet flow-control devices. Study 2 will establish design criteria for improved wet-separator efficiency and high-velocity flume development. Based on the results from these bypass studies, guidance devices and bypass system components can be redesigned, modified, or deployed using specific configurations to enhance juvenile fish passage at hydroelectric powerhouses. Permit 1034 is valid in 1997 only.

Notice was published on March 11, 1997 (62 FR 11158) that an application had been filed by USGS (P45Y) for a scientific research permit. Permit 1035 was issued to USGS on April 17, 1997. Permit 1035 authorizes USGS annual takes of juvenile, threatened, artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with two studies designed to monitor juvenile fish health and passage efficiency at Ice Harbor Dam on the Snake River. For Study 1, ESA-listed juvenile fish will be tagged with radio transmitters and tracked electronically to measure the vertical and horizontal distribution of juvenile salmonids exposed to high levels of total dissolved gas in an effort to assess the risk of mortality from gas bubble disease. For Study 2, ESA-listed juvenile fish will be tagged with radio transmitters and tracked electronically to measure fish passage success at Ice Harbor Dam. CZESD is authorized to act as an agent of USGS under the permit in the conduct of Study 2. Permit 1035 expires on December 31, 1999.

Notice was published on March 11, 1997 (62 FR 11158) that an application had been filed by USGS (P45X) for a scientific research permit. Permit 1036 was issued to USGS on April 17, 1997. Permit 1036 authorizes USGS annual

takes of adult and juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*) and juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to determine the post-release attributes and survival of hatchery and natural fall chinook salmon in the Snake River. The study consists of eight assessment tasks: (1) Life cycle, (2) redd counts, (3) food and growth, (4) habitat use, (5) predation, (6) temperature response, (7) migratory behavior, and (8) race and residualism. Permit 1036 expires on December 31, 2001.

Notice was published on January 17, 1997 (62 FR 2657) that an application had been filed by ICFWRU (P497D) for modification 1 to scientific research permit 994. Modification 1 to permit 994 was issued to ICFWRU on April 2, 1997. Permit 994 authorizes ICFWRU annual takes of adult, threatened, Snake River spring/summer and fall chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to assess the passage success of migrating adult salmonids at the four dams and reservoirs in the lower Columbia River in the Pacific Northwest, to evaluate fish responses to specific flow and spill conditions, and to evaluate measures to improve fish passage. For modification 1, adult sockeye salmon will be included in the study, a percentage of which will be adult, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*). Modification 1 is valid for the duration of the permit. Permit 994 expires on December 31, 2000.

Issuance of the permits and the modification to a permit, as required by the ESA, was based on a finding that such actions: (1) Were requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: May 9, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–12803 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050997C]

Endangered Species; Permits

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

ACTION: Issuance of modification 4 to permit 900 (P770#66), modification 3 to permit 946 (P770#68), and modification 2 to permit 914 (P770#67).

SUMMARY: Notice is hereby given that NMFS has issued modifications to three permits to the Coastal Zone and Estuarine Studies Division, Northwest Fisheries Science Center, NMFS at Seattle, WA (CZESD) that authorize takes of Endangered Species Act-listed species for the purpose of scientific research, subject to certain conditions set forth therein.

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The modification to permits were issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531-1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

Notice was published on February 28, 1997 (62 FR 9178) and March 7, 1997 (62 FR 10544) that an application had been filed by CZESD for modification 4 to scientific research permit 900 (P770#66). Modification 4 to permit 900 was issued to CZESD on April 18, 1997. Permit 900 authorizes CZESD annual direct and incidental takes of juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*); and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with a study (Study 1) designed to determine survival estimates for the passage of juvenile salmonids through the dams and reservoirs on the Snake and Columbia Rivers. For modification 4 to permit 900, CZESD is authorized to continue the take of ESA-listed species associated with Study 8, the Trestle Bay habitat restoration study, through December 31, 1997.

For modification 4, CZESD is authorized an additional annual take of ESA-listed juvenile salmon associated with a new study (Study 9) designed to determine the relative survival of juvenile salmon passing through the spillway of The Dalles Dam. Also for modification 4, CZESD is authorized an additional annual take of juvenile, threatened, artificially-propagated, Snake River spring/summer chinook salmon associated with a new study (Study 10) designed to: (1) Describe the vulnerability of juvenile salmonids to predation by northern squawfish and gulls below The Dalles Dam, (2) provide an estimate of juvenile salmonid migratory success below The Dalles Dam, and (3) compliment and enhance information obtained from Study 9. For Study 10, ESA-listed juvenile fish will be surgically implanted with radio transmitters, released at The Dalles Dam, and tracked electronically. Also for Study 10, ESA-listed juvenile fish will be sacrificed to measure physiological attributes related to stress and smoltification readiness. Oregon State University and the U.S. Geological Survey are authorized to act as agents of CZESD under permit 900 in the conduct of Study 10. The authorization for the takes of ESA-listed species associated with Studies 9 and 10 expires on December 31, 1999.

On April 23, 1997, NMFS issued modification 3 to CZESD's scientific research permit 946 (P770#68). Permit 946 authorizes CZESD annual direct and incidental takes of adult and juvenile, threatened, naturally-produced and artificially-propagated, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*); and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with two studies. Study 1 is designed to compare the survival to adulthood of spring/summer chinook salmon smolts transported by barge to below Bonneville Dam on the Columbia River with the survival to adulthood of smolts migrating volitionally under prevailing river conditions. Study 2 is designed to assess the migration timing and relative survival of transported and inriver juvenile chinook salmon migrating volitionally from Bonneville Dam to the mouth of the Columbia River. For modification 3 to permit 946,

the take of ESA-listed adult fish associated with Study 1 is authorized annually for the duration of the permit. The take of ESA-listed juvenile fish associated with Study 1 continues to be authorized for the three specific years approved by the Director of the Office of Protected Resources, NMFS in Silver Spring, MD for such take. Permit 946 expires on December 31, 1999.

Notice was published on February 28, 1997 (62 FR 9178) that an application had been filed by CZESD for modification 2 to scientific research permit 914 (P770#67). Modification 2 to permit 914 was issued to CZESD on April 25, 1997. Permit 914 authorizes CZESD annual takes of juvenile, threatened, Snake River spring/summer and fall chinook salmon (*Oncorhynchus tshawytscha*) associated with the conduct of a dissolved gas supersaturation study in Priest Rapids Reservoir and the Hanford reach of the Columbia River, Ice Harbor Reservoir and tailrace on the Snake River, and downstream from Bonneville Dam. For modification 2 to permit 914, CZESD is authorized an increase in the take of juvenile, threatened, Snake River spring/summer chinook salmon associated with the dissolved gas supersaturation research. Also for modification 2, CZESD is authorized an additional annual take of juvenile, threatened, Snake River spring/summer chinook salmon associated with a new study designed to determine whether the signs of gas bubble disease change as a result of changing hydrostatic pressures experienced by juvenile salmonids during their passage through the turbine intakes and gatewells at John Day Dam on the Columbia River. Modification 2 is valid for the duration of the permit. Permit 914 expires on December 31, 1998.

Issuance of the modifications to permits, as required by the ESA, was based on a finding that such actions: (1) Were requested/proposed in good faith, (2) will not operate to the disadvantage of the ESA-listed species that are the subject of the permits, and (3) are consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: May 9, 1997.

Nancy Chu,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–12804 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

Technology Administration

Competitive Technology Stimulation Experimental Program; Meeting

AGENCY: Technology Administration, Department of Commerce.

ACTION: Postponement of public meeting on the proposed experimental program to stimulate competitive technology (EPSCot).

SUMMARY: The open meeting that was announced at 62FR 24422, May 5, 1997 to occur on Mary 29, 1997 to solicit input on the proposed until further notice.

DATES: The meeting will be postponed until further notice.

ADDRESSES: The meeting was originally scheduled to be held at the National Research Center for Coal and Energy at the West Virginia University in Morgantown, West Virginia.

Dated: May 9, 1997.

Gary Bachula,

Deputy Under Secretary for Technology.

[FR Doc. 97–12759 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–18–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Visa Requirements for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in El Salvador

May 9, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending visa requirements.

EFFECTIVE DATE: May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

Effective on May 15, 1997, for goods produced or manufactured in El Salvador, a visa will no longer be required for textile products in Categories 351/651, regardless of the date of export.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 60 FR 2740, published on January 11, 1995.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

May 9, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 6, 1995, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton and man-made fiber textile products, produced or manufactured in El Salvador which were not properly visaed by the Government of El Salvador.

Effective on May 15, 1997, you are directed to no longer require a visa for shipments of goods in Categories 351/651 which are produced or manufactured in El Salvador regardless of the date of export.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–12758 Filed 5–14–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Department of Defense

Notice of Availability of Record of Decision on Alaska Military Operations Areas Final Environmental Impact Statement

On March 5, 1997, the United States Air Force signed the Record of Decision (ROD) for the proposed improvements to Alaska Military Operations Areas (MOAs). The decisions rendered by the U.S. Air Force are as follows: (1) Create

permanent MOAs in the geographic areas previously used for Temporary Military Operations Areas (TMOAs); (2) Modify some existing permanent MOAs; (3) Create some new permanent MOAs; (4) Conduct supersonic aircraft operations in certain MOAs; (5) Conduct routine flying training, joint/combined flying training, and Major Flying Exercises (MFEs) in certain MOAs; and (6) Authorize use of chaff and flares for routine and MFE training in selected permanent MOAs in accordance with 11th Air Force directives for safe employment. The ROD is based on findings contained in a Final Environmental Impact Statement (FEIS) made available September 8, 1995, through notification in the **Federal Register**.

The Office of the Secretary of the Air Force recognizes the many unique and sensitive resources prominent with Alaska. These resources have been effectively identified by the public, special interest organizations, and federal, state, and local officials throughout the study process. The Air Force acknowledges that flying operations over these areas must be strictly managed and accomplished with great sensitivity.

Any questions regarding this matter should be directed to: Mr. Jim Hostman, 611 CES/CEV, 6900 9th Street, Suite 360, Elmendorf Air Force Base, AK 99506–2270, (907) 552–4151.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–12711 Filed 5–14–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

HQ USAF Scientific Advisory Board Meeting

The 1997 Summer Study Panel Meeting on Integration and Cost Assessment of the HQ USAF Scientific Advisory Board will meet at Scott Air Force Base, IL on June 18–19, 1997, from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is to gather information and receive briefings for the 1997 Summer Study topic on Air Expeditionary Forces.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the HQ USAF Scientific Advisory Board Secretariat at (703) 697–8404.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–12710 Filed 5–14–97; 8:45 am]

BILLING CODE 3910–01–U

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Membership of the Defense Logistics Agency (DLA) Performance Review Board (PRB)

AGENCY: Defense Logistics Agency, Department of Defense.

ACTION: Notice of membership of the DLA PRB.

SUMMARY: This notice announces the appointment of the members of the PRBs of the Defense Logistics Agency. The publication of PRB composition is required by 5 U.S.C. 4314(c)(4).

The PRB provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendation to the Director, Defense Logistics Agency, with respect to pay level adjustments and performance awards.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Arellano, Workforce Effectiveness and Development Group, Human Resources, Defense Logistics Agency, Department of Defense, Ft Belvoir, Virginia, (703) 767–6427.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are the names and titles of Defense Logistics Agency personnel appointed to serve as members of the PRBs. Members will serve a 1-year renewable term, effective upon publication of this notice.

1st Level PRB

Ms. Christine Gallo, Executive Director, Strategic Programming and Contingency Operations, Corporate Administration

Ms. Roberta Eaton, Special Assistant for Integrity in Contracting, General Counsel

Mr. Frank Lotts, Deputy Commander, Defense Supply Center, Richmond Virginia

2nd Level PRB

Mr. Alton Ressler, Deputy Director, Corporate Administration

Ms. Jill Pettibone, Executive Director, Contract Management Policy, Acquisition

Mr. George Allen, Deputy Commander, Defense Personnel Support Center

A.C. Ressler,

Deputy Director, Corporate Administration, Defense Logistics Agency.

[FR Doc. 97–12728 Filed 5–14–97; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Draft Integrated Interim Report and Environmental Impact Statement (DEIS) for the Restoration of Assateague Island, as Part of the Ocean City, Maryland, and Vicinity Water Resources Study.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of availability.

SUMMARY: The Baltimore District Corps of Engineers, Maryland Department of Natural Resources, the National Park Service (Assateague Island National Seashore), Worcester County, and the Town of Ocean City, sponsors of the project, propose the implementation of a short-term plan to restore the sediment-starved barrier island of Assateague. This sediment starvation has been directly caused by the construction of the jetties at the inlet located north of Assateague Island at Ocean City, Maryland. The short-term plan involves placing approximately 1.4 million cubic meters (1.8 million cubic yards) of sand on Assateague Island. The borrow area to be used for the project is Great Gull Bank, an offshore shoal, and possibly a small portion of the ebb shoal at the mouth of the inlet. The area of Assateague Island to be renourished in between 2.5 km (1.6 miles) and 11.3 km (7 miles) south of the inlet. A low berm will be constructed to an elevation of 3.3 m (10.8 feet) NGVD (averaging 0.8 m in height) in the portion of the beach between 2.5 km and 10 km (1.6 miles and 6.2 miles) south of the inlet. The placement will be configured such that the impacts to Piping Plovers, a threatened species, is minimal, and the integrity of the island is restored. A plan for a long-term project is being developed to manage the sand flow in and around the inlet. One of the project's purposes will be to supply to Assateague Island an amount of sand that would naturally be transported, should the jetties and inlet not exist. This plan will be documented in a second report and EIS.

FOR FURTHER INFORMATION CONTACT: For a copy of the Integrated Interim Report and DEIS, or for additional information, please contact Ms. Stacey Underwood at (410) 962–4977 or Ms. Carol Anderson-Austra at (410) 962–2910, or write to the U.S. Army Corps of Engineers, Baltimore District (Attn: Ms. Stacey Underwood, CENAB–PL–P) P.O. Box 1715, Baltimore, MD 21203–1715, or send an e-mail message to: *ocwr@ccmail.nab.usace.army.mil.*

SUPPLEMENTARY INFORMATION: The decision to implement this action is being based on an evaluation of the probable impact of the proposed activities on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed project are being balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal, including the cumulative effects thereof, are being considered; among these factors are economics, aesthetics, general environmental concerns, wetlands, cultural values, flood hazards, fish and wildlife values, flood plain values, land use, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, and the general needs and welfare of the people.

The DEIS describes the impacts of the proposed project on environmental and cultural resources in the study area. The DEIS also applies guidelines issued by the Environmental Protection Agency, under authority of the Clean Water Act of 1977 (P.L. 95–217). An evaluation of the proposed actions on the waters of the United States was performed pursuant to the guidelines of the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. The proposed dredging, construction, and placement of dredged material is in compliance with Section 404(b)(1) guidelines.

In accordance with the National Environmental Policy Act and the Clean Water Act, the Corps of Engineers is soliciting comments from the public and from Federal, state, and local agencies and officials, as well as other interested parties. Any comments received will be considered by the Corps of Engineers in the decision to implement the project. To make this decision, comments are considered to assess impacts on endangered species, historic properties, water quality, general environmental effects, and other public interest factors listed above. Comments regarding the proposed project will be incorporated into the Final Environmental Impact Statement as required by NEPA. Public comments will also be used to determine the overall public interest.

The public review and comment period for the draft feasibility study and DEIS will be for 45 days, from May 16, 1997, to June 30, 1997.

This Notice of Availability is being sent to organizations and individuals known to have an interest in the proposed restoration. Please bring this notice to the attention of any other individuals with an interest in this matter. Copies of the Draft Report and EIS are available for review at the following locations:

Eastern Shore Area Library, 122 So. Division St., Salisbury, MD Worcester County Library, Snow Hill Branch, 207 No. Washington St., Snow Hill, MD

Eastern Shore Public Library, 23610 Front St., Accomac, VA Worcester County Library, Ocean City Branch, 14th St. and Coastal Highway, Ocean City, MD

Enoch Pratt Free Library, 400 Cathedral St., Baltimore, MD Assateague Island National Seashore, Route 611, 7206 National Seashore Lane, Berlin, MD.

Scoping: A public scoping meeting will be held to give individuals and groups the opportunity to comment, orally and/or in writing, on the environmental, social, and economic impacts of the proposed action (recommended plan) as presented in the DEIS. The DEIS findings will be reviewed at the public meeting, and comments regarding the proposed project will be incorporated into the Final Environmental Impact Statement as required by NEPA.

The public meeting will be held on Wednesday, June 4, 1997, at 6:30 p.m. at the Ocean City Elementary School. Written comments received by June 30, 1997 will be incorporated into the Final EIS.

Dr. James F. Johnson,

Chief, Planning Division.

[FR Doc. 97–12723 Filed 5–14–97; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Marine Corps University Board of Visitors; Open Meeting

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C., App. 2), notice is given that the Board of Visitors to the President, Marine Corps University, will meet 4–5 June 1997 in Room 227, Marine Corps Research Center, Marine Corps Combat Development Command, 2040 Broadway, Quantico, Virginia. The meeting will commence at 8:00 a. m. on 4 June and terminate at approximately 12:00 p.m. on 5 June.

The purpose of the meeting is to elicit the advice of the Board on regional accreditation and educational and research policies and programs. The agenda will consist of presentations and discussions on preparations for a visit by a team from the Southern Association of Colleges and Schools, the curriculum, and plans of the University. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Dr. V. Keith Fleming, Jr., Education Advisor, Office of the President, Marine Corps University, MCCDC (C 40), 2076 South Street, Quantico, Virginia 22134–5067, telephone number (703) 784–4037.

Dated: May 7, 1997.

D. E. Koenig, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–12767 Filed 5–14–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 14, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of

1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director, Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: May 9, 1997.

Gloria Parker,

Director, Information Resources Management Group.

Office of Postsecondary Education

Title: Student Aid Report (SAR).

Frequency: Annually.

Affected Public: Individuals or households.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 9,395,776.

Burden Hours: 3,806,796.

Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

[FR Doc. 97–12705 Filed 5–14–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Educational Research Policy and Priorities Board. 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. This document is intended to notify the public of their opportunity to attend.

DATE: June 6, 1997.

TIME: 8:30 a.m. to 4 p.m.

LOCATION: Omni Chapel Hill Hotel, 1 Europa Drive, Chapel Hill, NC 27514; meeting room will be posted.

FOR FURTHER INFORMATION CONTACT: Thelma Leenhouts, Designated Federal Official, National Educational Research Policy and Priorities Board, 80 F St., N.W., Washington, D.C. 20208–7564. Telephone: (202) 219–2065; fax: (202) 219–1528; e-mail: Thelma__Leenhouts@ed.gov.

SUPPLEMENTARY INFORMATION: The National Educational Research Policy and Priorities Board is authorized by Section 921 of the Educational Research, Development, Dissemination, and Improvement Act of 1994. The Board works collaboratively with the Assistant Secretary for the Office of Educational Research and Improvement to forge a national consensus with respect to a long-term agenda for educational research, development, and dissemination, and to provide advice and assistance to the Assistant Secretary in administering the duties of the Office.

The agenda for June 6 will cover reports of the Board committees; adoption of a work plan and mission statement, and policies concerning travel and procedures for evaluating the executive director. A final agenda will be available from the Board's office on May 23.

Records are kept of all Board proceedings and are available for public inspection at the office of the National Educational Research Policy and Priorities Board, 555 New Jersey Ave., N.W., Washington, D.C. 20208–7564.

Dated: May 9, 1997.

Eve M. Bither,

Executive Director.

[FR Doc. 97–12721 Filed 5–14–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–503–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

May 9, 1997.

Take notice that on May 2, 1997, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478. filed in Docket No. CP97–503–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the National Gas Act (18 CFR 157.205, 157.216) for authorization to abandon an inactive meter station, under Koch Gateway's blanket certificate issued in Docket No. CP82–430–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch Gateway proposes to abandon by removal a 2-inch meter station, tap, valves and all above-ground appurtenances located in Polk County, Texas. This meter station is located on Koch Gateway's transmission pipeline designated as Index 59. The estate of Carleton D. Speed, Jr. (Speed) had formerly been served by this meter station, but the station has been inactive since 1986 and Speed concurs with the proposed abandonment. These facilities are located entirely within Koch Gateway's existing right-of-way.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–12701 Filed 5–14–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL97–35–000, et al.]

Niagara Mohawk Power Corporation, et al.; Electric Rate and Corporate Regulation Filings

May 8, 1997.

Take notice that the following filings have been made with the Commission:

1. Niagara Mohawk Power Corporation

[Docket No. EL97–35–000]

Take notice that on May 2, 1997, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing a Petition for a Declaratory Order to revoke the qualifying status of a cogeneration facility operated by Stevens & Thompson Paper Company, Inc. (S&T). Niagara Mohawk states that S&T does not satisfy the ownership criteria for qualifying facilities because it has utilized its transmission lines and interconnection facilities to wheel electricity for use by American Tissue Mills of Greenwich LLC. Niagara Mohawk requests that the Commission issue an order revoking the qualifying status of the S&T facility as of the time it engaged in this practice.

A copy of the Petition for a Declaratory Order has been served on S&T and the New York Public Service Commission.

Comment date: May 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Beaver Michigan Associates Limited Partnership, Beaver Cadillac G.P., Inc., Alternative Energy, Inc., CLP Energy Holdings, L.P., City of Cadillac, Michigan, HaVan Limited Partnership, Kysor Industrial Corporation, Townsend & Bottum, Inc., Beaver G.P. Acquisition, L.L.C., Cadillac Renewable Energy LLC, Decker Energy-Cadillac, Inc., NRG Cadillac, Inc., and NRG Generating (U.S.) Inc.

[Docket No. EC97–32–000]

Take notice that on May 1, 1997, the above-captioned parties (Applicants) filed an application under Section 203 of the Federal Power Act for various changes in control and dispositions of jurisdictional facilities involving the operation of a 34 MW, wood-fired, qualifying small power production facility located in Cadillac, Michigan.

Comment date: June 6, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Northeast Utilities Service Company

[Docket No. ER97–1987–000]

Take notice that on April 15, 1997, Northeast Utilities Service Company tendered for filing an amendment in the above-referenced docket.

Comment date: May 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Western Resources, Inc.

[Docket No. ER97–2424–000]

Take notice that on April 29, 1997, Western Resources, Inc. tendered for filing an amendment in the above-referenced docket.

Comment date: May 21, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Pennsylvania Power & Light Company

[Docket No. ER97–2671–000]

Take notice that on April 24, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement, dated April 14, 1997, with Federal Energy Services, Inc. (Federal) for the sale of capacity and/or energy under PP&L's Short Term Capacity and/or Energy Sales Tariff. The Service Agreement adds Federal as an eligible customer under the Tariff.

PP&L requests an effective date of April 25, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Federal and to the Pennsylvania Public Utility Commission.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Pennsylvania Power & Light Company

[Docket No. ER97–2673–000]

Take notice that on April 24, 1997, Pennsylvania Power & Light Company (PP&L), filed a Service Agreement, dated July 1, 1996, with PacifiCorp Power Marketing, Inc. (PacifiCorp) for the sale of capacity and/or energy under PP&L's Short Term Capacity and/or Energy Sales Tariff. The Service Agreement adds PacifiCorp as an eligible customer under the Tariff.

PP&L requests an effective date of December 26, 1996, for the Service Agreement.

PP&L states that copies of this filing have been supplied to PacifiCorp and to the Pennsylvania Public Utility Commission.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Illinois Power Company

[Docket No. ER97–2674–000]

Take notice that on April 24, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, a Revised Service Agreement under which Delhi Energy Services, Inc. will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of June 30, 1997.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER97–2675–000]

Take notice that on April 24, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement with PanEnergy Trading and Market Services, L.L.C. under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER97–2676–000]

Take notice that on April 24, 1997, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, a Service Agreement for Non-Firm Point-to-Point Transmission Service with the companies listed below and Ohio Edison Company pursuant to Ohio Edison's Open Access Tariff.

American Electric Power Service Corporation
Atlantic City Electric Company
CNG Power Services Corporation
Consumers Power Company and Detroit Edison Company
Coral Power, L.L.C.
Delmarva Power & Light Company
Electric Clearinghouse, Inc.
LG&E Power Marketing, Inc.
Minnesota Power & Light Company
Wisconsin Electric Company

These Service Agreements will enable the parties to obtain Non-Firm Point-to-Point Transmission Service in accordance with the terms of the Tariff.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Deseret Generation & Transmission Cooperative

[Docket No. ER97–2677–000]

Take notice that on April 24, 1997, Deseret Generation & Transmission Cooperative (Deseret), tendered for filing a Notice of Cancellation of Deseret's FERC Rate Schedule No. 12 between Deseret and Salt River Project Agricultural Improvement and Power District.

Deseret requests that this cancellation become effective October 16, 1996.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp

[Docket No. ER97–2678–000]

Take notice that on April 23, 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 Equitable Power Services Co., Nevada Power Company, Powerex and TransCanada Power, a division of TransCanada Energy Ltd. 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: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. TerraWatt, Inc.

[Docket No. ER97–2679–000]

Take notice that on April 24, 1997, TerraWatt, Inc. (TerraWatt) petitioned the Commission for: (1) Blanket authorization to sell electricity at market-based rates; (2) acceptance of TerraWatt's Rate Schedule FERC No. 1; (3) waiver of certain Commission Regulations; and (4) such other waivers and authorizations as have been granted to other power marketers, all as more fully set forth in TerraWatt's petition on file with the Commission.

TerraWatt states the it intends to engage in electric power transactions as a broker and as a marketer. In transactions where TerraWatt acts as a marketer, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with purchasing parties.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Central Vermont Public Service Corporation

[Docket No. ER97–2680–000]

Take notice that on April 24, 1997, Central Vermont Public Service Corporation (Central Vermont), tendered for filing a Service Agreement with Niagara Mohawk under its FERC Electric Tariff No. 5. The tariff provides for the sale by Central Vermont of power and energy at or below Central Vermont's fully allocated costs.

Central Vermont requests waiver of the Commission's regulations to permit the service agreement to become effective on April 15, 1997.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Northern States Power Company (Minnesota Company)

[Docket No. ER97–2683–000]

Take notice that on April 25, 1997, Northern States Power Company (Minnesota) (NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and CMS Marketing, Services, and Trading Company.

NSP requests that the Commission accept the agreement effective March 27, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Peco Energy Company

[Docket No. ER97–2684–000]

Take notice that on April 25, 1997, PECO Energy Company (PECO), filed a Service Agreement dated April 18, 1997 with Southern Indiana Gas and Electric Company (SIG&E) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds SIG&E as a customer under the Tariff.

PECO requests an effective date of April 18, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to SIG&E and to the Pennsylvania Public Utility Commission.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Peco Energy Company

[Docket No. ER97–2685–000]

Take notice that on April 25, 1997, PECO Energy Company (PECO) filed a Service Agreement dated April 18, 1997 with Williams Energy Services Company (WES) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds WES as a customer under the Tariff.

PECO requests an effective date of April 18, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to WES and to the Pennsylvania Public Utility Commission.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Northern States Power Company Minnesota Company

[Docket No. ER97–2686–000]

Take notice that on April 25, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Firm Point-to-Point Transmission Service Agreement between NSP and Sonat Power Marketing L.P.

NSP requests that the Commission accept the agreements effective April 1, 1997, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Allegheny Power Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER97–2689–000]

Take notice that on April 25, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), filed Supplement No. 15 to add Louisville Gas and Electric Company, New York State Electric & Gas Corporation, and USGen Power Services, L.P. to Allegheny Power Open Access Transmission Service Tariff which has been submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–18–000. The proposed effective date under the Service Agreements is April 24, 1997.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. PG&E Energy Services, Energy Trading Corporation

[Docket No. ER97–2690–000]

Take notice that on April 25, 1997, PG&E Energy Services, Energy Trading Corporation (PG&E Energy Services), tendered for filing a Notice of Name Change of Vantus Power Services to PG&E Energy Services, Energy Trading Corporation.

Vantus Power Services has on file with this Commission its Rate Schedule FERC No. 1, which this Commission accepted in part for filing by its Order dated October 20, 1995, 73 FERC ¶ 61,099 (1995). PG&E Energy Services, Energy Trading Corporation hereby adopts, ratifies and makes its own in every respect such Rate Schedule.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Interstate Power Company

[Docket No. ER97–2705–000]

Take notice that on April 28, 1997, Interstate Power Company (IPW) tendered for filing a Transmission Service Agreement between IPW and Equitable Power Services Company (EPS). Under the Transmission Service Agreement, IPW will provide non-firm point-to-point transmission service to EPS.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Niagara Mohawk Power Corporation

[Docket No. ER97–2706–000]

Take notice that on April 28, 1997, Niagara Mohawk Power Corporation (Niagara) tendered for filing a Notice of Cancellation of the Berkshire Transaction Agreement and the Facilitating Agreement between Niagara and Hartford Power Sales, L.L.C.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Southern California Edison Company

[Docket No. ER97–2707–000]

Take notice that on April 28, 1997, Southern California Edison Company (Edison) tendered for filing information regarding a billing adjustment made pursuant to the formula rate contained in the Environmental Energy Storage Agreement (Agreement) between Edison and the Bonneville Power Administration (BPA).

Edison seeks waiver of the 60 day prior notice requirement and requests that the Commission assign an effective date of April 29, 1997.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Louisville Gas and Electric Company

[Docket No. ER97–2708–000]

Take notice that on April 28, 1997 Louisville Gas and Electric Company (LG&E) tendered for filing of its obligation to file the rates and agreements for wholesale transactions made pursuant to its market-based Generation Sales Service (GSS) Tariff.

Comment date: May 22, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Montaup Electric Company

[Docket No. ER97–2800–000]

Take notice that on May 1, 1997, Montaup Electric Company (Montaup) filed amendments to its service agreements with its Rhode Island affiliates, Blackstone Valley Electric Company and Newport Electric Corporation, under Montaup's FERC Electric Tariff, First Revised Volume No. 1. Among other things, these amendments provide for early termination of the service agreements currently in effect in order to implement Rhode Island's program for retail competition which will commence as of July 1, 1997, and create a mechanism for the recovery of stranded costs that will result therefrom. Montaup has proposed an effective date of July 1, 1997, for these amended service agreements.

Copies of the filing were served upon all parties taking service under Montaup's tariff, the regulatory commissions in Rhode Island and Massachusetts, and the attorneys general of Rhode Island and Massachusetts.

Comment date: May 22, 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 97–12702 Filed 5–14–97; 8:45 am]

BILLING CODE 6717–01–P

ENVRIONMENTAL PROTECTION AGENCY

[FRL–5825–5]

Public Meetings of the Urban Wet Weather Flows Advisory Committee, the Storm Water Phase II Advisory Subcommittee, and the Sanitary Sewer Overflow Advisory Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is given that the Environmental Protection Agency (EPA) has cancelled the Storm Water Phase II Advisory Subcommittee meeting scheduled for June 12–13, 1997 at the Doubletree Hotel Park Terrace, Washington, DC. This meeting was listed in the **Federal Register** of February 10, 1997.

FOR FURTHER INFORMATION: Contact Sharie Centilla, Office of Wastewater Management, at (202) 260–6052 or Internet: centilla.sharie@epamail.epa.gov

Dated: May 8, 1997.

Michael B. Cook,

Director, Office of Wastewater Management, Designated Federal Official.

[FR Doc. 97–12654 Filed 5–14–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5826–1]

Proposed Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act; in the Matter of Sturgis Municipal Well Field Superfund Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for public comment.

SUMMARY: Notice of Settlement: in accordance with section 122(I)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), notice is hereby given of a settlement concerning past response costs at the Sturgis Municipal Well Field Superfund Site in Sturgis, Michigan. This proposed agreement has been forwarded to the Attorney General for the required prior written approval for this Settlement, as set forth under section 122(g)(4) of CERCLA.

DATES: Comments must be provided on or before June 16, 1997.

ADDRESSES: Comments should be addressed to the Docket Clerk, Mail Code MFA–10J, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604, and should refer to: In the Matter of Sturgis Municipal Well Field Superfund Site, Docket No. V–W–97–C–405.

FOR FURTHER INFORMATION CONTACT: Karen L. Peaceman, Mail Code CS–29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

SUPPLEMENTARY INFORMATION: The following parties executed binding certification of their consent to participate in the settlement: Rudolph and Ruth Boals.

These parties will pay $2,500 for response costs related to the Sturgis Municipal Well Field Superfund Site, if the United States Environmental Protection Agency determines that it will not withdraw or withhold its consent to the proposed settlement after consideration of comments submitted pursuant to this notice.

U.S. EPA may enter into this settlement under the authority of section 122(h) of CERCLA. Section 122(h)(1) authorizes EPA to settle any claims under Section 107 of CERCLA where such claim has not been referred to the Department of Justice. Pursuant to this authority, the agreement proposes to settle with parties who are potentially responsible for costs incurred by EPA at the Sanitary Landfill Company (IWD) Superfund Site.

A copy of the proposed administrative order on consent and additional background information relating to the settlement are available for review and may be obtained in person or by mail from Karen L. Peaceman, Mail Code C–29A, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

The U.S. Environmental Protection Agency will receive written comments relating to this settlement for thirty days from the date of publication of this notice.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601 *et seq.*

William E. Muno,

Director, Superfund Division.

[FR Doc. 97–12788 Filed 5–14–97; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 8:30 a.m. on Monday, May 12, 1997, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by John Downey, acting in the place and stead of Director Nicholas P. Retsinas (Director, Office of Thrift Supervision), concurred in by Director Joseph H. Neely (Appointive), Director Eugene A. Ludwig (Comptroller of the Currency), and Chairman Ricki Helfer, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: May 12, 1997.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 97–12880 Filed 5–13–97; 12:10 pm]

BILLING CODE 6714–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

The Federal Maritime Commission hereby gives notice that the following freight forwarder licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, effective on the corresponding revocation dates shown below:

License Number: 1617
Name: Cauci Shipping Inc.
Address: 3168 Sewell Mill Road, Marietta, GA 30062
Date Revoked: April 16, 1997
Reason: Failed to maintain a valid surety bond.

License Number: 1768
Name: Land Joy International Forwarders Inc.
Address: 3101 N.W. 74th Avenue, Miami, FL 33122
Date Revoked: April 7, 1997
Reason: Surrendered license voluntarily.

License Number: 2046
Name: Leonard A. Kanczuzewski d/b/a/ Consolidation Services International
Address: 1507 South Olive Street, P.O. Box 3559, South Bend, IN 46619
Date Revoked: April 16, 1997
Reason: Surrendered license voluntarily.

License Number: 4154
Name: Pee Jay International Shipping Company (Worldwide Freight Forwarders)
Address: 777 SLR Thornton Freeway, Suite 204, Dallas, TX 75203
Date Revoked: April 25, 1997
Reason: Surrendered license voluntarily.

License Number: 1835
Name: Romat Shipping Corporation
Address: 1536 Dieman Lane, East Meadow, NY 11554
Date Revoked: April 16, 1997
Reason: Failed to maintain a valid surety bond.

License Number: 1584
Name: Winair Freight, Inc.
Address: 10231 N.W. 21st Street, Miami, FL 33172
Date Revoked: April 22, 1997
Reason: Failed to maintain a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 97–12729 Filed 5–14–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. 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 June 9, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Firstbank Corporation, Alma, Michigan; to merge with Lakeview Financial Corporation, Lakeview, Michigan, and thereby indirectly acquire Bank of Lakeview, Lakeview, Michigan.

B. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Bank of Idaho Holding Company, Idaho Falls, Idaho; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Eastern Idaho, Idaho Falls, Idaho.

2. Security State Corporation, Centralia, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank, Centralia, Washington.

Board of Governors of the Federal Reserve System, May 9, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–12691 Filed 5–14–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice 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 question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 9, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Allegiant Bancorp, Inc., Clayton, Missouri; to acquire Reliance Financial, Inc., St. Louis, Missouri, and thereby indirectly acquire Reliance Federal Savings and Loan Association of St. Louis County, St. Louis, Missouri, and thereby engage in operating a savings and loan, pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y. This activity will be conducted throughout the State of Missouri.

Board of Governors of the Federal Reserve System, May 9, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–12692 Filed 5–14–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 971–0033]

Cadence Design Systems, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 14, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pennsylvania Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William J. Baer, Federal Trade Commission, H–374, 6th St. and Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–2932. Howard Morse, Federal Trade Commission, S–3627, 6th St. and Pennsylvania Ave. NW., Washington, DC 20580, (202) 326–2949.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for May 8, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its

principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Agreement'') from Cadence Design Systems, Inc. (''Proposed Respondent''). The proposed Order is designed to remedy anticompetitive effects stemming from Cadence's proposed acquisition of Cooper & Chyan Technology (''CCT''). On October 28, 1996, Cadence and CCT entered into an Agreement and Plan of Merger and Reorganization whereby Cadence will acquire 100 percent of the issued and outstanding shares of CCT voting securities in exchange for shares of Cadence voting securities valued at more than $400 million (the ''Proposed Merger'').

The Commission has reason to believe that the Proposed Merger may substantially lessen competition in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, unless an effective remedy eliminates likely anticompetitive effects. The Agreement Containing Consent Order would, if finally accepted by the Commission, settle charges that Cadence's acquisition of CCT may substantially lessen competition or tend to create a monopoly in the research, development, and sale of constraint-driven, shape-based integrated circuit routing tools.

The proposed Order has been placed on the public record for sixty (60) days. The Commission invites the submission of comments by interested persons, and comments received during this period will become part of the public record. After sixth (60) days, the Commission will again review the Agreement, as well as any comments received, and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

The Proposed Complaint

According to the Commission's proposed complaint, Cadence is a company that sells various electronic design automation products and services, including integrated circuit layout environments. An integrated circuit (more commonly known as a microchip) is a complex electronic circuit that consists of as many as five million or more miniature electronic components on a piece of semiconductor material smaller than a postage stamp. Integrated circuit design consists of two distinct phases, logical design and physical design. Integrated circuit layout environments, which are used during the physical design phase, are software infrastructures within which integrated circuit designers access integrated circuit layout tools. Approximately $70 million of Cadence's annual worldwide sales of approximately $741 million are attributable to sales of integrated circuit layout environments.

The proposed complaint further alleges that CCT is a company that sells integrated circuit routing tools and related services, which account for approximately $13 million of CCT's annual worldwide sales of approximately $37.6 million. An integrated circuit routing tool, which is a type of integrated circuit layout tool, is software used to automate the determination of the connections between electronic components within an integrated circuit.

According to the Commission's proposed complaint, a relevant line of commerce within which to analyze the competitive effects of the Proposed Merger is the market for the research, development, and sale of constraint-driven, shape-based integrated circuit routing tools. As integrated circuit designs have become smaller, denser, and faster, the routing of the interconnections between components has become an increasingly important phase of the integrated circuit design process. Routing issues are critical at deep submicron scales of integrated circuit design, which are scales of design smaller than .35 micron (a micron is a millionth of an inch). The current state-of-the-art design scale is .35 micron, but in the future, integrated circuit designs will shrink to .25 micron and then .18 micron design scales. At deep submicron scales of integrated circuit design, routing is complicated by ''cross talk'' and other types of electrical interference, timing concerns, design density, and other problems. A constraint-driven, shape-based integrated circuit routing tool is the only kind of routing tool that can correctly accommodate these unique deep submicron integrated circuit routing issues.

The proposed complaint further alleges that there are no acceptable substitutes for constraint-driven, shape-based integrated circuit routing tools. Routing tools based on other technology cannot accommodate the unique deep submicron integrated circuit routing issues described above and thus cannot route deep submicron integrated circuit designs accurately. Routing inaccuracies create serious performance problems, and correcting these problems causes significant design delays. Nor is it commercially feasible for integrated circuit design engineers to route integrated circuit designs without automation (*i.e.*, by ''pointing and clicking'' between each individual component and each other component to which it must be connected, then going back and correcting any interference or other problems that arise as the routing progresses). Given the sheer complexity and density of deep submicron integrated circuit designs, as well as the intense time-to-market pressures faced by semiconductor companies in today's fast-paced electronics industry, hand routing is not an alternative for the timely and accurate design of integrated circuits.

The proposed complaint further alleges that CCT is currently the only firm with a commercially viable constraint-driven, shape-based integrated circuit routing tool, although at least one other firm is in the process of developing a constraint-driven, shape-based integrated circuit routing tool that would compete with CCT's product. The complaint further alleges that Cadence is the dominant supplier of integrated circuit layout environments. The competitive significance of Avant! Corporation, Cadence's leading competitor in the supply of integrated circuit layout environments, is limited by the fact that Avant! has been charged criminally with conspiracy and theft of trade secrets from Cadence. Several top Avant! executives have been charged criminally as well.

The Commission's proposed complaint further alleges that there are high barriers to entry in the market for constraint-driven, shape-based integrated circuit routing tools, which are technologically complex and difficult to develop. *De novo* entry takes approximately two to three and a half years for a company that already possesses certain underlying core technology that can be used to develop a constraint-driven, shape-based integrated circuit router (for example, shape-based routing technology for printed circuit boards). Entry is likely to take even longer for a company that does not already possess such technology.

According to the Commission's proposed complaint, integrated circuit designers achieve the necessary compatibility between integrated circuit layout tools by selecting tools that have interfaces to a common integrated circuit layout environment. As a result,

a constraint-driven, shape-based routing tool that lacks an interface into a Cadence integrated circuit layout environment is less likely to be selected by integrated circuit designers than a constraint-driven, shape-based routing tool that possesses such an interface. Similarly, an integrated circuit layout environment is not likely to be selected by integrated circuit designers unless a full set of compatible integrated circuit design tools is available.

The proposed complaint further alleges that it is in Cadence's interest to make available to users of Cadence integrated circuit layout environments a complete set of integrated circuit design tools, because to do so makes a Cadence integrated circuit layout environment more valuable to customers. Historically, Cadence has provided access to its integrated circuit layout environments to suppliers of complementary integrated circuit layout tools that Cadence does not supply. Cadence does not, however, have incentives to provide access to its integrated circuit layout environments to suppliers of integrated circuit layout tools that compete with Cadence products. Cadence historically has been reluctant to provide access to its integrated circuit layout environments to suppliers of competing integrated circuit layout tools.

According to the Commission's proposed complaint, prior to the Proposed Merger, Cadence did not have a commercially viable, constraint-driven, shape-based integrated circuit routing tool. As a result of the Proposed Merger, Cadence will own the only currently available commercially viable constaint-driven, shape-based integrated circuit router. Thus, as a result of the Proposed Merger, Cadence will become less likely to permit potential suppliers of competing constraint-driven, shape-based integrated circuit routing tools to obtain access to Cadence integrated circuit layout environments.

The Commission's proposed complaint alleges that, absent access to Cadence integrated circuit layout environments, developers will be less likely to gain successful entry into the market for constraint-driven, shape-based routing tools. The proposed complaint further alleges that the Proposed Merger will make it more likely that successful entry into the constraint-driven, shape-based integrated circuit routing tool market would require simultaneous entry into the market for integrated circuit layout environments. The need for dual-level entry will further decrease the likelihood of entry into the market for constraint-driven, shape-based integrated circuit routing tools.

The Commission's proposed complaint alleges that the Proposed Merger may substantially lessen competition or tend to create a monopoly in the market for constraint-driven, shape-based routing tools, which, among other things, may lead to high prices, reduced services, and less innovation.

The Proposed Order

The proposed Order would remedy the alleged violations by eliminating a significant impedment to entry in the market for integrated circuit routing tools. The proposed Order would require that Cadence permit developers of commercial integrated circuit routing tools to participate in the Cadence Connections Program™, any successor program thereto, or other licensing programs, promotional programs or other arrangements (collectively, ''Independent Software Interface Programs'') which enable independent software developers to develop and sell interfaces to Cadence integrated circuit layout tools and Cadence integrated circuit layout environments.

The proposed Order would require that Cadence allow independent developers of commercial integrated circuit routing tools to participate in Cadence's Independent Software Interface Programs on terms no less favorable than the terms applicable to other participants. Cadence currently has over 100 partners in its Independent Software Interface Programs.

The purpose of these requirements is to ensure that Cadence's acquisition of CCT's constraint-driven, shape-based integrated circuit routing tools does not create incentives for Cadence to prevent competing suppliers of constraint-driven, shape-based integrated circuit routing tools from participating in Cadence's Independent Software Interface Programs; to prevent a need for dual-level entry in the markets for constraint-driven, shape-based integrated circuit routing tools and integrated circuit layout environments; to ensure that independent software developers will continue to invest the resources necessary to develop and sell constraint-driven, shape-based integrated circuit routing tools that would compete with CCT's constraint-driven, shape-based integrated circuit routing tool; and to remedy the lessening of competition as alleged in the Commission's complaint.

In addition, the proposed Order would prohibit Cadence from acquiring certain interests in any other concern which, within the year preceding such acquisition, engaged in the development or sale of integrated circuit routing tools in the United States, and also would prohibit Cadence from acquiring any assets used or previously used (and still suitable for use) in the development or sale of integrated circuit routing tools in the United States, without prior notice to the Commission, for a period of ten (10) years. Absent this prior notice requirement, Cadence might be able to undermine the purposes of the proposed Order by acquiring a developer of integrated circuit routing tools without the Commission's knowledge, where such acquisition would not be subject to the reporting requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

Cadence and the Commission also have entered into an Interim Agreement whereby Cadence has agreed to be bound by the terms of the proposed Order, pending and until the Commission's issuance of the proposed Order.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Agreement or the proposed Order or in any way to modify the terms of the Agreement or the proposed Order.

Donald S. Clark,

Secretary.

Statement of Chairman Robert Pitofsky and Commissioners Janet D. Steiger and Christine A. Varney in the Matter of Cadence Design Systems, Inc./Cooper & Chyan Technology, Inc.; File No. 971–0033

The consent agreement negotiated in this matter, which the Commission has today accepted and placed on the public record for comment, eases competitive concerns raised by Cadence Design Systems, Inc.'s (''Cadence'') acquisition of Cooper & Chyan Technology, Inc. (''CCT'').

The Commission's complaint alleges that Cadence is the dominant supplier of complete software ''layout environments'' for the physical design of integrated circuits, or ''chips,'' the postage-stamp sized electronic components used in devices as diverse as personal computers and kitchen appliances. CCT sells a software tool, called a ''router,'' that works within a layout environment and allows users to plot the connections among the millions of components within an integrated circuit. The proposed complaint alleges that CCT is the only firm to have developed a ''constraint-driven, shape-based'' router, state-of-the-art technology that is expected to solve the

next generation of problems that will face integrated circuit producers designing ever more powerful chips.

The Commission's proposed complaint alleges a well-established vertical theory of competitive harm, laid out in the 1984 Merger Guidelines.[1] The Guidelines explain that a vertical merger can produce horizontal anticompetitive effects by making competitive entry less likely if (1) as a result of the merger, there is a need for simultaneous entry into two or more markets and (2) such simultaneous entry would make entry into the single market less likely to occur.[2] While the dissenting Commissioners may take issue with the ''dual-level entry'' theory of vertical mergers that the 1984 Guidelines articulate, the available evidence suggests that the Cadence/CCT merger, which combines Cadence's dominant position in integrated circuit layout environments with CCT's current monopolistic position in constraint-driven, shape-based integrated circuit routers, presents a straightforward case of anticompetitive effects caused by vertical integration. We believe that this type of competitive harm merits our attention.[3]

When considering the effects of mergers in dynamic, innovative high-tech markets, such as those present here, it is particularly important to investigate whether such mergers will create barriers to entry. New entrants often bring innovation to the market, and the threat of entry leads incumbents to innovate. Therefore, we must be vigilant to preserve opportunities for entry.

As the Analysis to Aid Public Comment explains, unless a would-be supplier of routing tools had the ability to develop an interface to the Cadence integrated circuit layout environment, it would not be able to market its routing product effectively to the vast majority of potential customers which use the Cadence layout environment.[4] Without an expectation that it could design software compatible with Cadence's installed base, a would-be entrant might well decide not to compete.[5]

After the proposed Cadence/CCT merger, Cadence would have an incentive to impede attempts by companies developing routing technology competitive with CCT's constraint-driven, shape-based router technology, IC Craftsman, to gain access to the Cadence integrated circuit layout environment. Following the proposed merger, successful entry into the routing tool market is more likely to require simultaneous entry into the market for integrated circuit layout environments. Without a consent that mandates access to Cadence's layout environment, and thus lowers the barriers to entry in the market, a combined Cadence/CCT will face less competitive pressure to innovate or to price aggressively. Thus, competition would likely be reduced as a result of the proposed acquisition.

The proposed remedy in this matter preserves opportunities for new entrants with integrated circuit routers competitive with IC Craftsman by allowing them to interface with Cadence's layout environments on the same terms as developers of complementary design tools.[6] Specifically, the proposed order would require Cadence to allow independent commercial router developers to build interfaces between their design tools and the Cadence layout environment through Cadence's ''Connections Program.'' The Connections Program is in place now and has more than one hundred participants who have all entered a standard from contract with Cadence.

The separate statements by Commissions Azcuenaga and Starek question this enforcement action. We respectfully disagree.

First, Commissioner Azcuenaga argues that the Commission should have brought an action based upon a horizontal theory of competitive harm. We certainly agree that horizontal competitive concerns deserve our close attention and recognize that horizontal remedies often cure vertical problems. If we had credible support for the theory that the proposed merger would combine actual or potential horizontal competitors and would substantially lessen competition in an integrated circuit routing market or an innovation market for integrated circuit routers, we would not hesitate to advance that case. But after a thorough investigation by Commission staff, we have not found sufficient evidence to conclude that, absent the acquisition, Cadence would have been able to enter the market for constraint-driven, shape-based integrated circuit routers successfully in the foreseeable future.

The dissenting statements fail to give full weight to all the incentives at work in the vertical case. It is true that Cadence would be motivated by the entry of new, promising routing technology to allow an interface to its layout environment to seek more of its *complementary* products. And absent the merger, that would be its only incentive. But with the merger, Cadence clearly also has an incentive to prevent loss of sales in its *competing* products. And while these two incentives may compete as a theoretical matter, the evidence in this case indicates that Cadence has acted historically according to the latter incentive. There is some reason to believe that Cadence in the past has thwarted attempts by firms offering potentially competitive technology to develop interfaces to its layout environment (including at one point, CCT). Now that it has a satisfactory router to offer its customers, there is no reason to think that absent the consent, Cadence would treat developers of routers that would compete with IC Craftsman any differently than it once treated CCT.

Commissioner Azcuenaga also suggests that the consent order is unnecessary because a company developing a router to compete with IC Craftsman could proceed, as CCT did, without an interface to Cadence's design layout environment. The evidence shows, however, that CCT's management thought that ensuring compatibility with Cadence's layout

[1] *See U.S. Department of Justice Merger Guidelines*, 4 Trade Reg. Rep. (CCH ¶ 13,103 (June 14, 1984) (hereinafter ''1984 Merger Guidelines''). When the agencies issued the 1992 Horizontal Merger Guidelines, *U.S. Department of Justice and Federal Trade Commission Horizontal Merger Guidelines*, 4 Trade Reg. Rep. (CCH) ¶ 13,104 (April 7, 1992), they explained that ''[s]pecific guidance on non-horizontal mergers is provided in . . . [the] 1984 Merger Guidelines.'' *U.S. Department of Justice and Federal Trade Commission Statement Accompanying Release of Revised Merger Guidelines*, 4 Trade Reg. Rep. (CCH) ¶ 13,104 (April 2, 1992). *See generally* Herbert Hovenkamp, *Federal Antitrust Policy* §§ 9.4, 9.5 (1994) (suggesting that vertical mergers may create barriers to entry when one of the parties is a monopolist or near-monopolist).

[2] *See* 1984 Merger Guidelines § 4.21.

[3] Contrary to Commissioner Starek's assertions that enforcement action here, in the context of a merger, leads logically to enforcement action against internal vertical expansion, *see* Dissenting Statement of Commissioner Roscoe B. Starek III at n.8 & accompanying text, such unilateral action has been known to present a completely different set of questions under the antitrust laws for more than one hundred years.

[4] Not only is Cadence the dominant layout environment, but its competitors are in a state disarray. For example, Cadence's most significant competitor, Avant! Corporation, and several of its top executives have recently been charged with the theft of trade secrets from Cadence.

[5] CCT decided that it was so important to gain access to Cadence's layout environment that when Cadence refused to allow the IC Craftsman product (CCT's constraint-driven, shape-based router technology) to interface with the Cadence layout program through the ''Connections'' Program, CCT induced a third party that was a Connections partner to write an interface to the Connections Program for IC Craftsman without Cadence knowledge. Cadence thereafter sought to impede CCT's attempts to gain access to the Cadence integrated circuit layout environment by suing CCT.

[6] At the same time, the proposed order preserves any efficiencies of vertical integration resulting from the proposed merger, which may benefit customers.

environment was critical and that marketing without that compatibility, which it had done, was not sufficient.[7] It took the extreme measure of inducing a third party to write software for CCT to interface IC Craftsman with the Cadence layout environment without Cadence's knowledge. Moreover, despite CCT's success in developing a routine program, its sales were modest before the merger announcement.[8]

Commissioner Azcuenaga is further concerned that mandating access to the Connections Program for developers of routing software on terms as favorable as for other Connections participants might have unintended consequences. In particular, she is concerned that the order may prompt Cadence to charge higher prices to all Connections partners. But the Connections Program is an existing program with over one hundred members, and Cadence would have significant logistical difficulties, and would risk injuring its reputation, if it suddenly altered the terms of the program. Also, Cadence has good reasons for having so many Connections partners—they offer Cadence customers valuable tools, most of which do not compete with Cadence products. It seems unlikely that Cadence would be motivated to make the Connections Program less appealing to those partners.

Both Commissioners Azcuenaga and Starek suggest that the proposed remedy may be difficult to enforce. Any time this Commission enters an order, it takes upon itself the burden of enforcing the order, which requires use of our scarce resources. However, we think the proposed order, which simply requires Cadence to allow competitors and potential competitors developing routing technology to participate in independent software interface programs on terms no less favorable than the terms applicable to *any* other participants in such programs, is a workable approach.[9] Connections partners all sign the same standard-form contract and there has been a consistent pattern of conduct with respect to the program to use as a baseline for future comparisons. Moreover, the Commission has had experience with such non-discrimination provisions, and can rely on respondent's compliance reports required under the order as well as complaints from independent software developers to ensure compliance with the consent. We think the dissenting Commissioners' scenarios about intractable compliance issues are unfounded.

In sum, we believe that the consent order will preserve competition in the market for cutting-edge router technology by reducing barriers to entry.

Statement of Commissioner Mary L. Azcuenaga Concurring in Part and Dissenting in Part in Cadence Design Systems, Inc., File No. 971–0033

The acquisition of Cooper & Chyan Technology, Inc. (Cooper & Chyan), by Cadence Design Systems, Inc. (Cadence), combines the only firm currently marketing a constraint-driven, shape-based integrated circuit routing tool with a firm that was, at least until the acquisition, on the verge of entry into this market. I find reason to believe that the proposed merger would violate Section 7 of the Clayton Act under a horizontal, potential competition theory of law. I dissent from the complaint because it fails to allege a horizontal violation of law and because I do not find reason to believe that the transaction would violate the law under the vertical theory that is alleged in the complaint. I support the part of the order that addresses the horizontal problem, although I question whether it is sufficient. The classic horizontal remedy would be divestiture of either the Cooper & Chyan routing tool or the Cadence routing tool that has not yet reached the market. I do not support the rest of the order.

Despite the absence of a horizontal allegation in the complaint, the majority nevertheless has addressed the horizontal competition issue in paragraph III of the proposed consent order, which imposes a ten-year prior notice provision. Under the Commission's policy, prior notification provisions are imposed to prevent a recurrence of an anticompetitive merger.[1] This prior notice provision seems to address the prospect of another anticompetitive, horizontal merger in the market for ''Integrated Circuit Routing Tools.'' Any further acquisition by Cadence of a firm marketing such a tool would present obvious horizontal issues, but should not require any additional vertical cure. To the extent that this proposed order provides a vertical remedy for any possible market foreclosure or increased barriers to entry, a duplicate vertical order against Cadence would be unnecessary.

Paragraph II of the proposed order requires Cadence to allow developers of ''Commercial Integrated Circuit Routing Tools'' to participate in its connections program on ''terms no less favorable than'' the terms offered to any other participant. According to the Analysis to Aid Public Comment at page 7, this provision is intended to eliminate the need for dual level entry so that a future developer of ''Commercial Integrated Circuit Routing Tools'' will not also need to develop an environment comparable to Cadence's environment.

I question this aspect of the case for several reasons.[2] First, Cooper & Chyan was successful in developing and marketing its routing program before it obtained access to Cadence's environment program. This success suggests that access to Cadence's environment is not necessary to the success of an entrant in the routing tool market. Second, although Cadence initially denied Cooper & Chyan access to its connections program, it reversed course and granted the access. To the extent that Cadence may have capitulated to pressure from customers to grant access, that capitulation would suggest that Cadence has little or no power to deny access to its connections program to a product that its customers want. Third, this remedy is premised on the allegation in paragraph 16 of the Complaint that ''Cadence does not, however, have incentives to provide access to a Cadence integrated circuit layout environment to suppliers of integrated circuit layout tools that compete with Cadence products.'' To the extent that a Section 7 order may be based on incentives, the incentives appear to be at least as likely to go the

[7] Interfacing with another firm's design layout environment is also not a feasible alternative because of Cadence's dominant position in the market. Without hope of marketing to the vast majority of customers, developers of an alternative router have minimal incentives to compete. In addition, the competitive's significance of Cadence's few competitors is questionable.

[8] Products offering incremental innovation rather than the revolutionary breakthrough of IC Craftsman would have an even more difficult time entering.

[9] The language of the consent is clear in requiring that terms for routing companies be no less favorable than for *any other* participant in the Connections Program. Thus, we do not understand Commissioner Starek's conclusion that the consent could be interpreted to require routing companies to pay a ''fee no higher than the highest fee.'' And as his own dissent acknowledges, if the order could be interpreted to allow Cadence to terminate router developers from the Connections Program after thirty days, the proposed order would be meaningless.

[1] According to the ''Statement of Federal Trade Commission Policy Concerning Prior Approval and Prior Notice Provisions'' (June 21, 1995), the Commission imposes such prior notice requirements only on a finding of ''credible risk that a company that engaged or attempted to engage in an anticompetitive merger would, but for an order, engage in an otherwise unreportable anticompetitive merger.''

[2] The majority is mistaken to the extent they believe I take issue with Section 4 of the *U.S. Department of Justice Merger Guidelines* (June 14, 1984). See Statement of Chairman Robert Pitofsky and Commissioners Janet D. Steiger and Christine A. Varney written in response to this statement and the dissenting statement of Commissioner Starek.

other way. If another company develops an innovative, advanced router, one would assume that Cadence would have incentives to welcome the innovative product to its suite of connected design tools, thereby enhancing the suite's utility to customers.

Paragraph II of the proposed order may be counterproductive and may result in substantial enforcement costs for the Commission. Because Paragraph II bars Cadence from charging developers of ''Commercial Integrated Circuit Routing Tools'' a higher access fee than developers of other design tools, one possible, unintended consequence of the order is that Cadence may reduce or eliminate discounting of access fees. In addition, enforcement of the provision of the order requiring Cadence to provide access to the connections program to developers of ''Commercial Integrated Circuit Routing Tools'' on terms ''no less favorable than the terms applicable to any other participants'' may well embroil the Commission in complex commercial disputes.

I concur in the acceptance of Paragraph III of the proposed order and dissent from the acceptance of Paragraph II of the proposed order.

Dissenting Statement of Commissioner Roscoe B. Starek, III in the Matter of Cadence Design Systems, Inc. and Cooper & Chyan Technology, Inc., File No. 971 0033

I respectfully dissent from the Commission's decision to accept a consent agreement with Cadence Design Systems, Inc. (''Cadence''), a supplier of software for the design of integrated circuits (''ICs''). The proposed complaint alleges that the merger of Cadence and Cooper & Chyan Technology, Inc. (''CCT'')—a producer of software complementary to Cadence's—is likely substantially to lessen competition in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18, and Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. To justify the proposed complaint and order, the Commission once again invokes the specter of anticompetitive ''foreclosure'' as a direct consequence of the transaction. As I have made clear on previous occasions,[1] foreclosure theories are generally unconvincing as a rationale for antitrust enforcement. The current case provides scant basis for revising this conclusion.

The theory of harm presented here is the same as—and thus shares all of the defects of—that offered in Silicon Graphics, Inc. (''SGI'').[2] In SGI, the Commission alleged that the merger of a computer hardware manufacturer (SGI) and two software vendors (Alias and Wavefront) would result in the post-acquisition ''foreclosure'' of other independent software suppliers, leading to monopoly prices for graphics software. The Commission claimed that because the acquisition would give SGI its own in-house software producers, SGI no longer would allow unaffiliated software vendors access to its hardware platform.

In the current incarnation of this theory, Cadence is cast in the role of SGI and CCT in the role of the software vendors. The Commission alleges that Cadence no longer will allow independent suppliers of ''routing'' software—the type of software sold by CCT—to wire programs that can interface with other IC layout programs in the Cadence suite. To mitigate these supposed anticompetitive incentives, the proposed order would require Cadence to provide independent vendors of routing software access to its ''Independent Software Interface Programs'' (e.g., to its ''Connections Program'') on terms ''no less favorable'' than the terms offered to other independent software vendors.[3]

The logic of the proposed complaint is fundamentally flawed. Even if we assume arguendo—as the proposed complaint in this case does—that Cadence is ''dominant'' in the supply of software components complementary to the router,[4] the fact remains that it has no incentive to restrict the supply of routers. I noted in SGI that ''SGI ha[d] strong incentives to induce expanded supply of SGI-compatible software: increasing the supply of compatible software (or of any complementary product) increases the demand for SGI's workstations.''[5] The same is true here: the introduction of lower-priced or higher-quality routing program increases the value of Cadence's ''dominant'' position in the sale of software complementary to the router, because it increases the demand for Cadence design software, thereby allowing Cadence to increase the price and/or the output of these programs. Despite the majority's assertions to the contrary,[6] this is true whether or not Cadence has vertically integrated into the sale of routing software, for efficient entry into the production of routing software increases the joint profits of the entrant and Cadence. If the Commission is correct that Cadence is ''dominant'' in the supply of software components

[1] See Dissenting Statement of Commissioner Roscoe B. Starek, III, in Time Warner Inc., et al., Docket No. C–3709 (consent order, Feb. 3, 1997); Dissenting Statement of Commissioner Roscoe B. Starek, III, in Waterous Company, Inc. and Hale Products, Inc., Docket No. C–3693 & C–3694 (consent orders, Nov. 22, 1996); Dissenting Statement of Commissioner Roscoe B. Starek, III, in Silicon Graphics, Inc. (Alias Research, Inc., and Wavefront Technologies, Inc.), Docket No. C–3626 (consent order, Nov. 14, 1995); Remarks of Commissioner Roscoe B. Starek, III, ''Reinventing Antitrust Enforcement? Antitrust at the FTC in 1995 and Beyond,'' remarks before a conference on ''A New Age of Antitrust Enforcement: Antitrust in 1995'' (Marina del Rey, California, Feb. 24, 1995).

[2] Supra note 1.

[3] Proposed order, ¶ II.A.

[4] The anticompetitive theory requires Cadence to have substantial monopoly power: if there were numerous good alternatives to Cadence's suite, other independent vendors of routing software could affiliate with them and there would be no ''foreclosure.''

[5] Dissenting Statement in SGI, supra note 1, at 2. Moreover, as was also true in SGI, the description of the premerger state of competition set forth in the complaint itself tends to exclude the possibility of substantial postmerger foreclosure. In SGI, the complaint alleged that software producers other than Alias and Wavefront were competitively insignificant prior to the merger, and that premerger entry barriers were high. Similarly, the current complaint (¶11) alleges that there are substantial premerger barriers to entry into the market for the kind of ''router'' software that CCT produces. But one cannot find both that the premerger supply elasticity of substitutable software is virtually zero and that the merger would result in the substantial postmerger foreclosure of independent software producers. If entry into constraint-driven, shape-based IC router software is effectively blocked premerger, as the complaint contends, if cannot also be the case that the merger would cause a substantial incremental reduction in entry opportunities.

[6] The majority asserts that ''Cadence clearly also has an incentive to prevent loss of sales in its competing products.'' (Majority Statement at 4; emphasis in original.) Similarly, the Analysis of Proposed Consent Order to Aid Public Comment simply asserts (at 5) that ''Cadence does not . . . have incentives to provide access to its integrated circuit layout environments to suppliers of integrated circuit layout tools that compete with Cadence products.'' Because neither the majority statement nor the Analysis to Aid Public Comment describes how this conclusion was reached, it is difficult to identify precisely the source of the erroneous reasoning. Chiefly, however, it seems to reflect a manifestation of the ''sunk cost fallacy,'' whereby it is argued that because Cadence has now sunk a large sum of money into acquiring CCT, this in and of itself would provide Cadence with an incentive not to deal with independent vendors of complements. This reasoning, of course, is fallacious: the cost incurred by Cadence in acquiring CCT—whether a large or a small sum—is irrelevant to profit-maximizing behavior once incurred, for bygones are forever bygones. The introduction of a superior new router, even if by an independent vendor, will increase the joint profits of Cadence and this vendor (irrespective of the amount spent in acquiring CCT), and both parties will have a profit incentive to facilitate its introduction.

Moreover, the majority also imputes a sinister motive to Cadence's reluctance to deal with certain competitors, while failing to acknowledge that this reluctance almost surely represents a legitimate and well-founded interest in protecting its intellectual property. As the Analysis to Aid Public Comment notes (at 4): ''Cadence's leading competitor in the supply of integrated circuit layout environments, Avant! Corporation, has been charged criminally with conspiracy and theft of trade secrets from Cadence, and several top Avant! executives have been charged criminally as well.''

complementary to routers, then of course Cadence may be in a position to expropriate—e.g., via royalties paid to Cadence by the entrant for the right to ''connect'' to Cadence's software—some or all of the ''efficiency rents'' that otherwise would accrue to an efficient entrant. This, however, would constitute harm to a competitor, not to competition, and Cadence would have no incentive to set such rates so high as to preclude entry.

The theory of harm and the remedy proposed here also share many of the flaws that I pointed out in Time Warner.[1] In that case the Commission's action was based to a significant degree on the argument that increased vertical integration into cable programming on the part of Time Warner and Tele-Communications, Inc. would increase those firms' incentives to reduce the supply of independently produced television programming. Carried to its logical conclusion, this theory of harm constitutes a basis for challenging any vertical integration by large cable operators or large programmers—even vertical integration occurring via de novo entry by a cable operator into the programming market or de novo entry by a programmer into distribution.

Now apply this train of thought to the current matter. Contrary to the analysis presented above, suppose that somehow Cadence could profit anticompetively from denying interconnection rights to independent router vendors. If that were so, then it would not be sufficient merely to prevent Cadence from acquiring producers of complementary software. Rather, the Commission would have to take the further step of preventing Cadence from developing its own routers, for under the anticompetitive theory advanced in the complaint, any vertical integration by Cadence into routers, whether accomplished by acquisition or through internal expansion, would engender equivalent post-integration incentives to ''foreclose'' independent vendors of routing software[8] Of course, as I noted in Time Warner, there is likely to be little enthusiasm for such a policy because there is a general predisposition to regard internal capacity expansion as procompetive.[9]

Not only am I unpersuaded that Cadence's acquisition of CCT is likely to reduce competition in any relevant market, but—as in SGI and Time Warner—I would find the proposed order unacceptable even were I convinced as to liability. As in Time Warner, the Commission seeks to impose a ''most favored nations''clause that would require Cadence to allow all independent router developers to participate in its software interface programs on terms that are ''no less favorable than the terms applicable to any other participants in'' those interface programs. Even apart from the usual problems with ''most favored nations'' clauses in consent orders,[10] this order—as in both SGI and Time Warner—will require that the Commission continuously regulate the prices and other conditions of access.

Indeed, compared to the proposed order in the present case, the order in Time Warner was a model of clarity and enforceability. What does it mean to mandate treatment ''no less favorable than'' that granted to others, when Cadence's current Connections Program—with well over 100 participants—allows access prices to differ substantially across participants and imposes substantial restrictions on the breadth and scope of the permitted connection rights?[11] Does it mean that router vendors pay a connection fee no higher than the highest fee paid by an existing participant? Or would they pay a fee no higher than the current lowest fee? Or does it means something else? Router vendors surely will argue for the second interpretation—a view also apparently shared by the Commission majority[12]—yet there is no obvious reason why router vendors should be entitled to such a Commission-mandated preferential pricing arrangement, and neither the majority nor the Analysis to Aid Public Comment has offered one.

Similarly, does the ''no less favorable'' requirement mandate that the vendors of routing software obtain access rights as broad as the broadest rights now granted, or simply no worse than the narrowest now granted? And since the current Connections contracts are terminable at will by either party with 30 days' notice, does ''no less favorable'' mean only that router vendors must be given the same termination terms as other software vendors, or does it mean something else (e.g., termination only for cause, where the ''reasonableness'' of the termination is subject to ex post evaluation by the Commission)?[13] The former interpretation of the order seems the most straightforward; however, it is also one that essentially would nullify the protection of independent router vendors and thus would render the order meaningless.[14]

The preceding suggests strongly that the real (albeit unstated) goal of the order is not to nullify any actual anticompetitive effects from the proposed transaction, but rather to invalidate the principal aspects of Cadence's ''Connections Program'' (i.e., the ability to charge different connection fees and to terminate vendors at will) without demonstrating that the program's provisions violate the law. There is little reason to believe that this program is harmful to competition, and there are strong efficiency reasons for allowing Cadence to set different fees for different vendors. Moreover, setting a uniform fee would result in price increases to at least some vendors.

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[7] See my Dissenting Statement in Time Warner Inc., et al., supra note 1.

[8] Thus, it is unclear how the Commission should respond, under the logic of its complaint, were Cadence to introduce an internally developed software program (now provided by one or more independent vendors) that is complementary to its ''dominant'' suite of programs. Obviously Cadence would be in a position (similar to that alleged in the Commission's complaint) to block access to the Cadence design software if it wanted to. Even if Cadence did not terminate the independent vendors, consistent application of the economic logic of the present complaint seemingly would require the Commission to seek a prophylactic ''open access'' order against Cadence similar to the order sought here. This enforcement policy would of course have a number of adverse competitive consequences, including deterrence of Cadence from efficiently entering complementary software lines through internal expansion.

The observation in note 3 of the majority statement that antitrust law has treated vertical integration by merger differently from internal vertical integration ''for more than one hundred years'' suggests that I do not recognize that the law provides for differential treatment of mergers and internal expansion. I simply intended to point out the illogically of finding vertical integration with identical economic consequences to be illegal under the Commission's standards of merger review, when that integration would be of no concern (and might even be applauded) if it resulted from simple internal expansion.

[9] In the present case, as in Time Warner, the Commission has alleged the existence of substantial pre-acquisition market power in both vertically related markets (routing software and the rest of the IC layout ''suite'' here, see complaint ¶¶9–11, and cable television programming and distribution in Time Warner). Under these circumstances, there is a straightforward reason why vertical integration is both profitable and procompetitive (i.e., likely to result in lower prices to consumers): vertical integration would yield only one monopoly markup by the integrated firm, rather than separate markups (as in the pre-integration situation) by Cadence and CCT.

[10] As I noted in Time Warner, these clauses have the capacity to cause all prices to rise rather than to fall. Dissenting Statement, supra note 1, at 20. The majority (at 5) seems comfortable with this outcome, provided that all vendors pay the same price.

[11] For example, CCT had been permitted to participate in the Connection Program with its printed circuit board router but not with its IC router.

[12] See Majority Statement at note 9.

[13] Moreover, does the terminability of the Connections contract on 30 days' notice mean that the ''no less favorable'' requirement might need to be reviewed every 30 days?

[14] The majority implies (Majority Statement at note 9) that the exercise of this right would indeed constitute a violation of the order.

Because I do not accept the majority's theory of liability in this case, and because I find the proposed remedy at best unenforceable and at worst competitively harmful, I dissent.

[FR Doc. 97–12753 Filed 5–14–97; 8:45 am]

BILLING CODE 6750–01–M

GENERAL SERVICES ADMINISTRATION

Notice of Availability of Record of Decision; Final Environmental Impact Statement/Environmental Impact Report; Proposed Federal Building, San Francisco, California

AGENCY: Public Buildings Service, United States General Services Administration.

ACTION: Notice.

SUMMARY: The United States General Services Administration (GSA) hereby gives notice that a Record of Decision (ROD) has been prepared for the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the proposed construction of a new Federal Building within the City of San Francisco, California. The proposed project involves the construction of a new Federal Building with approximately 475,000 occupiable square feet (675,000 gross square feet) and 161 onsite parking spaces. The preferred alternative and proposed project is the site located at Seventh and Mission Streets.

ADDRESSES: For copies of the ROD, please send requests to Mr. George Dones, Portfolio Management Division (9PT), Public Buildings Service, General Services Administration, 450 Golden Gate Avenue, 3rd Floor, San Francisco, California 94102.

FOR FURTHER INFORMATION CONTACT: Mr. George Dones, (415) 522–3497.

Dated: May 7, 1997.

Kenn N. Kojima,

Regional Administrator, Pacific Rim Region (9A).

[FR Doc. 97–12731 Filed 5–14–97; 8:45 am]

BILLING CODE 6820–23–M

GENERAL SERVICES ADMINISTRATION

Change in Solicitation Procedures Under the Small Business Competitiveness Demonstration Program

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice.

SUMMARY: Title VII of the Business Opportunity Development Reform Act of 1988 (Public Law 100–656) established the Small Business Competitiveness Demonstration Program and designated nine (9) agencies, including GSA, to conduct the program over a four (4) year period from January 1, 1989 to December 31, 1992. The Small Business Opportunity Enhancement Act of 1992 (Public Law 102–366) extended the demonstration program until September 1996 and made certain changes in the procedures for operation of the demonstration program. The program has been extended for an additional one-year period by the Omnibus Consolidated Appropriations Act (Public Law 104–208). The law designated four (4) industry groups for testing whether the competitive capabilities of the specified industry groups will enable them to successfully compete on an unrestricted basis. The four (4) industry groups are: construction (except dredging); architectural and engineering (A&E) services (including surveying and mapping); refuse systems and related services (limited to trash/garbage collection); and non-nuclear ship repair. Under the program, when a participating agency misses its small business participation goal, restricted competition is reinstituted only for those contracting activities that failed to attain the goal. The small business goal is 40 percent of the total contract dollars awarded for construction, trash/garbage collection services, and non-nuclear ship repair and 35 percent of the total contract dollars awarded for architect-engineer services. This notice announces modifications to GSA's solicitation practices under the demonstration program based on a review of the agency's performance during the period from April 1, 1996 to March 31, 1997. Modifications to solicitation practices are outlined in the **SUPPLEMENTARY INFORMATION** section below and apply to solicitations issued on or after July 1, 1997.

EFFECTIVE DATE: July 1, 1997.

FOR FURTHER INFORMATION CONTACT: Tom Wisnowski, Office of GSA Acquisition Policy, (202) 501–1224.

SUPPLEMENTARY INFORMATION: Procurements of construction or trash/garbage collection with an estimated value of $25,000 or less and procurement of A–E services with an estimated value of $50,000 or less will be reserved for emerging small business concerns in accordance with the procedures outlined in the interim policy directive issued by the Office of Federal Procurement Policy (58 FR 13513, March 11, 1993).

Procurements of construction or trash/garbage collection with an estimated value that exceeds $25,000 and procurement of A–E services with an estimated value exceeding $50,000 by GSA contracting activities will be made in accordance with the following procedures:

Construction Services in Groups 15, 16, and 17

Procurements for all construction services (except solicitations issued by GSA contracting activities in Regions 2, 3, 6, 7, 8, and the National Capital Region in SIC Group 15, Region 3 in individual SIC code 1771, the National Capital Region in individual SIC code 1794, and Regions 2, 4, 5, and 7 in individual SIC code 1796) shall be conducted on an unrestricted basis.

Procurements for construction services in SIC Group 15 issued by GSA contracting activities in Regions 2, 3, 6, 7, and 8, and the National Capital Region, in individual SIC code 1771 in Region 3, in individual SIC code 1794 in the National Capital Region, and in individual SIC code 1796 in Regions 2, 4, 5, and 7, shall be set aside for small business when there is a reasonable expectation of obtaining competition from two or more small businesses. If no expectation exists, the procurements will be conducted on an unrestricted basis.

Region 2 encompasses the states of New Jersey, New York, and the territories of Puerto Rico and the Virgin Islands.

Region 3 encompasses the states of Pennsylvania, Delaware, West Virginia, Maryland (except Montgomery and Prince Georges counties), and Virginia (except the city of Alexandria and the counties of Arlington, Fairfax, Loudoun, and Prince William).

Region 4 encompasses the states of Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Mississippi, and Tennessee.

Region 5 encompasses the states of Illinois, Indiana, Ohio, Michigan, Minnesota, and Wisconsin.

Region 6 encompasses the states of Iowa, Kansas, Missouri and Nebraska.

Region 7 encompasses the states of Arkansas, Louisiana, Oklahoma, New Mexico, and Texas.

Region 8 encompasses the states of Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

The National Capital Region encompasses the District of Columbia, Montgomery and Prince Georges counties in Maryland, and the city of Alexandria and the counties of

Arlington, Fairfax, Loudoun, and Prince William in Virginia.

Trash/Garbage Collection Services in PSC S205

Procurements for trash/garbage collection services in PSC S205 will be conducted on an unrestricted basis.

Architect-Engineer services (All PSC Codes Under the Demonstration Program)

Procurements for all architect-engineer services (except procurements issued by contracting activities in GSA Regions 4, 9, and the National Capital Region) shall be conducted on an unrestricted basis.

Procurements for architect-engineer services issued by contracting activities in Regions 4, 9, and the National Capital Region shall be set aside for small business when there is a reasonable expectation of obtaining competition from two or more small businesses. If no expectation exists, the procurements may be conducted on an unrestricted basis.

Region 4 encompasses the states of Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Mississippi, and Tennessee.

Region 9 encompasses the states of Arizona, California, Hawaii, and Nevada.

The National Capital Region encompasses the District of Columbia, Montgomery and Prince Georges counties in Maryland, and the city of Alexandria and the counties of Arlington, Fairfax, Loudoun, and Prince William in Virginia.

Non-Nuclear Ship Repair

GSA does not procure non-nuclear ship repairs.

Dated: May 8, 1997.

Ida M. Ustad,

Deputy Associate Administrator for Acquisition Policy.

[FR Doc. 97–12730 Filed 5–14–97; 8:45 am]

BILLING CODE 6820–61–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 123]

National Institute for Occupational Safety and Health; Grants for Education Programs in Occupational Safety and Health, Notice of Availability of Funds for Fiscal Year 1998

Introduction

The Centers for Disease Control and Prevention (CDC) announces that applications are being accepted for fiscal year (FY) 1998 training grants in occupational safety and health. The purpose of these grants is to provide an adequate supply of qualified personnel to carry out the purposes of the Occupational Safety and Health Act. This announcement includes an expanded emphasis on research and research training and an emphasis on establishing new and innovative training technologies for both Educational Resources Centers (ERCs) and Training Project Grants (TPGs).

CDC is committed to achieving the health promotion and disease prevention objectives of ''Healthy People 2000,'' a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Safety and Health. (For ordering a copy of ''Healthy People 2000,'' see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized under section 21(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)). Regulations applicable to this program are in 42 CFR Part 86, ''Grants for Education Programs in Occupational Safety and Health.''

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Any public or private educational or training agency or institution that has demonstrated competency in the occupational safety and health field and is located in a State, the District of Columbia, or U.S. Territory is eligible to apply for a training grant.

Availability of Funds and Types of Training Awards and Applicant Characteristics

CDC expects approximately $11,500,000 to be available in FY 1998.

A. Approximately $10,400,000 of the total funds available will be utilized as follows:

1. To award approximately ten non-competing continuation and six competing continuation or new Occupational Safety and Health ERC training grants totaling approximately $8,200,000 and ranging from approximately $400,000 to $800,000 with the average award being approximately $600,000. An Occupational Safety and Health Educational Resource Center shall be an identifiable organizational unit within the sponsoring organization and shall consist of the following characteristics:

a. Cooperative arrangements with a medical school or teaching hospital (with an established program in preventive or occupational medicine); with a school of nursing or its equivalent; with a school of public health or its equivalent; or with a school of engineering or its equivalent. It is expected that other schools or departments with relevant disciplines and resources shall be represented and shall contribute as appropriate to the conduct of the total program, e.g., epidemiology, toxicology, biostatistics, environmental health, law, business administration, and education. Specific mechanisms to implement the cooperative arrangements between departments, schools/colleges, universities, etc., shall be demonstrated in order to assure that the intended multidisciplinary training and education will be engendered.

b. A Center Director who possesses a demonstrated capacity for sustained productivity and leadership in occupational health and safety education and training. The Director shall oversee the general operation of the Center Program and shall, to the extent possible, directly participate in training activities. Provisions shall be made to employ a Deputy Director who shall be responsible for managing the daily administrative duties of the Center and to increase the Center Director's availability to ERC staff and to the public. At least one full-time equivalent effort shall be demonstrated between the two positions.

c. Program Directors who are full-time faculty and professional staff representing various disciplines and

qualifications relevant to occupational safety and health who are capable of planning, establishing, and carrying out or administering training projects undertaken by the Center. Each academic program, as well as the continuing education and outreach program shall have a Program Director.

d. Faculty and staff with demonstrated training and research expertise, appropriate facilities and ongoing training and research activities in occupational safety and health areas.

e. A program for conducting education and training in four core disciplines: occupational physicians, occupational health nurses, industrial hygienists, and occupational safety personnel. There shall be a minimum of five full-time students in each of the core programs, with a goal of a minimum of 30 full-time students (total in all of core programs together). Although it is desirable for a Center to have the full range of core programs, a Center with a minimum of three components of which two are in the core disciplines is eligible for support providing it is demonstrated that students will be exposed to the principles and issues of all four core disciplines. In order to maximize the unique strengths and capabilities of institutions, consideration will be given to the development of: new and innovative academic programs that are relevant to the occupational safety and health field, e.g., ergonomics, industrial toxicology, occupational injury prevention, and occupational epidemiology; and to innovative technological approaches to training and education. Centers must also document that the program covers an occupational safety and health discipline in critical need or meets a specific regional workforce need. Each core program curriculum shall include courses from non-core categories as well as appropriate clinical rotations and field experiences with public health and safety agencies and with labor-management health and safety groups. Where possible, field experience shall involve students representing other disciplines in a manner similar to that used in team surveys and other team approaches. Centers should address the importance of providing training and education content related to special populations at risk, including minority and disadvantaged workers.

f. A specific plan describing how trainees will be exposed to the principles of all other occupational safety and health core and allied disciplines. Consortium Centers generally have geographic, policy and other barriers to achieving this Center characteristic and, therefore, must give special, if not innovative, attention to thoroughly describing the approach for fulfilling the multidisciplinary interaction between students.

g. Demonstrated impact of the ERC on the curriculum taught by relevant medical specialties, including family practice, internal medicine, dermatology, orthopedics, pathology, radiology, neurology, perinatal medicine, psychiatry, etc., and on the curriculum of undergraduate, graduate and continuing education of primary core disciplines as well as relevant medical specialities and the curriculum of other schools such as engineering, business, and law.

h. An outreach program to interact with and help other institutions or agencies located within the region. Programs shall be designed to address regional needs and implement innovative strategies for meeting those needs. Partnerships and collaborative relationships shall be encouraged between ERCs and Training Project Grants. Programs to address the under-representation of minorities among occupational safety and health professionals shall be encouraged. Examples of outreach activities might include activities such as: Interaction with other colleges and schools within the ERC and with other universities or institutions in the region to integrate occupational safety and health principles and concepts within existing curricula (e.g., Colleges of Business Administration, Engineering, Architecture, Law, and Arts and Sciences); exchange of occupational safety and health faculty among regional educational institutions; providing curriculum materials and consultation for curriculum/course development in other institutions; use of a visiting faculty program to involve labor and management leaders; cooperative and collaborative arrangements with professional societies, scientific associations, and boards of accreditation, certification, or licensure; and presentation of awareness seminars to undergraduate and secondary educational institutions (e.g., high school science fairs and career days) as well as to labor, management and community associations.

i. A specific plan for preparing, distributing and conducting courses, seminars and workshops to provide short-term and continuing education training courses for physicians, nurses, industrial hygienists, safety engineers and other occupational safety and health professionals, paraprofessionals and technicians, including personnel from labor-management health and safety committees, in the geographical region in which the Center is located. The goal shall be that the training be made available to a minimum of 400 trainees per year representing all of the above categories of personnel, on an approximate proportional basis with emphasis given to providing occupational safety and health training to physicians in family practice, as well as industrial practice, industrial nurses, and safety engineers. Priority shall be given to establishing new and innovative training technologies, including distance learning programs and to short-term programs designed to prepare a cadre of practitioners in occupational safety and health. Where appropriate, it shall be professionally acceptable that Continuing Education Units (as approved by appropriate professional associations) may be awarded. These courses should be structured so that higher educational institutions, public health and safety agencies, professional societies or other appropriate agencies can utilize them to provide training at the local level to occupational health and safety personnel working in the workplace. Further, the Center shall conduct periodic training needs assessments, shall develop a specific plan to meet these needs, and shall have demonstrated capability for implementing such training directly and through other institutions or agencies in the region. The Center should establish and maintain cooperative efforts with labor unions, government agencies, and industry trade associations, where appropriate, thus serving as a regional resource for addressing the problems of occupational safety and health that are faced by State and local governments, labor and management.

j. A Board of Advisors or Consultants representing the user and affected population, including representatives of labor, industry, government agencies, academic institutions and professional associations, shall be established by the Center. The Board shall meet regularly to advise a Center Executive Committee and to provide periodic evaluation of Center activities. The Executive Committee shall be composed of the Center Director and Deputy Director, academic Program Directors, the Directors for Continuing Education and Outreach and others whom the Center Director may appoint to assist in governing the internal affairs of the Center.

k. A plan to incorporate research training into all aspects of training and in research institutions, as documented by on-going funded research and faculty publications, a defined research training

plan for training doctoral-level researchers in the occupational safety and health field. The plan will include how the Center intends to strengthen existing research training efforts, how it will integrate research training activities into the curriculum, field and clinical experiences, how it will expand these research activities to have an impact on other primarily clinically-oriented disciplines, such as nursing and medicine, and how it will build on and utilize existing research opportunities in the institution. Each ERC is required to identify or develop a minimum of one, preferably more, areas of research focus related to work environment problems. Consideration shall be given to the CDC/NIOSH priority research areas identified in the National Occupational Health Research Agenda (NORA). (This publication may be obtained from NIOSH). In addition to the research training components, the plan will also include such items as specific strategies for obtaining student and faculty funding, plans for acquiring equipment, if appropriate, and a plan for developing research-oriented faculty.

l. Evidence in obtaining support from other sources, including other Federal grants, support from States and other public agencies, and support from the private sector including grants from foundations and corporate endowments, chairs, and gifts.

2. Approximately $250,000 of the available funds as specified in A.1. will be awarded to ERCs to support the development of specialized educational programs in agricultural safety and health within the existing core disciplines of industrial hygiene, occupational medicine, occupational health nursing, and occupational safety. Program support is available for faculty and staff salaries, trainee costs, and other costs to educate professionals in agricultural safety and health.

3. To award approximately thirty, non-competing continuation and seven competing continuation or new long-term training project grants (TPG) totaling $2,200,000 and ranging from approximately $10,000 to $500,000, with the average award being $56,000, to support academic programs in the core disciplines (i.e., industrial hygiene, occupational health nursing, occupational/ industrial medicine, and occupational safety and ergonomics) and relevant components (e.g., occupational injury prevention, industrial toxicology, ergonomics). The awards are normally for training programs of 1 academic year. They are intended to augment the scope, enrollment, and quality of training programs rather than to replace funds already available for current operations. Applicants must also document that the program covers an occupational safety and health discipline in critical need or meets a specific regional workforce need. Applicants should address the importance of providing training and education content related to special populations at risk, including minority and disadvantaged workers. The types of training currently eligible for support are:

a. Graduate training for practice, teaching, and research careers in occupational safety and health. Priority will be given to programs producing graduates in areas of greatest occupational safety and health need. Strong consideration will be given to the establishment of innovative training technologies including distance learning programs.

b. Undergraduate and other pre-baccalaureate training providing trainees with capabilities for positions in occupational safety and health professions.

c. Special technical or other programs for long-term training of occupational safety and health technicians or specialists.

d. Special programs for development of occupational safety and health training curricula and educational materials, including mechanisms for effectiveness testing and implementation.

Awards will be made for a 1- to 5-year project period with an annual budget period. Funding estimates may vary and are subject to change. Non-competing continuation awards within the approved project periods will be made on the basis of satisfactory progress and the availability of funds.

B. Approximately $1,100,000 of the total funds available will be awarded to ERCs to support the development and presentation of continuing education and short courses and academic curricula for trainees and professionals engaged in the management of hazardous substances. These funds are provided to NIOSH/CDC through an Interagency Agreement with the National Institute of Environmental Health Sciences as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA). The hazardous substance training (HST) funds are being used to supplement previous hazardous substance continuing education grant support provided to the ERCs in FY 1984 and 1985 under the authority of Title III of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980 as amended by SARA for the ERC continuing education program. The hazardous substance academic training (HSAT) funds are being used to supplement continuing industrial hygiene core program support to develop and offer academic curricula in the hazardous substance field primarily for industrial hygiene trainees. Program support is available for faculty and staff salaries, trainee costs, and other costs to provide training and education for occupational safety and health and other professional personnel engaged in the evaluation, management, and handling of hazardous substances. The policies regarding project periods also apply to these activities.

Purpose

The objective of this grant program is to award funds to eligible institutions or agencies to assist in providing an adequate supply of qualified professional and para-professional occupational safety and health personnel to carry out the purposes of the Occupational Safety and Health Act.

Review and Evaluation Criteria

In reviewing ERC grant applications, consideration will be given to:

1. Plans to satisfy the regional needs for training in the areas outlined by the application, including projected enrollment, recruitment and current workforce populations. Special consideration should be given to the development of programs addressing the under-representation of minorities among occupational safety and health professionals. Indicators of regional need should include measures utilized by the Center such as previous record of training and placement of graduates. The need for supporting students in allied disciplines must be specifically justified in terms of user community requirements.

2. Extent to which arrangements for day-to-day management, allocation of funds and cooperative arrangements are designed to effectively achieve *Characteristics of an Educational Resource Center.* (See A.1.a.–l.)

3. The establishment of new and innovative programs and approaches to training and education relevant to the occupational safety and health field and based on documentation that the program meets specific regional or national workforce needs. In reviewing such proposed programs, consideration shall be given to the developing nature of the program and its capability to produce graduates who will meet such workforce needs.

4. Extent to which curriculum content and design includes formalized training

objectives, minimal course content to achieve certificate or degree, course descriptions, course sequence, additional related courses open to occupational safety and health students, time devoted to lecture, laboratory and field experience, and the nature of specific field and clinical experiences including their relationships with didactic programs in the educational process.

5. Academic training including the number of full-time and part-time students and graduates for each core program, the placement of graduates, employment history, and their current location by type of institution (academic, industry, labor, etc.). Previous continuing education training in each discipline and outreach activity and assistance to groups within the ERC region.

6. Methods in use or proposed methods for evaluating the effectiveness of training and outreach including the use of placement services and feedback mechanisms from graduates as well as employers, innovative strategies for meeting regional needs, critiques from continuing education courses, and reports from consultations and cooperative activities with other universities, professional associations, and other outside agencies.

7. Competence, experience and training of the Center Director, the Deputy Center Director, the Program Directors and other professional staff in relation to the type and scope of training and education involved.

8. Institutional commitment to Center goals.

9. Academic and physical environment in which the training will be conducted, including access to appropriate occupational settings.

10. Appropriateness of the budget required to support each academic component of the ERC program, including a separate budget for the academic staff's time and effort in continuing education and outreach.

11. Evidence of the integration of research experience into the curriculum, field and clinical experiences. In institutions seeking funds for doctoral and post-doctoral level research training (physician training), evidence of a plan describing the research and research training the Center proposes. This shall include goals, elements of the program, research faculty and amount of effort, support faculty, facilities and equipment available and needed, and methods for implementing and evaluating the program.

12. Evidence of success in attaining outside support to supplement the ERC grant funds including other Federal grants, support from States and other public agencies, and support from the private sector including grants from foundations and corporate endowments, chairs, and gifts.

13. Evidence of a strategy to evaluate the impact that the ERC and its programs have had on the DHHS Region. Examples could include a continuing education needs assessment, a workforce needs survey, consultation and research programs provided to address regional occupational safety and health problems, the impact on primary care practice and training, a program graduate data base to track the contributions of graduates to the occupational safety and health field, and the cost effectiveness of the program.

14. Past performance based on evaluation of the most recent CDC/NIOSH Objective Review Summary Statement and the grant application Progress Report (Competing Continuation applications only).

In reviewing long-term TPG applications, consideration will be given to:

1. Need for training in the program area outlined by the application. This should include documentation of a plan for student recruitment, projected enrollment, job opportunities, regional/national need both in quality and quantity, and for programs addressing the under-representation of minorities in the profession of occupational safety and health.

2. Potential contribution of the project toward meeting the needs for graduate or specialized training in occupational safety and health.

3. Curriculum content and design which should include formalized program objectives, minimal course content to achieve certificate or degree, course sequence, related courses open to students, time devoted to lecture, laboratory and field experience, nature and the interrelationship of these educational approaches. There should also be evidence of integration of research experience into the curriculum, field and clinical experiences.

4. Previous records of training in this or related areas, including placement of graduates.

5. Methods proposed to evaluate effectiveness of the training.

6. Degree of institutional commitment: Is grant support necessary for program initiation or continuation? Will support gradually be assumed? Is there related instruction that will go on with or without the grant?

7. Adequacy of facilities (classrooms, laboratories, library services, books, and journal holdings relevant to the program, and access to appropriate occupational settings).

8. Competence, experience, training, time commitment to the program and availability of faculty to advise students, faculty/student ratio, and teaching loads of the program director and teaching faculty in relation to the type and scope of training involved. The program director must be a full-time faculty member.

9. Admission Requirements: Student selection standards and procedures, student performance standards and student counseling services.

10. Advisory Committee: Membership, industries and labor groups represented; how often they meet; who they advise, role in designing curriculum and establishing program need.

11. Evidence of a strategy to evaluate the impact that the program has had on the region. Examples could include a workforce needs survey, consultation and research programs provided to address regional occupational safety and health problems, a program graduate data base to track the contributions of graduates to the occupational safety and health field, and the cost effectiveness of the program.

12. Past performance based on evaluation of the most recent CDC/NIOSH Objective Review Summary Statement and the grant application Progress Report (Competing Continuation applications only).

Funding Allocation Criteria

For Educational Resource Center grants, the following criteria will be considered in determining funding allocations.

1. Academic Programs

a. Budget to support programs primarily for personnel and other personnel-related costs. Advanced (doctoral and post-doctoral) and specialty (master's) programs will be considered.

b. Budget to support programs based on program quality and need. Factors considered include faculty commitment/breadth, faculty reputation/strength, distinctive program contribution, and technical merit.

c. Budget to support students based on the program level and the number of students supported.

d. Budget to support research training programs to establish a research base within core disciplines and for the training of researchers in occupational safety and health.

2. Center Administration

Budget to support Center administration to assure: coordination and promotion of academic programs; interdisciplinary interaction; meeting of regional workforce needs; and evaluation of impact.

3. Continuing Education/Outreach Program Budget to support outreach and continuing education activities to prepare, distribute, and conduct short courses, seminars, and workshops.

4. Hazardous Substance Training Programs Budget to support the development and presentation of continuing education courses for professionals engaged in the management of hazardous substances.

5. Hazardous Substance Academic Training Programs Budget to support the development and presentation of specialized academic programs in hazardous substance management.

6. Agricultural Safety and Health Academic Programs Budget to support the development and presentation of specialized academic programs and continuing education courses in agricultural safety and health.

For Long-Term Training Project grants, the following factors will be considered in determining funding allocations.

Academic Programs

a. Budget to support programs primarily for personnel and other personnel-related costs. Advanced (doctoral and post-doctoral), specialty (master's), and baccalaureate/associate programs will be considered.

b. Budget to support programs based on program quality and need. Factors considered include faculty commitment/breadth, faculty reputation/strength, regional workforce needs, evaluation of impact, distinctive program contribution, interdisciplinary interaction, and technical merit.

c. Budget to support students based on the program level and the number of students supported.

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirement

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.263.

Application Submission and Deadline

Applications should be clearly identified as an application for an Occupational Safety and Health Long-Term Training Project Grant or ERC Training Grant. The submission schedule is as follows:

New, Competing Continuation and Supplemental Receipt Date: July 1, 1997.

An original and two copies of new, competing continuation and supplemental applications (Form CDC 2.145A ERC or TPG) should be submitted to: Ron Van Duyne (ATTN: David Elswick), Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 321, Mailstop E13, Atlanta, GA 30305.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Non-Competing Continuation Receipt Date: November 15, 1997.

An original and two copies of non-competing continuation applications (Form CDC 2.145B ERC or TPG) should be submitted to: Ron Van Duyne (ATTN: David Elswick), Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 321, Mailstop E13, Atlanta, GA 30305.

Where To Obtain Additional Information

To receive an application kit, call (404) 332–4561. You will be asked your name, address, and telephone number and will need to refer to Announcement 123. In addition, this announcement is also available through the CDC Home page on the Internet. The address for the CDC Home Page is http://www.cdc.gov. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from David Elswick, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 321, Mailstop E13, Atlanta, GA 30305, telephone (404) 842-6521, or by Internet, dce1@cdc.gov. Programmatic technical assistance may be obtained from John T. Talty, Principal Engineer, Office of Extramural Coordination and Special Projects, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Mailstop C–7, Cincinnati, OH 45226, telephone (513) 533–8241, or by Internet, jtt2@cdc.gov.

Please refer to Announcement Number 123 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: May 9, 1997.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–12776 Filed 5–14–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and 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: Safety and Occupational Health Study Section [4] (SOHSS), National Institute for Occupational Safety and Health (NIOSH).

Time and Date: 1 p.m.—2 p.m., May 30, 1997.

Place: The teleconference will originate at the NIOSH Grants Office (OECSP), 1095 Willowdale Road, Morgantown, West Virginia, 26505–2888.

Status: 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., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463. Application(s) and/or proposal(s) and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application(s) and/or proposal(s), the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Purpose: The Safety and Occupational Health Study Section will review, discuss and evaluate grant application(s) in response to NIOSH's standard grants review and funding cycles pertaining to research issues in occupational safety and health and allied areas.

It is the intent of NIOSH to support broad based research endeavors in keeping with the Institute's program goals which will lead to improved understanding and appreciation for the magnitude of the aggregate health burden associated with occupational injuries and illnesses, as well as to support more focused research projects which will lead to improvements in the delivery of occupational safety and health services and the prevention of work-related injury and illness. It is anticipated that research funded will help implement the Institute's vision statement: Delivering on the Nation's Promise: Safety and Health at Work for All People. . .Through Research and Prevention. Research funded will examine and evaluate current and emerging problems in occupational safety and health in a variety of settings for health and injured workers.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Pervis C. Major, Ph.D., Scientific Review Administrator, Office of Extramural Coordination and Special Projects, Office of the Director, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505. Telephone 304/285–5979.

Dated: May 9, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–12724 Filed 5–14–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0160]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by June 16, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–80), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance:

Food Labeling; Nutrient Content Claims and Health Claims; Restaurant Foods

Section 403(r) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 343(r)) provides that food labeling may contain nutrient content claims or health claims only if they are in compliance with regulations issued by FDA. FDA has issued regulations in §§ 101.10, 101.13, and 101.14 (21 CFR 101.10, 101.13, and 101.14) that set forth the requirements for restaurants making nutrient content claims and health claims regarding their food products. Section 101.10 requires that nutrition labeling in accordance with § 101.9 (21 CFR 101.9) shall be provided upon request for any restaurant food or meal for which a nutrient content claim or health claim is made. This regulation further provides that a restaurant may comply with the requirements of § 101.9 by providing information on the nutrient amounts that are the subject of the claim (e.g., ''low fat, this meal provides less than 10 grams of fat'' may serve as the functional equivalent of the complete nutritional information as described in § 101.9). For compliance purposes, a restaurant is required by §§ 101.13 and 101.14 to provide appropriate regulatory officials with information that provides a reasonable basis to conclude that the food complies with the definition for the claim. For example, a restaurant may choose to offer an item purchased from a commercial manufacturer where the item is appropriately labeled by the manufacturer as ''low fat.'' In such a case, the restaurant would not have to collect any additional information. Regulatory officials will use the information provided by the restaurant in lieu of analysis to determine whether nutrient content claims or health claims made by a restaurant concerning its food products are in compliance with the requirements of §§ 101.10, 101.13, and 101.14. FDA expects that restaurants will choose the least burdensome option that complies with the regulations.

FDA estimates the burden resulting from the records retention and disclosure requirements of §§ 101.10, 101.13, and 101.14 as follows:

ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
101.10 101.13(q)(5)(ii) 101.14(d)(2)(vii)(B) and (d)(3)	265,000	1.5	397,500	0.25	99,375

ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
101.10	265,000	1.5	397,500	0.75	298,125

ESTIMATED ANNUAL RECORDKEEPING BURDEN—Continued

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
101.13(q)(5)(ii) and 101.14(d)(2)(vii)(B)					

There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA estimates that there will be no more than 265,000 establishments to which these regulations will apply. This estimate is based on data from the National Restaurant Association. The estimates also reflect the fact that some firms, e.g., large restaurant chains, use the same standardized foods and labeling for more than one establishment, thereby reducing the average burden per establishment. FDA estimates that the average records retention hour burden would be no more than 0.7 hour and the average disclosure hour burden would be no more than 0.25 hour for no more than 1.5 products per establishment. The estimated number of products is based on the average of 1 claim per menu or other device, such as sign or placard, and 1.5 menus or other devices per establishment.

Although FDA's total burden estimate of 397,500 hours has not changed, an estimate for reporting burden (99,375 hours) has been added to reflect the time necessary to comply with the disclosure requirements of these regulations. In FDA's previous estimate (61 FR 40320 at 40331, August 2, 1996), these hours were included as part of the recordkeeping estimate. Because FDA now believes it is more appropriate to characterize disclosure as a reporting burden, the recordkeeping estimate has been reduced accordingly.

Dated: April 25, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–12697 Filed 5–14–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Blood Products Advisory Committee Meeting

Date, time, and place. May 20, 1997, 12:30 p.m., Woodmont I Bldg., conference room B, 1401 Rockville Pike, Rockville, MD.

Type of meeting and contact person. This meeting will be held by a telephone conference call. A speaker telephone will be provided in the conference room to allow public participation in the meeting. Open committee discussion, 12:30 p.m. to 1 p.m.; open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; closed committee deliberations, 2 p.m. to 4 p.m.; Linda A. Smallwood, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3514, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Blood Products Advisory Committee, code 12388.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness, and appropriate use of blood products intended for use in the diagnosis, prevention, or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 19, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. This portion of the meeting is to allow for any significant public or administrative announcements to be made prior to convening into the closed committee deliberations.

Closed committee deliberations. The committee will discuss confidential and personal privacy information relevant to the scientific site visit report of the Laboratory of Plasma Derivatives, Division of Hematology, Office of Blood Research and Review, Center for Biologics Evaluation and Research. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(6)).

FDA regrets that it was unable to publish this notice 15 days prior to the May 20, 1997, Blood Products Advisory Committee meeting. Because the agency believes there is some urgency to bring this issue to public discussion and qualified members of the Blood Products Advisory Committee were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions

will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of the meeting(s) shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. app. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, deliberation to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (a)(2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: May 9, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–12725 Filed 5–14–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Oncologic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on June 23, 1997, 8:30 a.m. to 4:30 p.m., and June 24, 1997, 9 a.m. to 4:30 p.m. An open public hearing portion is scheduled from 8:30 a.m. to 9:30 a.m. on June 23, 1997.

Location: Holiday Inn—Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Contact Person: Jannette O'Neil-Gonzalez or Robinette Taylor, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5455, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12542. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 23, 1997, the committee will discuss: (1) New drug application (NDA) 20–709 for Zyrkamine™ (mitoguazone dihydrochloride, ILEX Oncology), indicated for treatment of AIDS (acquired immune deficiency syndrome)-related non-Hodgkin's lymphoma in patients who have been previously treated with at least one

potentially curative regimen; and (2) NDA 20–262/S–022 for Taxol® for Injection Concentrate (paclitaxel, Bristol-Myers Squibb Pharmaceutical Research Institute), indicated for second-line treatment of AIDS-related Kaposi's sarcoma. On June 24, 1997, the committee will discuss: (1) NDA 20–794 for Liazal™ Tablets (liarozole fumarate, Janssen Research Foundation), indicated for treatment of advanced prostate cancer in patients who relapsed after first-line hormonal therapy; and (2) drafts of the FDA ''Guidance for Industry: Providing Clinical Evidence of Effectiveness for Human Drug and Biological Products'' and the FDA ''Guidance for Industry: FDA Approval of New Cancer Treatment Uses for Marketed Drug and Biological Products.'' These documents are available on the internet at http://www.fda.gov/cder/guidance/htm or submit written requests for single copies to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Procedure: The meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 6, 1997. Those desiring to make formal presentations should notify the contact person before June 6, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 9, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–12726 Filed 5–14–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–565 and HCFA–2384]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Qualification Statement for Federal Employees; *Form No.:* HCFA–565; *Use:* This form is completed by individuals filing for hospital insurance (HI) benefits (Part A) based upon their federal employment. This information is necessary to determine if HCFA/SSA can use federal employment prior to 1983 to qualify for free Part A. *Frequency:* One time only; *Affected Public:* Federal Government and Individuals or Households; *Number of Respondents:* 4,300; *Total Annual Hours:* 731.

2. *Type of Information Collection Request:* Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Third Party Premium Billing Request, 42 CFR 408.6; *Form No.:* HCFA–2384; *Use:* The Third Party Premium Billing Request is used as an authorization to designate that a family member or other interested party receive the Medicare Premium Bill and pay it on behalf of a Medicare beneficiary. *Frequency:* On occasion; *Affected Public:* Individuals or Households; *Number of Respondents:* 15,000; *Total Annual Hours:* 6,250.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Analysis and Planning Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 7, 1997.

Edwin J. Glatzel,

Director, Management Analysis and Planning Staff,Office of Financial and Human Resources.

[FR Doc. 97–12764 Filed 5–14–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Reimbursement Rates for Calendar Year 1997

Notice is given that the Director of Indian Health Service, under the authority of sections 321(a) and 322(b) of the Public Health Service Act (42 U.S.C. 248(a) and 249(b)) and section 601 of the Indian Health Care Improvement Act (25 U.S.C. 1601), has approved the following reimbursement rates for inpatient and outpatient medical care in facilities operated by the Indian Health Service for Calendar Year 1997: Medicare, and Medicaid Beneficiaries and Beneficiaries of other Federal Agencies. Also, with respect to Medicaid inpatient rates, Indian Health Service Facilities may elect to receive payments for physician services by meeting those requirements under an approved State Medicaid plan.

Inpatient Hospital Per Diem Rate (Excludes Physician Services)

$760 (Lower 48 States)

$963 (Alaska)

Medicare Part B Inpatient Ancillary Per Diem Rate

$419 (Lower 48 States)

$529 (Alaska)

Outpatient Per Visit Rate

$152 (Lower 48 States)

$241 (Alaska)

Outpatient Surgery Rate (Medicare Only)

Established rates for freestanding Ambulatory Surgery Centers Consistent with previous annual rate revisions, these rates will be effective for services provided on/or after January 1, 1997.

Dated: April 22, 1997.

Michael H. Trujillo,

Assistant Surgeon General Director.

[FR Doc. 97–12698 Filed 5–14–97; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: April 1997

AGENCY: Office of Inspector General, HHS

ACTION: Notice of program exclusions.

During the month of April 1997, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, City, State	Effective date
Program-Related Convictions	
Anderson, Arnold, Madison Hgts, VA	04/30/97
Bingham, Rufus, Texarkana, TX	04/27/97
Bingham Transportation, Texarkana, TX	04/27/97
Brown, Virginia Baker, New Orleans, LA	04/27/97
Cassidy, Thomas M, Eglin AFB, FL	05/05/97
Cetner, Cherie Latessa, Cape Coral, FL	05/05/97
Chung, Dongha H, Anderson, SC	05/05/97
Coley, Alfred Sr, Yorktown, PA	04/30/97
Corbitt, James R, Chesapeake, OH	05/19/97
Edwards, Dwayne A, Aiken, SC	05/05/97
Fisher, Eldon L, Brookfield, MO	05/06/97
Flores, Rony, Massapequa Park, NY	05/07/97
Hammond-Dredden, Sarah E, Bridgeville, DE	04/30/97
Hanna, Charles B Jr, Spartanburg, SC	05/05/97
Jamison, Victoria, Liverpool, NY	05/04/97
Kastner, Aaron, Dallas, TX	04/27/97
Kramer, Constance, Garnerville, NY	05/07/97
Meehan, Patrick M, Sheridan, WY	05/07/97
Mishra, Aruna, Pilesgrove, NJ	05/07/97
Orthotic Technologies Lab, Inc., Schenectady, NY	05/04/97
Richards, Kenneth, Vacaville, CA	04/23/97
Robinson, Aslean Patterson, Decatur, GA	05/05/97
Sanchez, Arlene, Albuquerque, NM	04/27/97
Seshadri, Rajgopal, Great River, NY	05/07/97
Simmons, Cheryl Scoby, Ft Worth, TX	05/19/97
Weed, Merton Eric Jr, Freedom, ME	05/07/97
Patient Abuse/Neglect Convictions	
Burton, Cynthia Ann, Amite, LA	04/27/97
Christian, Ruby A, El Dorado, AR	04/27/97
Delvecchio, Robin, Warwick, RI	05/06/97
Duran, Juan, Sante Fe, NM	04/27/97
Gehay, Margaret A, Enid, OK	04/27/97
Hardiman, Robert Jr, Prescott, AR	04/27/97
Herrmann, Peter F, Albuquerque, NM	04/27/97
Hines, Charles Edward, Fort Worth, TX	04/27/97
Horace, John L, Rochester, NY	05/07/97
Joshua, Amanda Beth, Shreveport, LA	04/27/97
Molter, Jimmie Ray Jr, Fredericksburg, TX	04/27/97
O'Neal, Clara Evelyn, Pollock, LA	04/27/97
Oliver, Kevin L, Arkadelphia, AR	04/27/97
Riggins, Jewell, Parkin, AR	04/27/97
Rynders, Phillip, Newark, DE	04/30/97
Tomas, Gregorio A, Newark, DE	04/30/97
Torres-Gomez, Harold, Camden, NJ	05/07/97
Vaughan, Kehinde, New Castle, DE	04/30/97
Weisinger, Jerry, Athens, TX	04/27/97
Woodard, Tommy, Alexandria, LA	04/27/97
Conviction for Health Care Fraud	
Chigirinsky, Lyubov, Mission Viejo, CA	05/06/97
Felsenberg, Stanley Zvi, Towson, MD	04/30/97
Keen, Tammy, Bradley, IL	05/06/97
Khazanovich, Edgar, Mission Viejo, CA	05/06/97
Roane, Brenda A, New Castle, DE	04/30/97
Controlled Substance Convictions	
Martin, Mark, Colonial Hgts, VA	04/30/97
License Revocation/Suspension/Surrender	
Alajrad, Muhannad, Caro, MI	05/06/97
Aldrich, Patty K, West Branch, IA	05/06/97
Andrews, Roberta Lee, Lynchburg, VA	04/30/97
Blackmer, Brenda D, Keene, NH	05/06/97
Buckner, Brenda, Detroit, MI	05/06/97
Denis, Guy Joseph, Orchard Park, NY	05/04/97
Fields, Gary Neal, Middletown, NY	05/04/97
Hassen, Randy, Hamden, CT	05/06/97
Hollingsworth, Harold B, Des Moines, IA	05/06/97
Hyatt, Ashley, Meridian, MS	05/05/97
Jones, Beulah D, Yonkers, NY	05/07/97
Landman, Stephen H, Jackson, MI	04/28/97
Like, Gary D, Flint, MI	05/06/97
McGinn, Trudy A, Traverse City, MI	04/28/97
Meldman, Louis W, Birmingham, MI	05/06/97
Mendoza, Samuel, Dearborn, MI	05/06/97
Miller, Joel E, Kalamazoo, MI	04/28/97
Phebus, John B, Vineland, NJ	05/07/97
Powell, Daniel S, Plainwell, MI	05/06/97
Sripinyo, Veera, Canton, MI	05/06/97
Welner, Alan Howard, Philadelphia, PA	04/30/97
Federal/State Exclusion/Suspension	
Kilpatrick, Troy Frank, Oneonta, AL	05/05/97
Mack, Gloria Jean, Wild Rose, WI	05/06/97
Reid-Harris, Pamela, Brooklyn, NY	05/07/97
Shahbaz, Mohammad, Brooklyn, NY	05/04/97
Owned/Controlled by Convicted/Excluded	
Glad Medical Supply, Hawthorne, CA	04/23/97
Street Chiropractic Clinic Inc, Hialeah, FL	05/05/97
Default on Heal Loan	
Aiken, Richard F, El Segundo, CA	05/06/97
Angel, Marilyn W, Greensburg, PA	04/30/97
Arnold, Dorienne Marie Grewing, Sacramento, CA	04/23/97
Asamoah-Mensah, Nana Y, Herndon, VA	04/30/97
Azgorov, Todor P, Los Angeles, CA	05/06/97
Azzopardi, Thomas J, Salinas, CA	04/23/97
Bernius, Gregory L, Peachtree City, GA	05/05/97
Bleyaert, Lamont J, Woodstock, GA	05/05/97
Buckwalter, John Galen, Redondo Beach, CA	04/23/97
Bukowski, Todd M, Annandale, VA	04/30/97
Capilli, Michael A, Oceanport, NJ	05/04/97
Castillo, Steven A, Jersey City, NJ	05/04/97
Christensen, Casey D, Whittier, CA	05/06/97
Crarey, Patrick E, Hyattsville, MD	04/30/97
Dankman, Mark I, Lafayette, CA	04/23/97
Dew, John L Jr, Norfolk, VA	04/30/97

Subject, City, State	Effective date
Donigan, William T Jr, Osage City, KS	05/07/97
Durojaye, Ojebode A, Bronx, NY	05/06/97
Elia, Harry R, Woodcliff Lake, NJ	05/07/97
Fabrega, Cathye Davis, Monterey Park, CA	04/23/97
Feldman, Donald S, Peekskill, NY	05/06/97
Formaker, James W, Santa Monica, CA	05/06/97
Fulton, Debra, Toledo, OH	04/28/97
Ganden, Richard S, Olean, NY	05/04/97
Ganiyu, Kehinde M, Dyer, IN	04/28/97
Gearhart, Cindy L, Lakewood, CA	05/06/97
Gonzalez, Nilda, Brooklyn, NY	05/07/97
Gray, Albert L, Lynbrook, NY	05/06/97
Gregory, Edward S, Roosevelt, NY	05/06/97
Harper, Tracy E, Natchitoches, LA	04/27/97
Heese, Kit L, Carroll, IA	04/28/97
Helgeson, Merle C, Newport, KY	05/05/97
Hendricks, Craig B, Tyler, TX	04/27/97
Hetzel, William A, Winchester, OH	04/28/97
Hobowsky, Martin R, Richmond Heights, OH	04/28/97
Holloway, Jill B, Elmont, NY	05/04/97
Hughes, Jill A, St James, NY	05/06/97
Hughes, Joseph R Jr, San Diego, CA	04/23/97
Iqal, Robert S, Claremont, CA	04/23/97
Jenewari, Elsie, Sewell, NJ	05/06/97
Johnson, Howard D, Bridgeville, PA	04/30/97
Kent, Donald E, Berkeley, CA	04/23/97
Knight, Patricia A, Sayville, NY	05/04/97
Leconte, Isabelle, Cambridge, MA	05/06/97
Lee, Kyong Mu, La Palma, CA	04/23/97
Lim, Jhang Hyung, Fresno, CA	05/06/97
Loughead, Thomas R, Pittsburgh, PA	04/30/97
Mark, Jeffrey, Berkeley, CA	05/06/97
Matalon, Ofer I, Santa Rosa, CA	05/06/97
McDonough, Lawrence P, Rumson, NJ	05/04/97
McGregor, Floyd A, Huntington Park, CA	04/23/97
McLeod, Herbert W, Lawrenceville, GA	05/05/97
McWhinnie, Clarence E Jr, Los Angeles, CA	05/06/97
Miller, Bradley G, Los Angeles, CA	04/23/97
Millns, Mark C, Toledo, OH	04/28/97
Monk, Melcher F, Bronx, NY	05/04/97
Moretti, Jeffrey S, Poughkeepsie, NY	05/06/97
Murphy, Kevin V, Fraser, MI	04/28/97
Navai, Mehdi N, Alhambra, CA	04/23/97
Neira, Alejandro III, Albuquerque, NM	04/27/97
Norville, Michael T, Costa Mesa, CA	04/23/97
Nowroozi, Sohrab, New York, NY	05/06/97
Patel, Narayan S, Jackson Heights, NY	05/07/97
Rice, Sterling Thomas, Kansas City, MO	04/28/97
Rios, Emanuel J, Pasadena, CA	04/23/97
Schleicher, Kyle S, Santa Monica, CA	04/23/97
Schwontkowski, Donna L, Salt Lake City, UT	05/07/97
Spivey, Douglas V, Cape Coral, FL	05/05/97
Styler, Richard L, San Diego, CA	05/06/97
Tolbert, William Jr, Los Feliz, CA	04/23/97
Tsiotsias, Aftemios G, Hollywood, FL	05/05/97
Underwood, Paul D, Yonkers, NY	05/07/97
Walters, Jerome P, Glendale, AZ	04/23/97
Wilkes, Craig A, Corona, CA	04/23/97
Worth, Kelly G, Anaheim, CA	05/06/97

Dated: April 9, 1997.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Enforcement and Compliance.

[FR Doc. 97–12763 Filed 5–14–97; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request

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, page 66053 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for the 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:* NCI Cancer Information Service Demographic/Customer Service Data Collection. *Type of Information Collection Requested:* Reinstatement with change of a currently approved collection. *Form Number:* 0937–0201. *Need and Use of Information Collection:* The CIS provides the general public, cancer patients, families, health professionals, and others with the latest information on cancer. Essential to providing the best customer service is the need to collect data about callers and how they found out about the service. This effort involves asking seven questions to five categories of callers for an annual total of approximately 378,165 callers. *Frequency of Response:* Single time. *Affected Public:* Individuals or households. *Type of Respondents:* Patients, relatives, friends, and general public. The annual reporting burden is as follows: *Estimated Number of Respondents:* 378,165; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* 0162; and *Estimated Total Annual Burden Hours Requested:* 6,126. The annualized cost to respondents is estimated at: $76,693. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

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 or households	378,165	1	.0162	6,126
Total				6,126

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, DC 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: Chris Thomsen, Chief, Cancer Information Service Branch, OCC, OD, NCI, Building 31, Room 10A16, 9000 Rockville Pike, Bethesda, MD 20892, or call non-toll-free number (301) 496–5583 ext. 239 or E-mail your request, including your address to: thomsenc@occ.nci.nih.gov

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before June 16, 1997.

Dated: May 6, 1997.

Nancie L. Bliss,

OMB Project Clearance Liaison.

[FR Doc. 97–12782 Filed 5–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7057; fax 301/402–0220). A signed Confidential Disclosure Agreement (CDA) will be required to receive copies of the patent applications.

Agents That Bind To and Inhibit Human Cytochrome P450 2D6

HV Gelboin, FJ Gonzalez, KW Krausz (NCI)
OTT Ref. No. E–46–97/0 filed 22 Jan. 97
Licensing Contact: Leopold J. Luberecki, Jr., 301/496–7735 ext 223

This invention concerns monoclonal antibodies (MAbs) and other binding agents specific for the 2D6 subgroup of cytochrome P450 enzymes. The cytochrome P450s are the metabolic interface between xenobiotics and their metabolism in human and other species as well as for the metabolism of endobiotics. A large array of drugs, mutagens, carcinogens, pesticides, environmental chemicals, fatty acids, bile acids, and steroids are metabolized by individual forms of cytochrome P450. The invention involves the construction, isolation, and production of MAbs that specifically bind to human cytochrome P450 and 2D6 and that specifically inhibit the enzyme activity of human cytochrome P450 and lack specific binding to other human cytochrome P450s. These MAbs can be used to assess adverse reactions in patients to compounds and to identify populations that would exhibit different sensitivities to the therapeutic or toxic effects of compounds. Cytochrome P450 2D6, also known as debrisoquine hydroxylase, is the best characterized polymorphic P450 in the human population. Genetic differences in cytochrome P450 2D6 may be associated with increased risk of developing environmental and occupational based diseases. In addition, several drugs for treating cardiovascular and psychiatric disorders are known substrates of cytochrome P450 2D6, and these compounds could be more readily prescribed to normal metabolizers as assessed using the MAbs described in the invention. The list of compounds includes β-blockers and antiarrhythmics, psychoactive drugs including tricyclic antidepressants, and a variety of other commonly used drugs including codeine and dextromethorphan. A provisional patent application for this invention has been filed with the U.S. Patent and Trademark Office (PTO).

An adjunct technology to this invention that is available for licensing involves two inhibitory monoclonal antibodies to human P450 3A4 and human P450 2E1 that have been developed and filed as a separate patent application (U.S. Serial No. 08/599,808) with the PTO. The P450 3A4 has likely the largest number of known drug substrates than any other P450. The P450 2E1 also metabolizes some drugs and has high activity towards smaller molecules which are found in the environment and which may be toxic. (portfolios: Internal Medicine—Research Materials; Cancer—Research Materials, MAb based; Internal Medicine—Diagnostics; Cancer—Diagnostics, in vitro, MAb based)

Vanilloid Agonists for Desensitization of C-Fiber Sensory Afferent Neurons

PM Blumberg, T Biro, P Acs, G Acs (NCI)
Serial No. 60/030,999 filed 15 Nov 96
Licensing Contact: Leopold J. Luberecki, Jr., 301/496–7735 ext 223

Capsaicin has been proven to have therapeutic utility in the treatment of arthritis, pruritis, bladder hyperreflexia, allergic responses including rhinitis, and pain, including pain associated with cancer, peripheral neuropathies, and postherpetic neuralgia. For a number of these indications, applications have been found in veterinary as well as human medicine. Recent advances have identified capsaicin analogs with ultrapotency and with a more favorable spectrum of action, as well as subclasses of capsaicin receptors with different effects on desensitization. This invention describes a method of administering to a capsaicin-sensitive animal a therapeutically effective combination of capsaicin agonists and capsaicin-like antagonists which are more effective than the agonist alone at desensitizing a vanilloid responsive cell, and thereby improve the therapeutic index of the capsaicin agonist and overall treatment. Also described are pharmaceutical compounds which are effective in this method. (portfolios: Central Nervous System—Therapeutics, neurological, narcotics and analgesics; Internal Medicine—Therapeutics, other)

Sustained-Release Derivatives of Hydroxylated Analogs of Substituted 1-[2[bis(aryl)methoxy]-ethyl]-Piperazines and-Homopiperazines and Their Use As Noncompetitive Antagonists of Dopamine Reuptake Inhibitors

RB Rothman (NIDA), KC Rice (NIDDK), DB Lewis (NIDDK), D Matecka (NIDDK), JR Glowa (NIDDK)
Serial No. 60/030,248 filed 31 Oct 96
Licensing Contact: Leopold J. Luberecki, Jr., 301/496–7735 ext 223

Cocaine abuse and addiction is a major public health problem in the United States and several other

countries. The biomedical and psychosocial cost of cocaine abuse and addiction is considerable, and to date, there is no effective treatment for addiction. In an effort to develop an efficacious treatment for cocaine addiction, this invention describes sustained-release derivatives of hydroxylated analogs of substituted 1-[2bis(arly)methoxy]ethyl]-piperazines and-homopiperazines. These compounds bind to the dopamine transporter but do not inhibit dopamine reuptake, thereby providing a sustained increase in the level of extracellular dopamine and providing the drug abuser with some relief from drug craving due to dopamine deficiency, yet they simultaneously inhibit cocaine from further elevating the level of extracellular dopamine and increasing the probability of additional toxic side effects. These derivatives have been shown to produce moderate to long-acting attenuation of cocaine-induced activation of mesolimbic dopamine neurons in rhesus monkeys, resulting in decreased cocaine self-administration without concurrent effects on food response. The present invention provides these sustained-release derivatives, pharmaceutical compositions comprising the same, and a method of using such sustained release derivatives as a treatment for cocaine addiction. (portfolio: Central Nervous System—Therapeutics, psychotherapeutics, drug dependence)

Isolation and Use of Tissue Growth-Inducing FRZB Protein

FP Luyten (NIDR), M Moos Jr. (FDA), B Hoang (FDA), S Wang (FDA)
Serial No. 08/729,452 filed 11 Oct 96
Licensing Contact: Jaconda Wagner, 301/496–7735 ext 284

A secretable protein, named FRZB because of its homology to the *Drosophila* gene frizzled, has been isolated from cartilage. This protein appears to be involved in the formation of cartilage, bone, neural and muscle tissue. A pharmaceutical composition of this protein may be used as regenerative agent to treat degenerative disorders, (i.e., Huntingdon's, Alzheimer's, or spinal cord injuries), myodegenerative disorders (i.e., muscular dystrophy, myasthenia gravis, or myotonic myopathies) and osteodegenerative disorders (i.e., osteoporosis or osteoarthritis). In addition, FRZB directly interacts with the Wnt family of signaling molecules and inhibits their biological function *in vivo.* This provides the opportunity to selectively block Wnt driven diseases including neoplasias. (portfolios: Central Nervous System—Therapeutics, neurological, antiparkinsonian; Central Nervous System—Therapeutics, neurological, Alzheimer's; Central Nervous System—Therapeutics, neurologial, other; Internal Medicine—Therapeutics)

Novel Human Cancer Antigen of Tyrosinase-Related Proteins 1 and 2 and Genes Encoding Same

RF Wang, SA Rosenberg (NCI)
Serial No. 08/599,602 filed 06 Feb 96 and Serial No. 08/725,736 filed 04 Oct 96 (CIP)
Licensing Contact: Joseph Contrera, 301/496–7056 ext 244

Tumor infiltrating lymphocytes (TIL) from a melanoma patient showing regression were found to recognize epitopes from a protein designated gp75, now known as tyrosinase related protein 1 (TRP–1). The inventors found that the antigen recognized by the TIL was encoded by that gene but that was not the normal gene product. The TIL recognized a nine-amino acid peptide (ORF3P) which is the product of an alternative reading frame (ORF3). ORF3P cannot be lengthened or shortened without loss of antigenicity. The TRP–1 ORF3P antigen is only found in melanoma cells, melanocytes and normal retina. This technology was described in U.S. patent application 08/599,602 filed February 6, 1996.

The present invention is a CIP of 08/599,602 and was filed October 4, 1996. This CIP application contains a novel tumor antigen (TRP–2) which was recognized by CTL clones derived from TIL. However, TRP–2 was recognized by CTL clones which are capable of recognizing the ORF3P. A new antigenic peptide (TRP197–205) was identified from the TRP–2 product. The subject matter of both the parent and CIP applications were combined in a subsequent PCT application filed February 6, 1997.

The use of the methods described in the present invention could provide a form of cancer immunotherapy for melanoma. (portfolios: Cancer—Therapeutics, vaccines; Cancer—Diagnostics, in vitro, MAb based)

PFS25–28 Fusion as a Malaria Transmission Blocking Vaccine

DC Kaslow, MM Gozar (NIAID)
Serial No. 60/027,390 filed 30 Sept 96
Licensing Contact: Gloria Richmond, 301/496–7056 ext 268

Malaria is estimated to cause two to four million deaths per year, and 200 to 400 million people are infected annually with the deadliest of the protozoans that cause the disease, Plasmodium falciparum. The life cycle of the malarial parasite is very complex, involving stages that reside in both humans and mosquitoes. Vaccines that are able to inhibit the transmission of the disease at a variety of stages in the complex life cycle of the malarial parasite might provide an opportunity to effectively control and possible eradicate this disease. This invention relates to the generation of transmission-blocking antibodies to two sexual stage surface antigens, Pfs 25 and Pfs 28. Two issued patents cover the use of these antigens separately as transmission-blocking vaccines. The claims of the current invention relate to the production of fusion proteins between these two surface antigens that have increased potency as immunogens and ease of manufacture. (portfolios: Infectious Diseases—Vaccines, parasite)

Prostate Specific Antigen Oliog-Epitope Peptide

J Schlom, K Tsang, S Zaremba (NCI)
Serial No. 08/618,936 filed 20 Mar 96
Licensing Contact: Joseph Contrera, 301/496–7056 ext 244

Prostate Specific Antigen (PSA) is expressed in a majority of prostate cancers, and represents a potential target for immunotherapy. Previous studies have shown that two specific PSA peptides, PS1 and PS3, are capable of eliciting cytotoxic T-cell responses. The current invention embodies an oligopeptide, PSA–OP, which is comprised of the sequence for peptides PS1 and PS3. PS1 and PS3 are antigenic epitopes of PSA and are joined by a peptide linker sequence to form PSA–OP. PSA–OP has been shown, in vitro, to be effective in eliciting a cytotoxic T-cell response. This novel peptide, therefore, may be used in the development of vaccines for use in the prevention and treatment of prostate cancer. (portfolio: Cancer—Therapeutics)

Immortal Human Prostate Epithelial Cell Cultures and Their Applications in the Research and Therapy of Prostate Cancer

SL Topalian, WM Linehan, RK Bright, CD Vocke (NCI)
OTT Reference No. E–053–96/0 (USSN 60/011,042 filed 02 Feb 96) and OTT Reference No. E–017–97/0 (CIP of E–053–96/0)
Licensing Contact: Joseph Contrera, 301/496–7056 ext 244

The invention describes the further characterization of single cell clones derived from the prostate tumor cell lines disclosed in the earlier application (E–053–96/0). The isolation and characterization of long-term human prostatic epithelial cell cultures from

primary adenocarcinomas of the prostate is significant in that efforts to establish long-term cultures of cells of this type have been exceptionally difficult.

The present invention describes the characterization of single cell clones derived from the prostate tumor cell lines disclosed in the earlier application. These new clones exhibit traits which may indicate their usefulness as an in vitro model of human prostate cancer. The single cell clones are paired normal and tumor cell clones where the latter exhibit allelic loss of heterozygosity (LOH) indicating the presence of unique genetic deletions. This loss may suggest that these cells express unique proteins or antigens which might be of tremendous value in prostate cancer research. The subject matter of both the parent and CIP applications were combined in a subsequent PCT application filed January 30, 1997.

Possible uses of these cells include testing various anti-cancer agents and subtraction studies for identification of gene deletions. These lines could establish a new basis for possible cancer vaccines and also be used to develop monoclonal antibodies against specific prostate cancer antigens. (portfolios: Cancer—Therapeutics, vaccines; Cancer—Therapeutics, immunomodulators and immunostimulants)

Macrophage Migration Inhibitory Factor (MIF)

Graeme J. Wistow (NEI)
Serial No. 08/202,486 filed 28 Feb 94 (allowed); DIV of U.S. Patent 5,328,990 issued 12 Jul 94
Licensing Contact: Jaconda Wagner, 301/496–7735 ext 284

The protein known as macrophage migration inhibitory factor (MIF) was one of the first cytokines to be discovered. Thirty-years ago it was described as a T-cell-derived factor that inhibited the random migration of macrophages in vitro. Today, MIF is known to be a mediator of the function of macrophages in host defense and its expression correlates with delayed hypersensitivity and cellular immunity. It plays an important role in the inflammatory response and is associated with cell differentiation. As with other lymphokines, MIF could have therapeutic values in stimulating the immune system and other cells. Hardly abundant from other sources, the high concentration of the protein that has been found in the eye lens could be a useful source for research. The present invention provides the DNA that encodes MIF. A related invention provides a method for isolating MIF from the ocular lens. (portfolio: Ophthalmology—Therapeutics; Internal Medicine—Therapeutics, anti-inflammatory)

Dated: April 28, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–12783 Filed 5–14–97; 8:45 am]

BILLING CODE 4140–01–W

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the President's Cancer Panel. This meeting will be closed in accordance with the provisions of section 552b(c)(9)(B), Title 5, U.S.C., for discussion and preparation of the Annual Report of the Chair to the President for 1996. These discussions could disclose information, the premature disclosure of which would be likely to significantly frustrate implementation of proposed action the Panel may plan to take.

Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630E, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 (301/496–5708) will provide a summary of the meeting and the roster of committee members upon request. Other information pertaining to the meeting may be obtained from the contact person indicated below.

Committee Name: President's Cancer Panel.

Date: May 22, 1997.

Place: La Guardia Marriott, 102–05 Ditmars Boulevard, E. Elmhurst, New York 11369.

Closed: 8:30 a.m. to 5:30 p.m.

Agenda: Finalization of the Annual Report of the Chairman to the President.

Contact Person: Maureen O. Wilson, Ph.D., Executive Secretary, National Cancer Institute, Building 31, Room 4A48, Bethesda, MD 20892–2473, Telephone: (301) 496–1148.

This notice is being published less than 15 days prior to the meeting due to the urgent need to proceed with the finalization of the Annual Report of the Chairman to the President.

Dated: May 8, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–12781 Filed 5–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting; National Arthritis and Musculoskeletal and Skin Diseases Advisory Council

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to provide advice to the National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS) on June 5, 1997, in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public June 5 from 8:30 a.m. to 12:00 p.m. to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

The meeting of the Advisory Council will be closed to the public on June 5 from 1:00 p.m. to adjournment in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal property.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Steven Hausman, Executive Secretary, National Arthritis and Musculoskeletal and Skin Diseases Advisory Council, NIAMS, Natcher Building, Room 5AS–13, Bethesda, Maryland 20892 (301) 594–2463.

A summary of the meeting and roster of the members may be obtained from the Extramural Programs Office, NIAMS, Natcher Building, Room 5AS–13, National Institutes of Health, Bethesda, Maryland 20892 (301) 594–2463.

(Catalog of Federal Domestic Assistance Program No. 93.846, Arthritis, Bone and Skin Diseases, National Institutes of Health)

Dated: May 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–12778 Filed 5–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: Pathobiology of H. Pylori Infections.

Date: June 9–11, 1997.

Time: 7:30 p.m.

Place: Lowes Hotel, 2100 West End Avenue, Nashville, Tennessee 37203.

Contact Person: Sharee Pepper, Ph.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6as–25E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–7798.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: May 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–12779 Filed 5–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: May 22, 1997.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4112, Telephone Conference.

Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Name of SEP: Biological and Physiological Sciences.

Date: May 29, 1997.

Time: 11:00 a.m.

Place: NIH, Rockledge 2, Room 4150, Telephone Conference.

Contact Person: Dr. Marcia Litwack, Scientific Review Administrator, 6701 Rockledge Drive, Room 4150, Bethesda, Maryland 20892, (301) 435–1719.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Biological and Physiological Sciences.

Date: June 3, 1997.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 6170, Telephone Conference.

Contact Person: Dr. Dennis Leszczynski, Scientific Review Administrator, 6701 Rockledge Drive, Room 6170, Bethesda, Maryland 20892, (301) 435–1044.

Name of SEP: Clinical Sciences.

Date: June 5, 1997.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4112, Telephone Conference.

Contact Person: Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435–1783.

Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Chemistry and Related Sciences.

Date: July 16–17, 1997.

Time: 8:00 a.m.

Place: St. James Hotel, Washington, DC.

Contact Person: Dr. Donald Schneider, Scientific Review Administrator, 6701 Rockledge Drive, Room 5104, Bethesda, Maryland 20892, (301) 435–1165.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commerical property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93,893, National Institutes of Health, HHS)

Dated: May 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–12780 Filed 5–14–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Proposed Data Collection Available for Public Comment

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed 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.

Proposed Project

Treatment Outcome Performance Pilot Studies (TOPPS)—New—SAMHSA has awarded contracts to 14 States to develop and pilot test performance and outcomes measures for substance abuse treatment services. The pilot studies will collect data from substance abuse clients, including pregnant women, women with dependent children, adolescents, and managed care clients. Measures of addiction severity and other outcomes will be obtained at admission, discharge, and post-discharge. The estimated annualized burden for the two-year project is summarized below.

	No. of respondents	No. of responses/respondent	Average burden/response	Total burden hours	Annualized burden hours
Clients	6,082	4.0	0.57	13,964	6,982
Family Members	1,175	2.9	0.24	817	409
Treatment Staff	415	2.3	0.80	762	381

Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 9, 1997.

Richard Kopanda,

Executive Officer,

Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–12743 Filed 5–14–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–829284

Applicant: Kenneth P. Johnson, Menomonee Falls, WI.

The applicant requests a permit to import a sport-hunted polar bear (*Ursus maritimus*) from the Southern Beaufort Sea area of the Northwest Territories, Canada for personal use.

PRT–829285

Applicant: Ronald J. Baetens, Waterford, MI.

The applicant requests a permit to import a sport-hunted polar bear (*Ursus maritimus*) from the Northern Beaufort Sea area of the Northwest Territories, Canada for personal use.

PRT–829267

Applicant: James E. Johnson, Jr., Virginia Beach, VA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–829199

Applicant: Roger Williams Park Zoo, Providence, RI.

The applicant requests a permit to import 6 female parma wallabys (*Macropus parma*) and any joey's in pouch to be taken from the feral population on Kawau Island, New Zealand as part of the government eradication program for the purpose of enhancement of the propagation of the species.

RT–829200

Applicant: Wildlife Conservation Society, Prospect Park Wildlife Center, NY.

The applicant requests a permit to import 6 female parma wallabys (*Macropus parma*) and any joey's in pouch to be taken from the feral population on Kawau Island, New Zealand as part of the govenment eradication program for the purpose of enhancement of the propagation of the species.

PRT–829218

Applicant: John O. Mitchell, Plano, TX.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: May 9, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–12696 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Comprehensive Management Plan, the Finding of No Significant Impact (FONSI), and Associated Environmental Assessment (EA) for Cypress Creek National Wildlife Refuge, Illinois

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) has made available for public review the Comprehensive Management Plan, a Finding of No Significant Impact (FONSI), and associated Environmental Assessment (EA) for Cypress Creek National Wildlife Refuge (Refuge). The Refuge is located in Illinois near the confluence of the Mississippi and Ohio Rivers in Alexander, Johnson, Massac, Pulaski, and Union Counties.

DATES: Written comments should be received by June 16, 1997.

ADDRESSES: Written comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056; Attention: Mike Marxen, RE–AP. Copies of the Comprehensive Management Plan, FONSI, and EA are available during normal business hours at the Cypress Creek National Wildlife Refuge headquarters, Route 1, Box 53D, Ullin, Illinois 62992.

FOR FURTHER INFORMATION CONTACT: Elizabeth O. Jones, Acting Refuge Manager at 618–634–2231.

SUPPLEMENTARY INFORMATION: The Service proposes to implement the Comprehensive Management Plan for Cypress Creek National Wildlife Refuge. The purpose of the Plan is (1) To provide a clear vision and statement of the refuge in 15 years, (2) ensure that management reflects the policies and goals of the National Wildlife Refuge System (3) ensure that management is consistent with federal, state, county, and partner plans, and (4) provide Refuge staff with guidance and priorities for budget requests and for consistent

development, operation, and management over the next 15 years.

The alternatives considered in the EA are:

1. *No Action* This alternative reflects the status quo, allowing current conditions and trends of management, public use, and land use to continue. No substantial increases in funds or staff would be required. Public use opportunities, facilities, and access would remain the same at minimal development.

2. *Implement the Cypress Creek National Wildlife Refuge Comprehensive Management Plan* This alternative would establish an overall management direction. The Refuge is envisioned as a major contributing member in a coalition of partners actively working together to protect and restore a 60,000 acre complex of diverse habitat types for people to enjoy.

The Service's preferred alternative is the second alternative.

The FONSI is based on the following findings:

1. The Refuge will add economic diversity and stability to the local area as visitor use increases.

2. Acquisition of lands has been and will continue to be from willing sellers only.

3. Annual Revenue sharing payments are made to the counties to help off-set potential impacts to the tax base.

4. Cultural resource surveys are planned based on the CMP.

5. This action will not have an adverse impact on threatened and endangered species.

6. Drainage networks and floodplains will not be affected.

The Comprehensive Management Plan, FONSI, and EA will be available to the public on May 15, 1997. The deadline for public comments is June 16, 1997. During this 30-day period the FONSI will not be final, nor will the Service implement the selected alternative. A final decision will be made on whether to carry out the alternative selected at the conclusion of the 30-day period.

Dated: May 1, 1997.

Stephen D. Wilds,

Acting Regional Director.

[FR Doc. 97–12024 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sport Fishing and Boating Partnership Council

ACTION: Notice of meeting.

SUMMARY: As provided in Section 10(a)(2) of the Federal Advisory Committee Act, the Service announces a meeting designed to foster partnerships to enhance recreational fishing and boating in the United States. This meeting, sponsored by the Sport Fishing and Boating Partnership Council (Council), is open to the public and interested persons may make oral statements to the Council or may file written statements for consideration.

DATES: June 2, 1997, from 8:30 to 11:30 a.m.

ADDRESSES: The meeting will be held at the JW Marriott Hotel, 1331 Pennsylvania Avenue, Salon S, Washington, DC 20004–1796, telephone (202) 393–2000.

Summary minutes of the conference will be maintained by the Coordinator for the Council at 1033 North Fairfax Street, Suite 200, Arlington, VA 22314, and will be available for public inspection during regular business hours within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

FOR FURTHER INFORMATION CONTACT: Doug Alcorn, Council Coordinator, at 703/836–1392.

SUPPLEMENTARY INFORMATION: The Partnership Council will hear a briefing by representatives from the American League of Anglers and Boaters (ALAB) on ALAB's consensus position on the proposed language for reauthorizing the Federal Aid in Sport Fish Restoration (Wallop-Breaux) Program, to be considered by the Congress later this year. The Partnership Council will also hear briefings on two initiatives recommended by recreational fisheries stakeholders: (1) To address fish habitat through an amendment to the Clean Water Act, and (2) to catalyze state-led outreach efforts for recruiting and maintaining a strong constituency of anglers. The Partnership Council's Technical Working Group for boating issues will give a status report on the Recreational Lakes Initiative and the status of the Boating Initiative assigned to the Working Group in October 1996. The Partnership Council's Technical Working Group for recreational fisheries issues will present annual findings from its evaluation of Federal agency activities for providing and enhancing recreational fishery resources, pursuant to the President's 1995 Executive Order (Number 12962) for Recreational Fisheries. the topic of discussion will be the Technical Working Group's objective assessment of how well Federal agencies have implemented their respective strategic plans to accomplish goals established one year ago in the nationally-comprehensive Recreational Fishery Resources Conservation Plan. Based on the Technical Working Group's findings, the Partnership Council will make recommendation for consideration by the National Recreational Fisheries Coordination Council, also established by the President in Executive Order 12962. The Partnership Council will also consider comments from the public before closing.

Dated: April 30, 1997.

Jay L. Gerst,

Acting Deputy Director.

[FR Doc. 97–12715 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–066–1430–01; CARI–04011]

Notice of Realty Action; Classification of Public Land for Conveyance Under the Recreation and Public Purposes Act

SUMMARY: The following described land in Riverside County, California, has been examined and found suitable for conveyance under provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869. The lands were previously classified as suitable for leasing under the Recreation and Public Purposes Act in 1963.

San Bernardino Meridian, California

T. 3 S., R. 5 E.,
Sec. 26: All.

Containing 640 acres, more or less.

DATES: On or before June 30, 1997, interested parties may submit comments concerning the classification and conveyance to the District Manager at the California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507. Objections will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification will become effective 60 days after publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning this action is available at the California Desert District Office, 6221 Box Springs Blvd., Riverside, CA 92507.

SUPPLEMENTARY INFORMATION: The Riverside County Waste Resource Management District has applied to acquire title to the above described public lands. These lands were previously leased to the Riverside

County Waste Management Department under Recreation and Public Purpose Lease CARI 04011, for operation of the Edom Hill Landfill. By Resolution No. 94–050, on February 8, 1994, the Riverside County Board of Supervisors established the Riverside County Waste Resources Management District and transferred the responsibilities of the Waste Management Department to the Waste Resource Management District. All necessary requirements for conveyance of the land have been completed. Conveyance of the Edom Hill Landfill to the Riverside County Waste Resource Management District without reversionary interests is consistent with current Bureau planning for this area and would be in the public interest. The conveyance of land would be subject to the following terms and conditions:

1. Provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior.

2. A right-of-way to the United States for ditches and canals pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

4. Those rights for power transmission line purposes granted to Southern California Edison Company, its successors or assigns, by right-of-way CACA–15528, pursuant to the Act of October 21, 1976, as amended (43 U.S.C. 1761).

5. The patentee shall comply with all Federal and State laws applicable to the disposal, placement, or release of hazardous substances.

6. The patentee shall indemnify and hold harmless the United States against any legal liability or future costs that may arise out of any violation of such laws.

7. No portion of the land covered by such patent shall under any circumstances revert to the United States.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

Dated: May 5, 1997.

Alan Stein,

Acting District Manager.

[FR Doc. 97–12716 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–40–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. May 6, 1997.

The plat representing the dependent resurvey of a portion of the boundaries of certain mineral surveys in sections 14, 15, and 23, T. 48 N., R. 4 E., Boise Meridian, Idaho, Group 966, was accepted, May 6, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: May 6, 1997.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 97–12714 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–GG–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–00]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. May 6, 1997.

The plat representing the dependent resurvey of a portion of the West boundary, and of the subdivisional lines and the subdivision of sections 7 and 18, T. 9 S., R. 19 E., Boise Meridian, Idaho, Group 975, was accepted, May 6, 1997.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

Dated: May 6, 1997.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 97–12761 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–66–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1910–00–4377] ES–48875, Group 154, Wisconsin]

Notice of Filing of Plat of Survey; Wisconsin

The plat of the dependent resurvey of a portion of the subdivisional lines, a portion of the subdivision of section 9, and the metes-and-bounds survey of a 1.5 acre exception to lot no. 1, section 22, of Township 24 North, Range 19 East, Fourth Principal Meridian, Wisconsin, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on June 23, 1997.

The survey was requested by the Bureau of Indian Affairs.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., June 23, 1997.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: May 8, 1997.

Stephen G. Kopach,

Chief Cadastral Surveyor.

[FR Doc. 97–12762 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–GJ–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

The following property is being considered for listing in the National Register and was received by the National Park Service on May 9, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C.

20013–7127. Written comments should be submitted by May 30, 1997.

Carol D. Shull,

Keeper of the National Register.

In order to assist in the preservation of the following property, the 16-day commenting period has been waived:

MISSOURI

City of St.Louis, National Council of State Garden Clubs Headquarters Building, 4401 Magnolia Ave., 97000524

[FR Doc. 97–12777 Filed 5–14–97; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Request for Comments on the Next Round of Public Law 480, Title II Institutional Support Grants

AGENCY: U.S. Agency for International Development.

ACTION: Notice of request for comments.

SUMMARY: The Office of Food for Peace (FFP), within the Bureau for Humanitarian Response (BHR), U.S. Agency for International Development (USAID) intends to proceed with a new five-year Public Law 480, Title II Institutional Support Grant (ISG) program with new awards to be made in or around August 1998. The current ISG program (to end August 1998) is focused on providing private voluntary organization (PVO) headquarters support to maintain current Title II activities and to improve the capacity of the PVOs to carry out Title II programs. More specifically, the stated purpose of the current ISG program is to support the efforts of the PVO to:

(1) Strengthen/maintain its central and headquarters-level institutional capacity to manage and account for Title II commodities;

(2) Improve/maintain central and headquarters-level management practices and build organizational expertise in the use of Title II food aid as an instrument for effective emergency relief and/or for achieving food security; or

(3) Carry out feasibility studies aimed at initiating Title II activities in new countries, especially those addressing food security.

FEP's goal is to achieve

sustained improvement in household nutrition and agricultural productivity for vulnerable groups served by USAID food aid programs.

FFP intends that the new ISG program will continue to support this goal by enabling FFP to meet its two strategic objectives:

(1) Increasing FFP's partners' capabilities to effect and sustain access to food, improvements in household nutrition and agricultural productivity for vulnerable groups participating in food aid activities, and

(2) Meeting critical needs of targeted vulnerable groups in emergency situations and contributing to the stabilization of post-emergency societies.

FFP is in the early stages of drafting new ISG guidelines and would like to receive comments from the PVO community and others on how the grant program should be structured so as to support FFP's strategic objectives.

DATES: All comments are due on or before June 16, 1997.

ADDRESSES: Comments should be directed to: FFP Grants Committee, BHR/FFP, 1515 Wilson Blvd., Room 315, Arlington, VA 22209. Comments can also be faxed to (703) 841–2709.

FOR FURTHER INFORMATION CONTACT VIA FAX: FEP Grants Committee at (703) 841–2709.

Dated: April 28, 1997.

William T. Oliver,

Director, Office of Food for Peace, Bureau for Humanitarian Response, U.S. Agency for International Development.

[FR Doc. 97–12712 Filed 5–14–97; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Voluntary Foreign Aid Advisory Committee; Notice of Meeting

Pursuant to the Federal Advisory Committee Act, notice is hereby given of a meeting of the Advisory Committee on Voluntary Foreign Aid (ACVFA).

Date: June 11, 1997 (9:00 a.m. to 5:00 p.m.).

Location: State Department, Loy Henderson Auditorium, 23rd Street Entrance.

The purpose of the meeting is to discuss an ACVFA Study on the State of the USAID/PVO Partnership.

The meeting is free and open to the public. However, notification by noon, June 9, 1997, through the Advisory Committee Headquarters is required. Persons wishing to attend the meeting must call Lisa J. Douglas (703) 351–0243 or Susan Saragi (703) 351–0244 or FAX (703) 351–0228/0212. Persons attending must include their name, organization, birthdate and social security number for security purposes.

Dated: April 29, 1997.

John Grant,

Director, Office of Private and Voluntary Cooperation, Bureau for Humanitarian Response.

[FR Doc. 97–12713 Filed 5–14–97; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in Northwest Pipe & Casing Co. v. United States under the Comprehensive Environment Response, Compensation, and Liability Act

Notice is hereby given that a Consent Decree in *United States and State of Oregon* versus *Hall No. 97–683HA (D. Ore.)*, entered into by the United States on behalf of U.S. EPA, the State of Oregon, on behalf of the Oregon Department of Environmental Quality (''DEQ'') and Wayne C. Hall, Jr. was lodged on April 29, 1997 with the United States District Court for the District of Oregon. The proposed Consent Decree resolves certain claims of the United States against Wayne C. Hall, Jr., relating to the Northwest Pipe & Casting Site in Clackamas County, Oregon. Under the Decree, Mr. Hall will, *inter alia* pay the United States $1,058,500 and will also convey real property to the Oregon Department of Environmental Quality (''DEQ''), as trustee, which will hold the property for the benefit of U.S. EPA, DEQ, and Northwest Pipe & Casing Co. in accordance with the terms of the proposed Consent Decree.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States and State of Oregon* v. *Hall* D.J. Ref. No. 90–11–3–1557A. Commenters may request an opportunity for public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Oregon, 888 S.W. 5th Ave., Suite 1000, Portland, OR 97204–2024; the Region 10 Office of the United States Environmental Protection Agency, 1200 Sixth Ave., Seattle, WA 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892). A copy 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. In requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $18.50 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section; Environment and Natural Resources Division

[FR Doc. 97–12718 Filed 5–14–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in Northwest Pipe & Casing Co. v. United States Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a Consent Decree in *United States* v. *Oregon Department of Transportation,* No. 97–682RE (D. Ore.), entered into by the United States on behalf of U.S. EPA and the Oregon Department of Transportation. The proposed Consent Decree resolves certain claims of the United States against Wayne C. Hall, Jr. relating to the Northwest Pipe & Casing Site in Clackamas County, Oregon. Under the Decree, the Oregon Department of Transportation will, *inter alia,* pay the United States $50,000.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Oregon Department of Transportation,* D.J. Ref. No. 90–11–3–1557B. Commenters may request an opportunity for public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Oregon, 888 S.W. 5th Ave., Suite 1000, Portland, OR 97204–2024; the Region 10 Office of the United States Environmental Protection Agency, 1200 Sixth Ave., Seattle, WA 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892). A copy 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. In requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $5.00 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–12719 Filed 5–14–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to 28 CFR 50.7

Notice is hereby given that a proposed consent decree in the consolidated cases *PIRGIM* V. *Hew Haven Foundry, Inc.,* Civil Action No. 94–71951–DT, and *United States* v. *New Haven Foundry, Inc.,* Civil Action No. 96–70961–DT, and a proposed consent decree in *United States* v. *New haven Foundry, Inc.,* Civil Action No. 97–71842, were lodged on April 23, 1997 with the United States District Court for the Eastern District of Michigan. The proposed consent decrees resolve the plaintiffs' claims against New Haven Foundry, Inc. for violations under the Clean Water Act, the Clean Air Act and the Resource Conservation and Recovery Act at its cast iron foundry facility located in New Haven, Michigan.

In the proposed settlements, New Haven Foundry, Inc. agrees to: achieve full compliance with the requirements of its National Pollution Discharge Elimination System (NPDES) permit as required by the Clean Water Act; achieve continuous compliance with the visible emissions (opacity) limitations in the Michigan State Implementation Plan (SIP) as required by the Clear Air Act; implement and complete specific corrective actions as required by the Resource Conservation and Recovery Act; pay a civil penalty for air and water violations in the amount of $460,000; and pay citizen plaintiff PIRGIM's costs of litigation in the amount of $46,000.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer the *PIRGIM and United States* v. *New Haven Foundry, Inc.,* Nos. 94–71951 and 96–70961 (Air and Water Consent Decree), or *United States* v. *New Haven Foundry, Inc.,* No 97–71842 (RCRA Consent Decree), DOJ Ref. #90–5–1–1–4279.

The proposed consent decrees maybe examined at the office of the United States Attorney, 211 W. Fort St., Suite 2300 , Detroit, Michigan 48226; the Region 5 Office of the Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, N.E., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy 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. In requesting a copy please refer to the referenced case and decree and enclose a check in the amount of $33.50 (25 cents per page reproduction costs) for both consent decrees, $17.00 for the Air and Water Consent Decree or $16.50 for the RCRA Consent Decree. Checks should be made payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–12720 Filed 5–14–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in Northwest Pipe & Casing Co. v. United States Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that a Consent Decree in *Northwest Pipe & Casing Co.* v. *United States,* Adv. Pro No. 95–3509 (Bankr. D. Ore.), entered into by the United States on behalf of U.S. EPA, the State of Oregon on behalf of the Oregon Department of Environmental Quality, and Northwest Pipe Company (''NWP'') was lodged on April 29, 1997 with the United States Bankruptcy Court for the District of Oregon. The proposed Consent Decree resolves certain claims of the United States against NWP relating to the Northwest Pipe & Casing Site in Clackamas County, Oregon. Under the Decree, NWP will, *inter alia,* pay the United States $1,000,000 plus interest as well as interest payments from $2.3 million deposited into an escrow account.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following

the publication of this notice. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *Northwest Pipe & Casing Co.* v. *United States,* D.J. Ref. No. 90–11–3–1557. Commenters may request an opportunity for public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed Consent Decree may be examined at the Office of the United States Attorney for the District of Oregon, 888 S.W. 5th Ave., Suite 1000, Portland, OR 97204–2024; the Region 10 Office of the United States Environmental Protection Agency, 1200 Sixth Ave., Seattle, WA 98101; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202–624–0892). A copy 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. In requesting a copy of the proposed Consent Decree, please enclose a check in the amount of $24.75 (25 cents per page for reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,

Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–12717 Filed 5–14–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 96–28]

Robert G. Hallermeier, M.D. Continuation of Registration With Restrictions

On March 27, 1996, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Robert G. Hallermeier, M.D., (Respondent) of Boothwyn, Pennsylvania, notifying him of an opportunity to show cause as to why DEA should not revoke his DEA Certification of Registration, AH6871049, and deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f), for reason that pursuant to 21 U.S.C. 824(a)(4), his continued registration would be inconsistent with the public interest.

By letter dated April 29, 1996, Respondent, through counsel, filed a timely request for a hearing, and following prehearing procedures, a hearing was held in Philadelphia, Pennsylvania on October 23 and 24, 1996, before Administrative Law Judge Gail A. Randall. At the hearing, both parties called witnesses to testify and introduced documentary evidence. After the hearing, counsel for both parties submitted proposed findings of fact, conclusions of law and argument. On February 27, 1997, Judge Randall issued her Opinion and Recommended Ruling, recommending that Respondent's registration be continued subject to several temporary conditions. No exceptions were filed to her Opinion and Recommended Ruling, and on March 27, 1997, Judge Randall transmitted the record of these proceedings to the Acting Deputy Administrator.

The Acting Deputy Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Acting Deputy Administrator adopts, in full, the opinion of the Administrative Law Judge, and adopts, with several modifications, the recommended ruling of the Administrative Law Judge. His adoption is in no manner diminished by any recitation of facts, issues and conclusions herein, or of any failure to mention a matter of fact or law.

The Acting Deputy Administrator finds that Respondent received his medical degree from Temple University. While in medical school, Respondent observed a physician assistant write orders and prescriptions for medications without direct supervision of a physician. In 1977, Respondent joined an internal medicine group where there was a nurse practitioner who saw patients, and wrote orders and prescriptions for medication also without direct supervision of a physician.

In October 1988, Respondent began working, on a trial basis, for Joseph Kurtz, a physician assistant who operated three medical facilities, and in January 1989, Respondent was hired by Mr. Kurtz as an independent contracting physician. There was a written agreement between the Respondent and Mr. Kurtz, stating that one of Respondent's responsibilities was to act as a supervisor for the physician assistant, however there were no details provided as to the nature and extent of the supervision, and the agreement was not submitted for approval to the State Board of Medicine, Commonwealth of Pennsylvania as required by state law. In addition, Respondent was not registered with the Pennsylvania Board of Medicine to use the services of a physician assistant as required by state law.

When he first began working for Mr. Kurtz, Respondent was concerned about the number of controlled substance prescriptions that were issued at the facilities and that a number of the patients appeared to be drug seekers. Respondent began reducing the number of controlled substance prescriptions issued and patients indicated that they felt safer coming to the facilities. After he was hired in 1989 and pursuant to Mr. Kurtz' request, Respondent provided three copies of his signature for the purpose of making a rubber stamp of his signature to be used for billing purposes and for writing prescriptions. Respondent and Mr. Kurtz had very little contact since they alternated working at the various facilities and would never work at the same facility at the same time. Respondent was told by another physician who had worked for Mr. Kurtz that the level of physician supervision used with Mr. Kurtz, including Mr. Kurtz working at a different facility, was permitted. Respondent testified at the hearing in this matter that pursuant to his agreement with Mr. Kurtz, Mr. Kurtz could only issue prescriptions for refills of earlier prescriptions and could not issue any new prescriptions. However, during previous interviews, Respondent did not mention this restriction on Mr. Kurtz' prescribing.

In 1990, the Pennsylvania Office of the Attorney General, Medicaid Fraud Section initiated an investigation of Respondent. As a result of this investigation, it was determined that Mr. Kurtz had been billing the medical assistance program using the provider identification number of Respondent, who was an approved provider under the program. Pursuant to the medical assistance program regulations, services by a physician assistant are permissible, providing that there is direct supervision of the physician assistant by the supervising physician and that the supervising physician is registered as such with the Board. Since the prescriptions discovered during the investigation were written by Mr. Kurtz, and not Respondent, they were not legitimately billed to the medical assistance program. As a result, criminal charges were filed against Mr. Kurtz and Maureen Clark, his wife, who owned Clark Family Pharmacy where the prescriptions were filled, which is located adjacent to one of the medical

facilities. Both Mr. Kurtz and his wife were each convicted in 1994 of three counts of Medicaid fraud.

In January 1992, after Respondent had testified before the grand jury in the state criminal proceedings against Mr. Kurtz and Ms. Clark, he became concerned and asked Mr. Kurtz to return his signature stamps. Mr. Kurtz provided Respondent with several photocopied pages from the **Federal Register** and the Pennsylvania Medical Board rules with portions highlighted by Mr. Kurtz and represented by Mr. Kurtz to be the law regarding the supervision of physician assistants. Respondent testified that he was afraid to confront Mr. Kurtz for fear of losing his job, and therefore, without further inquiry, Respondent continued to permit Mr. Kurtz to use his signature stamp and DEA registration number. According to Respondent, he did however begin going to the pharmacy on a weekly basis to review and initial the prescriptions issued by Mr. Kurtz to be certain they were not for ''outrageous'' amounts. However, this review was conducted after the controlled substances had already been dispensed. Respondent admitted at the hearing in this matter that he had not reviewed Mr. Kurtz' patient charts to see if the prescribed controlled substances were medically appropriate.

In May 1992, DEA initiated its investigation of Clark Family Pharmacy after receiving reports that the pharmacy was purchasing excessive quantities of controlled substances. Previously, while at the pharmacy to witness the destruction of drugs, a DEA investigator had noticed prescriptions that appeared to have rubber stamped signatures, and was told by the pharmacist that the prescriptions were written by Mr. Kurtz using the rubber stamp signature of Respondent. Pursuant to an administrative inspection warrant, DEA obtained controlled substance records from the pharmacy. A DEA investigator then entered into a database all of the prescriptions with Respondent's rubber stamped signature obtained from the pharmacy by DEA pursuant to the administrative inspection warrant, and by the Pennsylvania Attorney General's Office during its earlier investigation. It was determined that Respondent's signature was rubber stamped on a total of 2,545 prescriptions for controlled substances in Schedules III and IV between November 1990 and November 1992, for a total of 92,281 dosage units. These prescriptions were issued by Mr. Kurtz and were original prescriptions, and not refills.

During the course of DEA's investigation, on April 23, 1993, an investigator interviewed the pharmacist at Clark Family Pharmacy who indicated that when he began working at the pharmacy in April 1989, he was told by Ms. Clark that Mr. Kurtz would hand carry patient files over to the pharmacy. The pharmacist was instructed to reduce the notes from these files to writing on Clark Family Pharmacy prescription pads and to sign Respondent's name to the prescriptions. In 1990, the pharmacy was visited by a state inspector who advised the pharmacist to cease the practice of reducing the information from patient files to writing on the pharmacy's prescription pads because that was the procedure for call-in prescriptions. The inspector advised the pharmacist that instead, the prescriptions should be generated by the medical facility on its own prescription pads and then filled at the pharmacy. Consequently, the medical facility and the pharmacy began a new procedure whereby Mr. Kurtz would write the prescription on the facility's prescription pad and rubber stamp it with Respondent's signature. The prescription would then be hand carried to the pharmacy by either Mr. Kurtz or one of the facility's employees. The patient would pick up the medication from the pharmacy without ever seeing the actual prescription. The pharmacist related that 90 percent of the pharmacy's business came from Mr. Kurtz' clinic.

Respondent was aware that Mr. Kurtz was not a licensed physician, that he was not registered with DEA, and that he treated patients and wrote controlled substance prescriptions without physician supervision. Respondent knowingly permitted Mr. Kurtz to use his DEA registration number to authorize controlled substance prescriptions. A letter from Respondent to DEA dated March 11, 1993, indicated that Mr. Kurtz told Respondent that he had destroyed the signature stamps in January of 1993. Respondent stopped working for Mr. Kurtz in August 1993. The last stamped prescription in evidence in this proceeding is dated November of 1992.

According to Respondent, one cause of his failure to adequately supervise Mr. Kurtz and to allow him to use Respondent's DEA registration number was his ignorance of the responsibilities of a supervising physician of a physician assistant. Respondent testified that based upon representations made by Mr. Kurtz and his previous experience with physician assistants and nurse practitioners, he did not know that allowing Mr. Kurtz to independently practice medicine was not permissible. Respondent acknowledged that he made no further inquiries regarding the acceptable scope of practice for a physician assistant nor did he attempt to verify whether the prescriptions issued by Mr. Kurtz were refills of earlier prescriptions or new prescriptions.

In addition, Respondent testified that his actions were also caused by his abuse of alcohol. Respondent has a family history of alcoholism and started abusing alcohol in 1979. Following his first attempt to commit suicide in 1988, Respondent was admitted to the hospital for several weeks, where he was treated for depression, rather than alcoholism. In July 1988, he voluntarily signed up with the Physician's Health Program (PHP), an arm of the State Medical Society. Pursuant to this program, among other things, Respondent underwent urine screens, attended professional support group meetings and met with his psychiatrist. Respondent followed the program for approximately six months, when he began drinking again, and ultimately attempted suicide a second time in 1992.

Following his second suicide attempt, Respondent was hospitalized for two weeks and then was transferred to the Strecker Institute in November 1992 where for four weeks he received group and individual counseling from a psychiatrist specializing in addiction counseling, and attended alcoholics anonymous and narcotics anonymous meetings. Upon his release from inpatient treatment, Respondent participated in extensive aftercare for two years including regular attendance at AA meetings, random drug and alcohol screening, continued therapy with his psychiatrist and regular contact with the PHP. When his contract with the PHP expired in December 1995, Respondent voluntarily sighed up for an additional five years of monitoring by the PHP, which he was still participating in at the date of the hearing in this matter. The Assistant Medical Director at the PHP testified that he had seen Respondent two to three times per month for the few years prior to the hearing; that Respondent met all of the requirements of his contract with the PHP; that Respondent's urine screens were negative for alcohol and controlled substances; and that Respondent's prognosis for continued recovery and sobriety is excellent.

In describing Respondent's behavior in 1992, Respondent's psychiatrist noted in a treatment summary dated July 26, 1996, that ''He stated that he never looked into the regulations of working as a physician's assistant, and

in retrospect it is clear that he was mentally obtunded and not thinking clearly and coherently due to his active alcoholism.'' Respondent's psychiatrist further noted that ''[t]he recommendation is that if Dr. Hallermeier continues to do as he currently is doing and follow [sic] his current regime which is that of attending many AA meetings every week and working his program as he is doing the prognosis for continuing successful outcome is quite optimistic.''

Respondent's wife testified at the hearing in this matter that the family was supportive of Respondent's treatment efforts. She also stated that they have ''an abstinence based home,'' in which no alcoholic beverages are kept or consumed.

Also testifying at the hearing were the administrators of three medical facilities where Respondent had been employed for the two to three years prior to the hearing. Each administrator stated that Respondent had refused a request for a signature stamp, and instead personally signs all comments requiring his signature. There are no physician assistants employed at any of these facilities. The administrators testified that Respondent is a professional and caring physician.

Respondent testified that he has progressively become more ''stingy'' in his handling of controlled substances. He further testified that although he has not frequently needed to prescribe controlled substances recently, he believed that such prescribing might be necessary in the future. He also stated that he has become a better doctor as a result of his recovery and that there is no question that the situation that occurred with Mr. Kuntz would never happen again.

The Government contends that Respondent's continued registration would be inconsistent with the public interest in light of the fact that he allowed Mr. Kurtz to use his DEA registration to issue over 2,000 controlled substance prescriptions, and in so doing, violated numerous provisions of both state and Federal laws and regulations. The Government also argues that Respondent's conduct is all the more egregious since he felt that a number of the patients of the facility were drug seekers; he was concerned over the number of controlled substance prescriptions being issued at the facility; and he was called to testify before a grand jury regarding the prescribing and billing practices of the facility. The Government questions Respondent's credibility, his lack of remorse, and his explanation that alcoholism was the cause of his problems.

The Respondent contends that the Government has not met its burden of proof and that his continued registration is not inconsistent with the public interest. Respondent argues that the Government's case focused entirely on Respondent's past misconduct and that Respondent does not deny this misconduct. However, Respondent contends that there was uncontroverted evidence presented at the hearing that his continued registration is in the public interest in light his recovery from alcohol addiction, his current responsible use of his DEA registration, his refusal to give new employers a signature stamp, his responsible practices regarding the prescribing of controlled substances, and the testimony of his present employers who think highly of his medical judgment and professionalism. Respondent further argues that the causes of his past misconduct, ignorance of the laws regarding physician assistants and his alcoholism, have now been remedied.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending applications, if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires that the following factors be considered:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Deputy Administrator may rely on any one or a combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwarz, Jr., M.D., Docket No. 88–42, 54 **Federal Register** 16,422 (1989).

Regarding factor one, there is no evidence that any action has been taken against Respondent's license to practice medicine or handle controlled substances by any State licensing board or disciplinary authority.

As to factors two and four, it is undisputed that Respondent allowed an unsupervised physician assistant to prescribe large quantities of controlled substances. This is extremely troubling given that Respondent admitted that he did not trust Mr. Kurtz; that he thought that too many controlled substance prescriptions were being issued by Mr. Kurtz' medical facility; that he thought that some of the people receiving these prescriptions were drug seekers; and that he was subpoenaed to testify before the grand jury regarding Mr. Kurtz' prescribing and billing practices. Any one of these circumstances should have caused Respondent to be more vigilant in his supervision of Mr. Kurtz. Instead, Respondent continued to allow Mr. Kurtz to use his DEA registration number and the rubber stamp of his signature, thereby causing the unauthorized dispensing of over 92,000 dosage units of controlled substances over a two year period. Respondent's actions permitted the prescribing of controlled substances by an unauthorized individual in violation of numerous provisions of Federal and state laws and regulations, including 21 U.S.C. 829(b) and 841 and 21 C.F.R. 1306.03 and 1306.04(a), as well as, 63 P.S. 422.13 and 49 Pa. Code 18.144, 18.152, and 18.153 (1988–1992 version).

As Judge Randall noted, ''[s]uch violations clearly raise questions as to the Respondent's fitness to possess a DEA Certificate of Registration.'' The Acting Deputy Administrator finds that Respondent's lack of control and supervision over the dispensing of controlled substances through the use of his DEA registration from 1989 to 1992 is reprehensible. However, like Judge Randall, the Acting Deputy Administrator notes that Respondent offered evidence that his behavior was caused by his alcoholism, and that he has taken numerous steps towards recovery and has remained alcohol-free since October 1992. The Acting Deputy Administrator also finds significant that there is no evidence that Respondent has improperly dispensed controlled substances or allowed the improper dispensing of controlled substances since November 1992.

As Judge Randall noted regarding factor three, ''[t]he record contains no evidence that the Respondent has been convicted of any Federal or State laws relating to the manufacture, distribution or dispensing of controlled substances.''

The Acting Deputy Administrator concurs with Judge Randall that ''[t]he Respondent's lack of responsibility in dealing with Mr. Kurtz bears on factor five.'' While Respondent testified that he has never frequently prescribed controlled substances, he exhibited an extremely cavalier attitude towards the potentially dangerous nature of these

drugs by allowing an unsupervised and unauthorized physician assistant to prescribe these substances at will. As a DEA registrant, Respondent was entrusted with the responsibility to ensure that controlled substances are only dispensed for a legitimate medical purpose. While working for Mr. Kurtz, Respondent miserably failed to carry out his responsibilities as a DEA registrant.

Nevertheless, as Judge Randall notes, ''the record contains no evidence that the Respondent has engaged in similar conduct since beginning treatment for his alcohol addiction.'' In addition, ''Respondent has maintained his DEA registration [since 1992] and acted without incident.'' The Acting Deputy Administrator finds that while passage of time alone is not dispositive, it is a consideration in assessing whether Respondent's continued registration is inconsistent with the public interest. See Norman Alpert, M.D., 58 F.R. 67,420 (1993).

Judge Randall found, and the Acting Deputy Administrator concurs that ''[t]he Government has proven by a preponderance of the evidence that the Respondent's past conduct would justify revocation of his DEA Certificate of Registration. Further, the Respondent has taken no remedial courses to enhance his knowledge of the proper prescribing practices related to controlled substances.'' However, Respondent has admitted and accepted responsibility for his past misconduct, and there is no evidence of any wrongdoing since November 1992, when he began extensive treatment for his alcoholism. Following the expiration of his treatment contract with the PHP, Respondent voluntarily signed up for an additional monitoring program. In addition, it is the opinion of the Assistant Medical Director at the PHP and Respondent's psychiatrist that Respondent's prognosis is excellent for continued recovery and sobriety provided that he continues to actively participate in his treatment program. Respondent's family is extremely supportive of his recovery efforts. Further, Judge Randall found Respondent's testimony credible that he has been sober since October 1992. Respondent's assertion is supported by the reports in evidence of Respondent's negative urine screens for the presence of alcohol or drugs. Finally, it appears that Respondent has learned from his past mistakes as evidenced by the fact that he has refused the requests of his subsequent employers to provide a signature stamp and considers it highly unlikely that he will ever work with physician assistants again.

Judge Randall concluded that ''based upon the Respondent's hearing testimony and demeanor, and the fact that he has practiced medicine with his DEA registration for over four years without incident, I find it highly unlikely that he will engage in this type of misconduct again.'' However, she further concluded that ''Respondent's misconduct warrants future monitoring of his prescribing practices and some remedial training.'' Judge Randall recommended that Respondent's continued registration subject to the following conditions would be in the public interest:

(1) For two years after the date of the final order, Respondent shall be required quarterly to submit a controlled substance prescription log to the local DEA office, with the type of log entries to be determined by the Special Agent in Charge or a designated representative. However, at a minimum the log should record the name of the patient, the date the prescription was issued, and the name, dosage and quantity of the controlled substance prescribed.

(2) By not later than two years after the date of the final order, Respondent shall submit to the local DEA office evidence of successful completion, after October of 1992, of formal training in the proper prescribing of controlled substances.

(3) If Respondent's current PHP contract requires urine screens, then Respondent shall keep these urine screen results on file in his office for two years, and shall allow DEA to review them upon reasonable request.

The Acting Deputy Administrator agrees with Judge Randall that in light of Respondent's rehabilitative efforts, his acceptance of responsibility for his past misconduct, his current employment situation, and the lack of any wrongdoing since November 1992, revocation of Respondent's DEA Certificate of Registration is not appropriate, but that some monitoring of his controlled substance handling and remedial training is appropriate to protect the public health and safety. The Acting Deputy Administrator agrees with Judge Randall that Respondent should receive some remedial training within two years of this final order. However, given the nature and extent of Respondent's previous misconduct, the Acting Deputy Administrator finds it appropriate to impose several additional restrictions than those recommended by the Administrative Law Judge and to require that these restrictions remain on Respondent's registration for three years, the period of one full registration cycle.

Therefore, the Acting Deputy Administrator finds that Respondent's DEA Certificate of Registration should be continued subject to the following restrictions:

(1) For the years after the effective date of this final order, Respondent shall submit at the end of every calendar quarter, a log of all controlled substances he has prescribed, administered or dispensed during the previous quarter to the Special Agent in Charge of the nearest DEA office or his designee. The log shall include the name of the patient, the date that the controlled substance was prescribed, administered or dispensed, and the name, dosage and quantity of the controlled substance prescribed, administered or dispensed. If no controlled substances are prescribed, administered or dispensed during a given quarter, Respondent shall indicate that fact in writing in lieu of submission of the log.

(2) For three years after the effective date of this final order, Respondent shall notify in writing the Special Agent in Charge of the nearest DEA office of his designee, if he assumes responsibility for the supervision of a physician assistant or any other mid-level practitioner.

(3) For three years after the effective date of this final order, Respondent is to continue his association with the PHP, and if for any reason, the PHP no longer requires random urine screens, Respondent shall continue these screens at his own expense. Respondent shall provide copies of the reports of the results of the screens upon reasonable request by DEA personnel.

(4) Within two years after the effective date of this final order, Respondent shall submit to the local DEA office evidence of successful completion, after October of 1992, of formal training in the proper handling of controlled substances.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 C.F.R. 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AH6871049, issued to Robert G. Hallermeier, M.D., be continued, and any pending applications be granted, subject to the above described restrictions. This order is effective June 16, 1997.

Dated: May 8, 1997.

[FR Doc. 97–12802 Filed 5–14–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement

SUMMARY: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY '97 for a cooperative agreement to fund the ''The Community Justice'' project.

PURPOSE: The National Institute of Corrections is seeking applications for a cooperative agreement for an organization to work, in concert with NIC, with the Deschutes County, OR Community Justice Council. The council is made up of individuals representing the country's criminal justice components, elected or appointed government officials, plus community and victims' representatives. This representative body will serve as the locus for transforming the concept and principles of community justice into actual practice. Work will consist of facilitating council meetings directed at team building, instilling a sense of project ownership, and developing an understanding of community justice principles and practices. The council will then direct collaborative efforts among its components to transform the county's criminal justice system into a community justice system through policy formulation and implementation.

AUTHORITY: Public Law 93–415.

FUNDS AVAILABLE: The award will be limited to a maximum total of $100,000 (direct and indirect costs) and project activity must be completed within 9 months of the date of award. One subsequent award, estimated at the same level of funding and duration, will be available to the successful applicant for a succeeding project phase. Award for the subsequent phase will be subject to satisfactory performance in the first phase and on the availability of funds. Funds may not be used for construction, or to acquire or build real property. This project will be a collaborative venture with the NIC Community Corrections Division.

DEADLINE FOR RECEIPT OF APPLICATIONS: Applications must be received in NIC's Washington, DC office by 4:00 p.m., Eastern time, Friday, July 11, 1997.

ADDRESSES AND FURTHER INFORMATION: Requests for the application kit, which includes further details on the project's objectives, etc., should be directed to Judy Evens, Grants Control Office, National Institute of Corrections, 320 First Street, N.W., Room 5007, Washington, D.C. 20534 or by calling 800–995–6423, ext. 159 or 202–307–3106, ext. 159. For overnight or hand delivered mail, the address is 500 First Street N.W., Room 700, Washington, DC 20534. All technical and/or programmatic questions concerning this announcement should be directed to Eduardo Barajas, Jr at the above address or by calling 800–995–6423, or 202–307–1300, ext. 127, or by E-mail via ebarajas@bop. gov.

Eligible Applicants

An eligible applicant is any private or non-profit organization, institution, or individual.

Review Consideration

Applicants received under this announcement will be subjected to an NIC 3 to 5 member Peer Review Process.

Number of Awards

One (1).

NIC Application Number

97C02 This number should appear as a reference line in your cover letter and also in box 11 of Standard Form 424.

Executive Order 12372

This program is subject to the provisions of Executive Order 12372. Executive Order 12372 allows States the option of setting up a system for reviewing applications from within their States for assistance under certain Federal programs. Applicants (other than Federally-recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC), a list of which is included in the application kit, along with further instructions on proposed projects serving more than one State.

The Catalog of Federal Domestic Assistance number is: 16.603.

Dated: May 12, 1997.

Larry B. Solomon,

Acting Director, National Institute of Corrections.

[FR Doc. 97–12727 Filed 5–14–97; 8:45 am]

BILLING CODE 4410–36–M

INTERNATIONAL BOUNDARY AND WATER COMMISSION

Meeting

AGENCY: Border Environment Cooperation Commission (BECC).

ACTION: Notice of annual public meeting.

SUMMARY: This notice announces the 12th public meeting of the BECC Board of Directors on Wednesday, June 18th, from 9:00 am–4:00 pm, at the Crown Plaza Hotel located at Blvd. López Mateos y Av. de los Heroes No. 201, Mexicali, B.C. Tel: (011–52–65) 57–36–00. This quarterly public meeting of the Board will serve as its annual meeting.

FOR FURTHER INFORMATION CONTACT: M.R. Ybarra, Secretary, United States Section, International Boundary and Water Commission, telephone: (915) 534–6698; or Tracy Williams, Public Outreach Coordinator, Border Environment Cooperation Commission, P.O. Box 221648, El Paso, Texas 79913, telephone: (011–52–16) 29–23–95; fax: (011–52–16) 29–23–97; e-mail: becc@cocef.interjuarez.com.

SUPPLEMENTARY INFORMATION: The U.S. Section, International Boundary and Water Commission, on behalf of the Border Environment Cooperation Commission (BECC), cordially invites the public to attend the 12th Public Meeting of the Board of Directors on Wednesday, June 18th, from 9:00 am–4:00 pm, at the Crown Plaza Hotel located at Blvd. López Mateos y Av. de los Heroes No. 201, Mexicali, B.C. Tel: (011–52–65) 57–36–00. This quarterly public meeting of the Board will serve as its annual meeting.

Proposed Agenda, 9:00 am–4:00 pm

1. Opening of Public Meeting
   —Approval of Minutes (Action Item)
   —Approval of Proposed Agenda (Action Item)
2. Executive Committee Report
3. Managers Report
4. Presentation of the 1996 Annual Report
5. Presentation on a Policy on Build, Operate, Transfer Projects
   —Public Comments
   —Board Consideration (Action Item)
6. Release of the Proposed Procedures Regarding Complaints for public review
   —Public Comments
   —Board Consideration (Action Item)
7. Presentation on the Technical Assistance Program
   —Public Comment
   —Board Consideration (Action Item)
8. Presentation of Projects for Certification Consideration

- Parallel Conveyance System and Rehabilitation of the San Antonio de los Buenos Plant, Tijuana, B.C.
  —Public Comments
  —Board Consideration (Action Item)
- Ecoparque, Tijuana, B.C.
  —Public Comments
  —Board Consideration (Action Item)
- South Bay Wastewater Reclamation Project, San Diego, CA
  —Public Comments

—Board Consideration (Action Item)

- Wastewater Collection Project, Alton, TX

—Public Comments

—Board Consideration (Action Item)

9. General Comments

Anyone interested in submitting written comments to the Board of Directors on any agenda item should send them to the BECC 15 days prior to the public meeting. Anyone interested in making a brief statement to the Board may do so during the public meeting.

Dated: May 9, 1997.

M.R. Ybarra,

Secretary, U.S. IBWC.

[FR Doc. 97–12722 Filed 5–14–97; 8:45 am]

BILLING CODE 4710–13–M

NATIONAL SCIENCE FOUNDATION

Meeting

The National Science Foundation announces the following meeting:

Name: Interagency Arctic Research Policy Committee (IARPC).

Date and Time: Tuesday, June 3, 1997, 2:00–3:30 p.m.

Place: National Science Foundation, Room 375, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed. The meeting is closed to the public because future fiscal year budget and program issues will be discussed.

Contact Person: Charles E. Myers, Office of Polar Programs, Room 755, National Science Foundation, Arlington, VA 22230, Telephone: (703) 306–1029.

Purpose of Committee: The Interagency Arctic Research Policy Committee was established by Public Law 98–373, the Arctic Research and Policy Act, to help set priorities for future arctic research, assist in the development of a national arctic research policy, prepare a multi-agency budget and Plan for artic research, and simplify coordination of arctic research.

Proposed Meeting Agenda Items

1. U.S. Arctic Policy
2. IARPC Program Initiatives
3. Implementation of Program Initiatives
4. Approval of Biennial Revision to U.S. Arctic Research Plan

Charles E. Myers,

Head, Arctic Interagency Staff, Office of Polar Programs.

[FR Doc. 97–12760 Filed 5–14–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Consolidated Edison Company of New York; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. 26 issued to Consolidated Edison Company of New York (the licensee) for operation of the Indian Point Nuclear Generating Unit No. 2 located in Westchester County, New York. The proposed amendment would remove containment isolation valve 863 from Technical Specification Table 3.6–1, ''Non-Automatic Containment Isolation Valves Open Continuously Or Intermittently for Plant Operation.'' Removal of the valve from the table would allow a modification to change the valve to an automatically closing valve upon the receipt of a Phase A Containment Isolation Signal.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: There are no new failure modes introduced by the proposed modification. Normal operation of Valve 863 is not altered by this modification. This modification provides for automatic closure of Valve 863 during a design basis event, rather than relying on manual action. The EOPs [emergency operating procedures] provide for verification of automatic closure of containment isolation valves and for manual closure of any automatic containment isolation valves that fail to close during a design basis event. Neither the probability nor the consequences of an accident previously analyzed is increased due to the proposed changes.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: The capability to open Valve 863 during an Appendix R event is maintained. Contacts from existing relays will be used to provide the containment isolation and reset signal for Valve 863. This signal will be used to de-energize the existing SOV–863. No new electrical loads are added. Equipment associated with this modification will be seismically installed. Therefore, the proposed changes do not create an accident or malfunction of safety equipment of a different type.

(3) Does the proposed amendment involve a significant reduction in the margin of safety?

Response: This modification will provide a signal that will close Valve 863 on Phase A Containment Isolation and reset capability for this valve that is consistent with other automatic containment isolation valves. This is an enhancement to the system which already meets the requirements of GDC [General Design Criteria] 57. The capability to open Valve 863 during an Appendix R event is maintained. Therefore, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice

of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 16, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to S. Singh Bajwa: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 31, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 8th day of May 1997.

For the Nuclear Regulatory Commission.

Jefferey F. Harold,

Project Manager, Project Directorate, Division of Reactor Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 97–12736 Filed 5–14–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Northeast Utilities; Notice of Document Availability and Public Meeting

On May 2, 1997, the U.S. Nuclear Regulatory Commission (NRC) received from Little Harbor Consultants, Inc. (LHC), the Independent, Third-Party Oversight Program (ITPOP) organization, its oversight plan for monitoring Northeast Nuclear Energy Company's (NNECO's) implementation of its employee safety concerns program. The oversight plan is in response to an NRC Order. On October 24, 1996, the Director of the Office of Nuclear Reactor Regulation sent an Order to NNECO requiring (1) A comprehensive plan for resolving the Millstone station employees' safety concerns and (2) an independent, third-party oversight of NNECO's implementation of this plan. Copies of LHC's oversight plan is available at the Waterford Public Library, ATTN: Mr. Vincent Juliano, 49 Rope Ferry Road, Waterford, Connecticut, and the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut.

The NRC will hold a public meeting regarding the oversight plan. The meeting will be held in the near future at the Waterford Town Hall in Waterford, Connecticut. The meeting will be open to public attendance and will be transcribed. The NRC has elected to hold such a public meeting because of the public's interest.

The structure of the public meeting shall be as follows:

NRC opening remarks
Members of the public comments and questions
NRC closing remarks
Meeting concludes

The purpose of this public meeting is to obtain comments from members of the public for NRC staff use in evaluating LHC's oversight plan. The staff will not offer any preliminary views on its evaluation of the oversight plan. The public meeting will be chaired by a senior NRC official who will limit presentations to the above subject.

A meeting notice will be issued stating the date and time of the meeting.

Dated at Rockville, Maryland, this 9th day of May 1997.

For the Nuclear Regulatory Commission.

Steven A. Reynolds,

Chief, Special Projects Office—Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 97–12738 Filed 5–14–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power & Light Company, Susquehanna Steam Electric Station, Units 1 and 2; Exemption

I

The Pennsylvania Power & Light Company (PP&L, the licensee) is the holder of Facility Operating License Nos. NPF–14 and NPF–22, which authorize operation of the Susquehanna Steam Electric Station (SSES), Units 1 and 2. The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

These facilities consist of two boiling water reactors located at the licensee's site in Luzerne County, Pennsylvania.

II

Part 50 of Title 10 of the *Code of Federal Regulations* (10 CFR) 10 CFR 50.71, ''Maintenance of records, making of reports,'' paragraph (e)(4) states, in part, that ''Subsequent revisions [to the Final Safety Analysis Report (FSAR)] must be filed annually or 6 months after each refueling outage provided the interval between successive updates to the FSAR does not exceed 24 months.'' The two SSES units share a common FSAR; therefore, this rule requires the licensee to update the same document within 6 months after a refueling outage for either unit.

III

It is stated in 10 CFR 50.12(a), ''Specific exemptions,'' that, ''The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of this part, which are—(1) Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. (2) The Commission will not consider granting an exemption unless special circumstances are present.'' In 10 CFR 50.12(a)(2)(ii), it is further stated that special circumstances are present when ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.''

IV

It is required in 10 CFR 50.71(e)(4) that all licensees update their FSARs at least every refueling outage and no less frequently than every 2 years. When two units share a common FSAR, the rule has the effect of making the licensee update the FSAR roughly every 12 to 18 months; this is contrary to the intent of the rule. The authors of the rule recognized the effect of the rule's language on multiple facilities sharing a common FSAR in responding to comments on the rulemaking by stating that licensees will have maximum flexibility for scheduling updates to their FSARs on a case-by-case basis; however, the final rule does not address multiple facilities (57 FR 39353, August 31, 1992).

The requested exemption would require periodic updates once per refueling cycle, based on SSES Unit 2 refueling outage schedule, but not to exceed 24 months from the last submittal. The requirement that an update be submitted within 6 months of an outage of each unit is not retained. Allowing the exemption would maintain the SSES FSAR current within 24 months of the last revision and would not exceed a 24-month interval for submission of the 10 CFR 50.59 design change report for either unit.

V

The licensee's special circumstance is that, as stated in 10 CFR 50.12(a)(2)(ii), ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule,'' when it applies to the frequency of updating the FSAR for dual units. When two units share a common FSAR, the rule stated in 10 CFR 50.71(e)(4), which requires that all licensees update their FSAR at least every refueling outage and no less frequently than every 2 years, has the effect of making the licensee update the FSAR approximately every 12 to 18 months. This is contrary to the intent of the rule.

The licensee's proposed schedule for FSAR updates will ensure that the SSES FSAR will be maintained current within 24 months of the last revision and, the interval for submission of the 10 CFR 50.59 design change report will not exceed 24 months. The Commission has

determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law, will not present an undue risk to the public health and safety and is consistent with common defense or security, and is otherwise in the public interest. The Commission has also determined that special circumstances are present as defined in 10 CFR 50.12(a)(2)(ii), which is, ''Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.'' The Commission hereby grants the licensee an exemption from the requirement of 10 CFR 50.71(e)(4) to submit updates to the SSES FSAR within 6 months of each outage. The licensee will be required to submit updates to the FSAR based upon the Unit 2 refueling cycle frequency. The exemption will allow the licensee to maintain the SSES FSAR within 24 months of the last revision and not to exceed a 24-month interval for the submission of the 10 CFR 50.59 summary report for either unit.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant effect on the quality of the human environment (62 FR 24980). This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 9th day of May 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–12740 Filed 5–14–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–311]

Public Service Electric and Gas Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–75 issued to Public Service Electric & Gas Company (the licensee) for operation of Salem Nuclear Generating Station, Unit 2, located in Salem County, New Jersey.

The proposed amendment would revise Technical Specification (TS)3/4.7.7, ''Auxiliary Building Exhaust Air Filtration System,'' and add a new TS Section 3/4.7.11, ''Switchgear and Penetration Area Ventilation System.'' The change to TS 3/4.7.7 would allow for an increase in the allowed outage time from 7 to 14 days when one auxiliary building exhaust fan is inoperable. The new TS 3/4.7.11 addresses the support function this system provides to other necessary safety support components.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes for TS 3/4.7.7 involve changes to Action time periods. TS section 3/4.7.11 is newly created to address the importance of the SPAV [switchgear and penetration area ventilation] system in ensuring proper temperature control for the areas that it serves. Actions are prescribed to ensure remedial measures are performed under certain conditions. The proposed AOT's have been evaluated and are commensurate with the safety significance based upon PSA [probabilistic safety assessment] calculations using industry recognized methods. The Auxiliary Building Exhaust Air Filtration and Switchgear and Penetration Area Ventilation systems (herein referred to as ''the subject HVAC [heating, ventilation, and air conditioning] systems'') are support systems providing cooling to their associated supply areas. The subject HVAC systems are not accident initiators of any accidents evaluated in the Safety Analysis Report. No physical changes to the subject HVAC systems result from the proposed TS changes.

Therefore, the proposed changes do not significantly increase the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve any modification or changes to the mode of operation of the subject HVAC systems. It does not change the basic way in which the subject HVAC systems are operated. By maintaining the equipment or components required in the proposed changes adequate cooling is assured to the areas served by the subject HVAC systems.

Therefore, the change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The subject HVAC systems are support systems which provide area cooling. The proposed changes do not involve any modification to the subject HVAC systems or changes to the mode of operation of the systems. The proposed changes to TS establish controls to better ensure the subject HVAC systems will be able to perform their intended design function and ensures that the safety functions of support equipment are maintained.

The proposed changes establish AOT's for the SPAV system and modify the exhaust fan AOT for the Auxiliary Building Exhaust Filtration system, but do not affect the operation of the subject HVAC systems, and thus do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to

take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 16, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–2, petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mark J. Wetterhahn, Esquire, Winston and Strawn, 1400 L Street, NW., Washington, DC 20005–3502, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 1, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Salem Free Public Library, 112 West Broadway, Salem, New Jersey 08079.

Dated at Rockville, Maryland, this 9th day of May 1997.

For the Nuclear Regulatory Commission.

Leonard N. Olshan,

Project Manager, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–12739 Filed 5–14–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by Virginia Electric and Power Company, (licensee) for an amendment to Facility Operating License Nos. NPF–4 and NPF–7 issued to the licensee for operation of the North Anna Power Station, Unit Nos. 1 and 2, located in Louisa County, Virginia. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on December 4, 1996 (61 FR 64396).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to permit the insertion of four demonstration fuel assemblies into the reactor core of either North Anna 1 or North Anna 2, as described in the licensee's submittal. The four lead test assemblies, fabricated by Framatome Cogema Fuels, will incorporate several advanced design features, including: a debris filter bottom nozzle, mid-span mixing grids, a floating top end grid, a quick disconnect top nozzle, and use of advanced zirconium alloys for fuel assembly structural tubing and for fuel rod cladding. A portion of the amendment request included a proposal to amend Section 6.9.1.7.b by adding one sentence. Because the non-specific sentence does not specify methods used to determine core operating limits, the proposal to add the sentence to the TS is denied.

The NRC staff has concluded that the licensee's request cannot fully be granted. The licensee was notified of the Commission's partial denial of the proposed change by a letter dated May 9, 1997.

By June 16, 1997 the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated September 4, 1996, as supplemented February 3, 1997, and (2) the Commission's letter to the licensee dated May 9, 1997.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland, this 9th day of May 1997.

For the Nuclear Regulatory Commission.

Mark Reinhart,

Acting Project Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–12741 Filed 5–14–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Company; North Anna Power Station, Units 1 and 2; Exemption

I

Virginia Electric and Power Company (the licensee) is the holder of Facility Operating License Nos. NPF–4 and NPF–7, which authorize operation of North Anna Power Station, Unit Nos. 1 and 2 (NPS1&2). The licenses provide, among other things, that the licensee be subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of two pressurized water reactors at the licensee's site located in Louisa County, Virginia.

II

By letter dated September 4, 1996, as supplemented February 3, 1997, the licensee requested an exemption to 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50 that would enable the use of four demonstration fuel assemblies for three cycles, with the initial irradiation planned for North Anna 1 Cycle 13. Irradiation of these four fuel assemblies may occur in either North Anna Unit 1 or North Anna Unit 2, or a combination of the two units, subject to the following constraints:

(1) The assemblies are not to be irradiated for more than three full operating cycles, and

(2) The maximum rod average burnup of any fuel rod in these assemblies shall not exceed the North Anna Units 1 and 2 lead rod burnup restriction of 60,000 megawatt days per metric ton uranium (MWD/MTU).

The regulations cited above refer to pressurized water reactors fueled with uranium oxide pellets within cylindrical zircaloy or ZIRLO cladding. The four demonstration assemblies to be used during these fuel cycles contain fuel rods with zirconium-based claddings that are not chemically identical to zircaloy or ZIRLO.

Since 10 CFR 50.46 and Appendix K to 10 CFR Part 50 identify requirements for calculating emergency core cooling system (ECCS) performance for reactors containing fuel with zircaloy or ZIRLO cladding, and 10 CFR 50.44 relates to the generation of hydrogen gas from a metal-water reaction with reactor fuel having zircaloy or ZIRLO cladding, an exemption is needed to place the four demonstration assemblies containing fuel rods with advanced zirconium-based cladding in the core.

III

Title 10 of the Code of Federal Regulations at 50.12(a)(2)(ii) enables the Commission to grant an exemption from the requirements of Part 50 when special circumstances are present such that application of the regulation in the particular circumstances would not serve the underlying purpose of the rule, or is not necessary to achieve the underlying purpose of the rule. The underlying purpose of 10 CFR 50.46 and 10 CFR Part 50, Appendix K, is to establish requirements for the calculation of ECCS performance. The licensee has performed a calculation demonstrating adequate ECCS performance for NPS1&2 and has shown that the four demonstration assemblies do not have a significant impact on that previous calculation. The peak cladding temperature of the demonstration

assemblies was significantly lower than the resident Westinghouse fuel. Using the Baker-Just equation, the local cladding oxidation of the demonstration assemblies was less than 5%. Also, the maximum hydrogen generation was unchanged with the inclusion of four demonstration assemblies. Therefore, the coolable geometry was maintained following a loss-of-coolant accident (LOCA).

Paragraph I.A.5 of Appendix K to 10 CFR part 50 states that the rates of energy release, hydrogen concentration, and cladding oxidation from the metal-water reaction shall be calculated using the Baker-Just equation. Since the Baker-Just equation presumes the use of zircaloy clad fuel, strict application of the rule would not permit use of the equation for advanced zirconium-based alloys for determining acceptable fuel performance. The underlying intent of this portion of the Appendix, however, is to ensure that analysis of fuel response to LOCAs is conservatively calculated. Due to the similarities in the composition of the advanced zirconium-based alloys and Zircaloy/ZIRLO, the application of the Baker-Just equation in the analysis of advanced zirconium-based clad fuel will conservatively bound all post-LOCA scenarios. Thus, the underlying purpose of the rule will be met. Thus, special circumstances exist to grant an exemption from Appendix K to 10 CFR part 50 that would allow the licensee to apply the Baker-Just equation to advanced zirconium-based alloys. Only LOCA methods approved by NRC were used to perform the calculations which demonstrated adequate safety performance of ECCS systems. These include: (1) RSG LOCA-B&W LOCA evaluation model, (BAW 10168, Rev. 3), (2) RELAP5/MOD2-B&W code, (BAW 10164, Rev. 3), (3) the BEACH implementation of RELAP 5, (BAW–10166, Rev. 4), and (4) REFLOD3B (BAW–10171–PA, Rev. 3). The licensee documented calculations which demonstrate that existing North Anna calculations based on the current fuel design conservatively bound the LOCA performance of the demonstration assemblies as calculated by NRC-approved methods. Results of comparative LOCA calculations with the same plant operating parameters demonstrated that the LOCA calculational methods used are acceptable for the demonstration assemblies at North Anna. As such, the licensee has achieved the underlying purpose of 10 CFR 50.46 and 10 CFR part 50, Appendix K. The underlying purpose of 10 CFR 50.44 is to ensure that means are provided for the control of hydrogen gas that may be generated following a postulated LOCA accident. The licensee has provided means for controlling hydrogen gas and has previously considered the potential for hydrogen gas generation stemming from a metal-water reaction. The small number of fuel rods in the four demonstration assemblies containing advanced zirconium-based claddings in conjunction with the chemical similarity of the advanced claddings to zircaloy and ZIRLO ensures that previous calculations of hydrogen production resulting from a metal-water reaction would not be significantly changed. As such, the licensee has achieved the underlying purpose of 10 CFR 50.44.

The four demonstration assemblies that will be placed in the NPS–1 reactor during Cycles 13, 14, and 15, or in NPS–2 under constraints previously described, meet the same design bases as the fuel in the reactor during previous cycles. No safety limits or setpoints have been altered as a result of the use of the four demonstration assemblies. The demonstration assemblies will be placed in core locations that will not experience limiting power peaking during the aforementioned operating cycles. The advanced claddings have been tested for corrosion resistance, tensile and burst strength, and creep characteristics. The results indicate that the advanced claddings are safe for reactor service.

IV

For the foregoing reasons, the NRC staff has concluded that the use of the four demonstration assemblies in the NPS–1 reactor during Cycles 13, 14, and 15, or in NPS–2 under constraints previously described, will not present an undue risk to public health and safety and is consistent with the common defense and security. The NRC staff has determined that there are special circumstances present as specified in 10 CFR 50.12(a)(2)(ii) such that application of 10 CFR 50.46, 10 CFR Part 50, Appendix K, and 10 CFR 50.44 to only apply to zircaloy or ZIRLO is not necessary in order to achieve the underlying purpose of these regulations.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest, and hereby grants Virginia Electric and Power Company an exemption from the requirements of 10 CFR 50.44, 10 CFR 50.46, and Appendix K to 10 CFR Part 50 in that explicit consideration of the advanced zirconium-based clad fuel present within the four demonstration assemblies is not required in order to be in compliance with these regulations. This exemption applies only to the four demonstration assemblies for the three total operating cycles for which these assemblies will be in the NPS–1 and NPS–2 reactor cores under the constraints stated in Section II above.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (62 FR 23504).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 9th day of May 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–12737 Filed 5–14–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–305]

Wisconsin Public Service Company; Wisconsin Power and Light Company; Madison Gas and Electric Company; Notice of Consideration of Issuance of Amendment To Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–43 issued to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee), for operation of the Kewaunee Nuclear Power Plant, located in Kewaunee County, Wisconsin.

The proposed amendment would change the main steam isolation valve (MSIV) closure time assumption referenced in the Basis for Technical Specification (TS) 4.7.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR

50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes were reviewed in accordance with the provisions of 10 CFR 50.92 to determine that no significant hazards exist. The proposed changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The closure time for the (MSIVs) is not an accident initiator. The surveillance requirement for the MSIVs will remain unchanged. Therefore, this change will not increase the probability of occurrence of an accident previously evaluated.

The main steam line break (MSLB) accident analysis has many conservative input assumptions. The 10 second MSIV closure value is overly conservative. This value can be reduced to a value greater than or equal to the value required by TS 4.7 and will still be a conservative value with regard to actual closure times expected. Changing the analysis input assumptions will result in less severe analytical consequences, but does not change the underlying accident progression. Therefore, this change will not increase the consequences of an accident previously analyzed.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This change revises a specified analysis assumption for MSIV closure in the Basis for TS 4.7. Changing the closure time allowed for analysis purposes will not create a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in the margin of safety.

The MSLB accident analysis employs several conservative input assumptions. The revised assumption for the MSIVs is conservative with respect to actual valve performance. The surveillance test results for the MSIVs over the past 10 years, a total of 53 tests, revealed that the MSIVs close within 3–4 seconds, with them closing between 4–5 seconds on only 4 occasions. The surveillance tests are performed during intermediate or hot shutdown conditions to test in an environment most similar to accident conditions. There is negligible flow through the main steam lines during this test. Since the valves are tested at a condition with negligible flow, during an accident the valves would close more quickly as the valve disc enters the flow stream. In the past 10 years, one MSIV failed to meet its timing test on one occasion, and the other MSIV failed to meet its timing test on two occasions. The cause of two of the three failures was attributed to sticking limit switches, which were valve indication problems, not valve performance problems. The cause of the remaining failure was not explicitly identified. The MSIVs have been very reliable in meeting their timing tests. Using a closure assumption less than 10 seconds will continue to provide conservatism in the MSLB accident analysis, as long as the value chosen meets the value required by TS 4.7.

Any future MSLB analyses implementing the less conservative MSIV closure assumption must continue to meet the acceptance criteria required by Kewaunee's Updated Safety Analysis Report (USAR), and thereby, demonstrate that adequate margin of safety is maintained.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in preventing startup of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish, in the **Federal Register**, a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, MD, from 7:30 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By June 16, 1997, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's, ''Rules of Practice for Domestic Licensing Proceedings,'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended

petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–248–5100 (in Missouri, 1–800–342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Gail H. Marcus: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Bradley D. Jackson, Esq., Foley and Lardner, P.O. Box 1497, Madison, WI 53701–1497, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated May 2, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, WI.

Dated at Rockville, Maryland, this 8th day of May 1997.

For the Nuclear Regulatory Commission.

Richard J. Laufer,

Project Manager, Project Directorate III–3, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 97–12735 Filed 5–14–97; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's home page (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in May 1997. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in June 1997.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024 (202–326–4179 for TTY and TDD).

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is a specified percentage (currently 80 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in May 1997 (*i.e.*, 80 percent of the yield figure for April 1997) is 5.67 percent. The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium payment years beginning between June 1996 and May 1997.

For premium payment years beginning in:	The required interest rate is:
June 1996	5.54
July 1996	5.65
August 1996	5.62
September 1996	5.47
October 1996	5.62

For premium payment years beginning in:	The required interest rate is:
November 1996	5.45
December 1996	5.18
January 1997	5.24
February 1997	5.46
March 1997	5.35
April 1997	5.54
May 1997	5.67

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in June 1997 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, D.C., on this 12th day of May 1997.

John Seal,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 97–12775 Filed 5–14–97; 8:45 am]

BILLING CODE 7708–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38590; File No. SR–CHX–97–08]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Incorporated Relating to Trading in Sixteenths

May 9, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 7, 1997 the Chicago Stock Exchange, Incorporated (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add interpretation and policy .01 to Rule 22 of Article XX of the Exchange's Rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As described below, the purpose of the proposed rule change is to provide for bids and offers to be made in a minimum variation of one-sixteenth of $1.00 for securities dually traded on the Exchange and on the American Stock Exchange, Inc. (''Amex'') that are priced above $0.25.

On March 14, 1997, the Amex submitted a proposed rule change to the Commission requesting approval to trade Amex securities that are priced $10 and higher in minimum fractional changes of 1/16 of $1.00 per share.[2] The Commission has already approved these changes for Amex securities selling under $10 and above $0.25.[3]

Unlike the Amex's minimum fractional change rule, the Exchange's Minimum Fractional Changes rule (Art. XX, Rule 22) provides that, for most securities, the minimum fractional change for bids and offers is 1/8 of $1.00 per share. This rule also gives the Exchange's Committee on Floor Procedure the authority to fix minimum variations of less than this amount for bids and offers in specific securities or classes of securities. Pursuant to this authority, the Exchange proposes to change its minimum variation to 1/16 of $1.00 per share, for securities traded on both the CHX and the Amex that are selling above $0.25. This change will become effective upon the Commission's approval and implementation of SR–Amex–97–14.[4]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b)(5) of the Act in that it is designed to promote just and equitable principles of trade, to remove impediments and to perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.[5]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a state policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange pursuant to Section 19(b)(3)(A) of the Act[6] and subparagraph (e) of Rule 19b–4 thereunder.[7] At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange

[2] Securities Exchange Act Release No. 38437 (Mar. 25, 1997), 62 FR 15552 (Apr. 1, 1997) (publishing notice of File No. SR–Amex–97–14).

[3] Securities Exchange Act Release No. 31118 (Aug. 28, 1992), 57 FR 40484 (Sept. 3, 1992) (approving File No. SR–Amex–91–07); Securities Exchange Act Release No. 35537 (Mar. 27, 1995), 60 FR 16894 (Apr. 3, 1995) (approving File No. SR–Amex–95–02).

[4] The Commission notes that it approved the Amex's proposal on May 5, 1997, and the Amex began trading Amex-listed securities priced at or above $10 in sixteenths on May 7, 1997. Securities Exchange Act Release No. 38571 (May 5, 1997).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4.

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 Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–97–08 and should be submitted by June 5, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–12749 Filed 5–14–97; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38589; International Series Release No. 1077; File No. 601–01]

Self-Regulatory Organizations; Morgan Guaranty Trust Company of New York, Brussels Office, as Operator of the Euroclear System; Notice of Filing of Application for Exemption From Registration as a Clearing Agency

May 9, 1997.

I. Introduction

On March 5, 1997, Morgan Guaranty Trust Company of New York (''MGT''), Brussels office (''MGT-Brussels), as operator of the Euroclear System [1] pursuant to a contract with Euroclear Clearance System Société Coopérative, a Belgian cooperative (''Belgian Cooperative''), filed with the Securities and Exchange Commission (''Commission'') an application on Form CA–1 [2] for exemption from registration as a clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934 (''Exchange Act'') [3] and Rule 17Ab2–1 thereunder [4] to the extent it performs the functions of a clearing agency with respect to U.S. government and agency securities [5] for U.S. participants of the Euroclear System.[6] The Commission is publishing this notice to solicit comments from interested persons.[7]

II. Structure of the Euroclear System

MGT is a banking corporation organized under the laws of the State of New York. MGT-Brussels is the Brussels branch of MGT. MGT-Brussels is a division of MGT that has acted as the operator of the Euroclear System through its Euroclear Operations Centre since the creation of the Euroclear System in 1968. The Euroclear Operations Centre is a separate independent operational unit established within MGT-Brussels to operate the Euroclear System. Senior management of the Euroclear Operations Centre makes the decisions regarding the day-to-day operation of the Euroclear System.

The Euroclear System was established in 1968 by MGT-Brussels, which was then both its owner and operator. In 1972, a package of rights described as the Euroclear System was sold to Euroclear Clearance System Public Limited Company, an English limited liability company (''ECS–PLC''). The goal of the sale was to broaden the international market's participation in the formulation of general policy for the Euroclear System. MGT-Brussels was retained as operator of the Euroclear System. ECS–PLC purchased the rights to receive the revenues generated by the Euroclear System services, to approve participants, to determine eligible securities, to establish fees, and to make other similar decisions. MGT-Brussels retained all of the assets and means necessary to operate the Euroclear System and granted a license to ECS–PLC to use the Euroclear System trademarks.

The Belgian Cooperative was established in 1987 to further facilitate communication between Euroclear and the international securities industry and to encourage participation in the Euroclear System. It received a license from ECS–PLC to exercise some of ECS–PLC's rights as owner of the Euroclear System and to exercise such rights in relation to MGT-Brussels pursuant to an Operating Agreement. Neither ECS–PLC nor the Belgian Cooperative is an operating company. MGT-Brussels maintains all Euroclear System participant accounts on its own books, has established all subcustody accounts with Euroclear System subcustodians in its own name, and maintains all of the contractual relationships with Euroclear System participants and Euroclear System depositaries in its own name. It also provides all of the personnel, systems, trademarks, and operational capability used to deliver the Euroclear System services to Euroclear System participants. ECS–PLC and the Belgian Cooperative exercise their rights against MGT-Brussels through their respective Boards of Directors (collectively, ''Euroclear Boards''), which are composed of senior executives from large financial institutions. The Euroclear Boards meet four times a year to make policy decisions, such as setting admissions policy, determining categories of securities accepted, approving depositories, setting fees and

[1] For purposes of this notice, the term ''Euroclear'' refers to MGT-Brussels in its capacity as operator of the Euroclear System. For a complete description of the structure of the Euroclear System, *see* Section II.

[2] Copies of the application for exemption are available for inspection and copying at the Commission's Public Reference Room.

[3] 15 U.S.C. 78q–1.

[4] 17 CFR 240.17Ab2–1.

[5] For purposes of its application, Euroclear proposes to define U.S. government and agency securities to include (i) ''government securities'' as defined by Section 3(a)(42) of the Exchange Act (other than foreign-targeted U.S. government and agency securities and securities issued or guaranteed by an international organization such as the World Bank, which Euroclear classifies as internationally-traded securities that have been accepted for clearance and settlement in the Euroclear System for many years under circumstances that Euroclear believes cause its activities with respect to such securities to fall outside the scope of Section 17A of the Exchange Act and (ii) mortgage-backed securities and collateralized mortgage obligations issued or guaranteed by the Federal Home Loan Mortgage Corporation (''FHLMC''), the Federal National Mortgage Association (''FNMA''), or the Government National Mortgage Association (''GNMA'').

[6] The Commission has been advised that MGT-Brussels is permitted to seek an exemption from clearing agency registration regarding its operation of the Euroclear System and that no further authorization from the Board of Directors of the Belgian Cooperative is required. Letter from Dr. Rolf-Ernst Breuer, Chairman of the Board of the Belgian Cooperative (March 6, 1997).

MGT itself does not seek an exemption from registration as a clearing agency to the extent it performs the functions of a clearing agency with respect to U.S. government or agency securities. Sections 3(a)(23)(B) of the Exchange Act provides that a bank as defined under Section 3(a)(6) of the Exchange Act is excluded from the definition of the term clearing agency if it would be deemed to be a clearing agency solely by reason of functions performed by such institution as part of customary banking activities. MGT believes that as a bank it has the authority to perform clearing agency functions as part of its customary banking activities for U.S. government and agency securities outside the Euroclear context without registering with the Commission as a clearing agency or otherwise complying with Exchange Act provisions applicable to clearing agencies generally. Because MGT is not seeking an exemption from clearing agency registration for its activities outside the operation of the Euroclear System, the Commission is not addressing this issue.

[7] The descriptions set forth in this notice regarding the structure and operations of the Euroclear System, MGT-Brussels, and MGT have been largely derived from information contained in MGT-Brussels' Form CA–1 application and publicly available sources.

rebates, and approving major service developments. The Euroclear Boards are not involved in the day-today operation of the Euroclear System.

MGT-Brussels, as operator of the Euroclear System, is regulated by the Belgian Banking and Finance Commission, the Board of Governors of the Federal Reserve System of the United States, and the New York State Banking Department. Examinations of MGT-Brussels may be performed by examiners from these regulatory agencies. In addition, MGT-Brussels has an external auditor that reports to the Belgian Banking and Finance Commission and the Audit Committee of MGT. In its capacity as operator of the Euroclear System, MGT-Brussels is also authorized as a service company by the Securities and Investment Board under the United Kingdom Financial Services Act, 1986.

III. Description of Euroclear System Operations

Euroclear provides several services to its participants, including securities clearance and settlement, securities lending and borrowing, and custody.[8]

A. Securities Clearance and Settlement

The Euroclear System functions as a clearance and settlement system for internationally traded securities. Securities settlement through the Euroclear system can occur with other participants in the Euroclear System (''internal settlement''), with members of Cedel Bank, société anonyme, Luxembourg (''Cedel''), the operator of the Cedel system (''Bridge settlement''), or with counterparties in certain local markets who are not members of the Euroclear System or of Cedel (''external settlement'').

The annual volume of transactions settled in the Euroclear System has grown from about US$3 trillion in 1987 to over US$34.6 trillion in 1996. The fastest growing segments of this activity have been repurchase and reverse repurchase agreements (''repos''), book-entry pledging arrangements, securities lending, and other collateral transactions[9] involving non-U.S. government securities.[10] Although the individual certificated or uncertificated government securities of these countries are immobilized or dematerialized with the central banks or central securities depositories (''CSDs'') in their home markets, book-entry positions with respect to such securities can be acquired, held, transferred, and pledged by book-entry on the records of Euroclear in any of the 35 currencies available in the Euroclear System because of the links to local custodian banks, central banks, CSDs, and national payment systems around the world.

1. Clearance and Settlement of Trades Between Participants in the Euroclear System

Transactions between Euroclear System participants in the Euroclear System can be settled against payment or free of payment. Simultaneous delivery versus payment (''DVP'') also is provided for settlements against payment between Euroclear System participants. Upon receipt of valid instructions for a settlement between participants, the Euroclear System's computer system attempts to match instructions between corresponding counterparties on a continuous basis according to a defined set of matching criteria. Matching generally is required in order for the instructions to be settled, except for certain actions specifically taken by the participant (*e.g.*, transfers between accounts maintained by a single participant). Matching of an instruction is attempted until it is either matched or cancelled.

Internal settlement of DVP transactions is accomplished by book-entry transfer and provides for simultaneous exchange of cash and securities. Settlement is final (*i.e.*, irrevocable and unconditional) at the end of each of the securities settlement processing cycles of which there are currently three per day.[11]

The overnight securities settlement process is completed early in the morning of the business day in Brussels for which settlement is intended. Daylight securities settlement processing is completed in the afternoon of each business day with settlement dated for that day. The daylight settlement cycle, which is restricted to internal settlements, permits participants to resubmit previously unmatched instructions or unsettled transactions and permits the processing of new instructions for same day settlement. All daylight instructions not settled are automatically recycled for settlement in the next overnight securities settlement cycle.

2. Clearance and Settlement of Trades Between a Participant in the Euroclear System and a Cedel Member

Participants also can send instructions authorizing receipt and delivery of securities between the Euroclear System and the Cedel system, both free of payment and against payment. Simultaneous DVP is possible for settlement of Euroclear System trades between a participant in the Euroclear System and a Cedel member because of the electronic ''bridge'' established between the two organizations.

For settlement of trades between a Euroclear System participant and a Cedel member, prematching of instructions consists of nine daily comparisons of delivery and receipt instructions. During these comparisons, each clearance system electronically transmits a file of proposed deliveries and expected receipts to the other clearance system. This exchange of information allows each clearance system to report matching results to its participants.

The bridge was enhanced in September 1993 to allow for multiple overnight transmissions of instructions between Cedel and the Euroclear System. The bridge provides finality for DVP cross-system trades occurring when the receiving clearance system confirms acceptance of a proposed delivery and that confirmation is received by the delivery clearance system.

3. Clearance and Settlement of Trades Between a Participant in the Euroclear System and a Counterparty in a Local Market

Participants also can send instructions authorizing receipt and delivery of securities free of payment and against payment between the Euroclear System and certain domestic markets' clearance and settlement

[8] The contractual relationship between Euroclear and its participants is defined by the Terms and Conditions Governing the Use of Euroclear (''Terms and Conditions'') as supplemented by the Operating Procedures of the Euroclear System and other supplementary documents, all of which are governed by Belgian law. Among other things, the Terms and Conditions provide that Euroclear Participants agree that their rights to securities held through the Euroclear System will be defined and governed by Belgian law.

[9] Collateral transactions are designed to enable Euroclear System participants to reduce their financing costs, increase their yields on securities, reduce their credit and liquidity exposures, and manage market and operational risks. For example, a credit seeker that is long securities can reduce its financing costs by entering into a repo with a credit giver (*i.e.*, selling the securities to the credit giver subject to an agreement to repurchase the securities at a future date). A credit seeker can also reduce its financing costs or increase its borrowing capacity by pledging the securities to a credit giver.

[10] Government securities issued in the domestic markets in the following countries are currently eligible for clearance and settlement in the Euroclear System: Argentina, Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Ireland, Italy, Malaysia, Mexico, the Netherlands, New Zealand, Norway, Portugal, South Africa, Spain, Sweden, Switzerland, Thailand, and the United Kingdom.

[11] Euroclear's internal securities processing consists of two overnight settlement cycles and one daylight settlement cycle.

structures. Where participants are expecting to receive or deliver securities outside the Euroclear System or Cedel, instructions are matched where possible in accordance with local market rules and procedures. Notification of matching in the local market is received by Euroclear from the local depositary. Instructions to deliver securities outside the Euroclear System are sent to the depositary having custody of the securities to forward the securities to the location designated by the counterparty or move the securities by book-entry transfer in the local clearance system.[12]

Euroclear has two types of relationships, direct and indirect links, with local market clearance systems. A direct link is where Euroclear has its own account with the local clearance system and holds securities and sends instructions directly in that clearance system. With an indirect link, a intermediary (*i.e.*, depositary) is used to perform Euroclear System settlement activities in the local market.[13] For different instruments in certain markets, Euroclear may have both direct and indirect links.

B. Securities Lending and Borrowing

Securities lending and borrowing is utilized to increase settlement efficiency for the borrower and to allow lenders to generate income on securities held in the Euroclear System. Lenders receive a fee for securities lending and do not incur safekeeping fees for securities lent.

With standard lending and borrowing, there is no linkage between a particular borrower and a particular lender. In effect, participants borrow securities from the lending pool.[14] With reserved lending and borrowing, there is a linkage between the borrower and the lender, but the counterparty's identities are not disclosed.[15] Consequently, with both standard and reserved lending and borrowing, borrowers' names and lenders' names are never revealed to one another.

Securities lending and borrowing is an integral part of the overnight securities settlement process. This integration permits Euroclear to determine the borrowing requirement and supply of lendable securities on a trade-by-trade basis throughout each overnight securities settlement processing. Generally, securities lending and borrowing is available only through the overnight securities settlement process.

C. Custody

Securiites held by Euroclear participants are held through a network of depositaries. Depositaries may hold securities on their premises or deposit these securities with subcustodians or with local clearance systems. Depositaries of the Euroclear System may include custodian banks, including some MGT branches, central banks, local clearance systems, and Cedel. Depositaries are selected based upon their custody capabilities, financial stability, and reputation in the financial community. All depositaries and subdepositaries are appointed with the approval of the Board of the Belgium Cooperative and are reapproved on an annual basis. This network of depositories allows linkages with domestic markets to effect external deliveries and receipts of securities, thereby facilitating cross-border securities movements.

Chase Manhattan Bank (''Chase'') currently acts as the Euroclear System's depositary in the United States for the limited purpose of holding positions in certain foreign and internationally-traded securities (*e.g.*, such as the Regulation S portion of certain global bonds issued by foreign private issuers, Yankee bonds, and book-entry debt securities issued by the World Bank) which are represented by certificates immobilized in The Depository Trust Company (''DTC'') or by electronic book-entries on the records of a Federal Reserve Bank.[16]

Securities deposited in the Euroclear System may be in either physical (bearer or registered) or dematerialized form. Securities are held on the books of a depositary in an account in the name of MGT-Brussels as operator of the Euroclear System. Where the depositary also is not the local clearing system, securities may be deposited in the local clearance system where the depositary is located.

All securities accepted by a depositary are credited to a segregated custody account in the name of MGT-Brussels as operator of the Euroclear System at the depositary or local clearance system, or to the depositary's account at the local clearance system.

Each Euroclear System participant has one or more securities clearance account(s) with associated transit accounts. Securities held by participants

[12] Securities held by participants in the Euroclear System are held by custodian banks or local clearing systems. Except where required by local law, Euroclear will not permit bank subsidiaries to serve as depositaries. All securities held by a depositary on its books for the Euroclear System are credited to a segregated custody account in the name of MGT-Brussels as operator of the Euroclear System. Depositaries receive instructions regarding the movement of Euroclear System securities directly from Euroclear. Euroclear participants do not directly deal with depositaries regarding the settlement of securities transactions within the Euroclear System or the custody of securities. *See* Section III.C *infra*.

[13] Transactions with these counterparts are performed on a book-entry basis in the local clearing system, depositary, or authorized sub-custodian, or on the basis of a physical delivery.

[14] A participant that is an automatic standard borrower is eligible to borrow securities to execute delivery instructions when there are insufficient eligible securities available in its securities clearance accounts to effect a settlement in the overnight securities settlement processing. A participant that is an opportunity standard borrower sends standard borrowing requests to Euroclear on a case-by-case basis according to expected borrowing needs.

A participant that is an automatic standard lender makes securities available to the lending pool during each overnight securities settlement processing. Subsequent to each overnight securities settlement processing, securities borrowed from the lending pool are allocated back to the lenders according to a given set of priorities. If the lendable position from automatic standard lenders for a given issue is expected to be insufficient to meet estimated borrowing demand in the next overnight securities settlement process, opportunity standard lenders may be contacted by Euroclear to make additional securities available for borrowing.

[15] A participant that wishes to reserve securities for future borrowing can do so by submitting a reserved borrowing request to Euroclear. Reserved borrowing differs from standard borrowing in that once a reserve borrower's request matches a lendable supply the lender is committed to lend the securities and the borrower is obligated to borrow them. Reserved borrowing minimizes the risk of settlement failure resulting from an inability to obtain a standard borrowing in the overnight securities settlement process due to a lack of supply in the lending pool.

An automatic reserved lender makes securities in its securities clearance accounts available on demand for reserved lending subject to the lender's selected options. When a reserved borrowing request is matched to securities automatically available for reserved lending, a reservation is initiated and the securities are blocked in the reserved lender's securities clearance account from the reservation date to the loan start date. Opportunity reserved lenders are contacted by Euroclear when the supply of lendable securities from automatic reserved lenders is not sufficient to cover reserved borrowing requests in a given issue.

[16] Euroclear does not believe that its traditional business of clearing and settling transactions in foreign and internationally-traded securities comes within the scope of the registration requirements of Section 17A of the Exchange Act and therefore is not seeking exemptive relief with respect to such business. For this purpose, foreign and internationally-traded securities include debt and equity securities issued by foreign private and governmental issuers that trade principally in their home markets and/or internationally, (including foreign domestic debt and equity securities, Yankee bonds, securities issued by international organizations such as the World Bank, American and global depositary shares, and securities denominated or settled in a currency other than U.S. dollars), as well as Euro and globally-distributed debt securities and global depositary shares issued by U.S. issuers in a registered international offering or pursuant to provisions of the Securities Act of 1933 and the rules and regulations thereunder, including Regulation S (17 CFR 230.901), Section 4(2) (15 U.S.C. 77d(2)), Rule 144A (17 CFR 230.144A), or some other exemption (including foreign-targeted U.S. Government and agency securities). U.S. domestic debt and equity securities are not currently eligible for clearance and settlement in the Euroclear System.

in the Euroclear System are credited to the participants' securities clearance accounts or transit accounts. Euroclear System participants have the option to request the segregation of their own and client securities in separate securities clearance accounts.

Securities in the Euroclear System are held in fungible bulk. Under Belgian law and pursuant to the terms and conditions, each participant is entitled to a notional portion, represented by the amounts credited to its securities clearance account(s) and transit account(s), of the pool of securities of the same type held in the Euroclear System.

D. Banking Services

MGT–Brussels provides certain banking services to Euroclear participants, acting in its separate banking capacity and not as operator of the Euroclear System. Banking services provided include: provision of credit to Euroclear System participants, triparty repo [17] and collateral monitoring, and securities lending guarantee.

1. Provision of Credit to Euroclear Participants

MGT–Brussels offers credit facilities to Euroclear participants on an uncommitted basis under limits periodically determined by MGT. Credit decisions are made according to MGT credit guidelines. Credit facilities generally are required to be secured and are normally collateralized by participant assets within the Euroclear System. In order to secure credit, participants affirm to MGT–Brussels that they are not pledging client securities and that no other liens have been granted to third parties on such securities. In a limited number of circumstances, MGT–Brussels may agree to permit pledging of client securities, or the securities of related parties, where the participant's legal and regulatory regime permits, appropriate legal opinions are delivered, and certain other conditions are met.

The valuation of securities held in participants's pledged securities clearance accounts to secure credit extensions from MGT–Brussles is derived from the market value of the securities pledged, adjusted according to the type of instrument, currency, the rating of the issue, the issuer, and the country of the issuer. For debt securities, accrued interest is added to market value for the purpose of calculating collateral value.

2. Triparty Repo and Collateral Monitoring

MGT–Brussels also offers monitoring services whereby participants can use the Euroclear System to facilitate repo settlement/collateral posting, substitution of securities, and margin monitoring.

3. Securities Lending Guarantee

As part of the Euroclear securities lending and borrowing program, MGT guarantees securities lenders the return of securities lent or the cash equivalent if the borrower defaults on its obligation to return such securities.

E. Liens, Rights, and Obligations

In addition to any pledge of specific accounts agreed to by a participant due to extensions of credit, all assets held in the Euroclear System are subject to rights of set-off and retention. Furthermore, participants's assets held in the Euroclear System (except for assets held for customers and identified as such pursuant to the Operating Procedures or by agreement with Euroclear) are subject to a statutory lien in favor of MGT–Brussels, as operator of the Euroclear System, pursuant to Belgian law.[18] Participants also are subject to certain obligations toward Euroclear including obligations to cover any cash or securities debit balances that participants may incur.

IV. Euroclear's Request for Exemption

A. Introduction

U.S. government and agency securities are the securities of choice for cross-border collateral and other transactions. Euroclear does not currently provide participants with the means to acquire, hold, transfer, or pledge interests in U.S. government or agency securities in the Euroclear System. In its exemption request, Euroclear therefore seeks an exemption from registration as a clearing agency pursuant to Section 17A of the Exchange Act and Rule 17Ab2–1 thereunder to the extent it performs the functions of a clearing agency with respect to U.S. government and agency securities for U.S. participants of the Euroclear System.

Section 17A of the Exchange Act directs the Commission to promote Congressional objectives to facilitate the development of a national clearance and settlement system for securities transactions.[19] Registration of clearing agencies is a key element of the regulation of clearing agencies in promoting these statutory objectives. Before granting registration to a clearing agency, Section 17A(b)(3) of the Exchange Act requires that the Commission make a number of determinations with respect to the clearing agency's organization, capacity, and rules.[20] The Commission has published the standards applied by its Division of Market Regulation in evaluating applications for clearing agency registration.[21] These requirements are designed to assure the safety and soundness of the clearance and settlement system.

Section 17A(b)(1), moreover, provides that the Commission:

* * *may conditionally or unconditionally exempt any clearing agency

[17] A triparty repo arrangement generally consists of three parties, the borrower, the lender, and a collateral agent (*i.e.*, MGT–Brussels). In this arrangement, the borrower initiates a repo by ''selling'' securities to the lender in exchange for cash from the lender. Simultaneously with this transaction, the borrower agrees to repurchase these securities at a specified future date. The collateral agent maintains custody of the securities for the duration of the repo and handles all operation aspects of the transaction including distribution of income, substitutions, and mark to market securities valuations.

[18] Article 41 of the Belgian Law of April 6, 1995.

[19] 15 U.S.C. 78q–1. Section 17A(a)(1) provides:

(1) The Congress finds that—

(A) The prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.

(B) Inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.

(C) New data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.

(D) The linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors. For legislative history concerning Section 17A, *See, e.g.*, Report of Senate Comm. on Housing and Urban Affairs, Securities Acts Amendments of 1975: Report to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 4 (1975); Conference Comm. Report to Accompany S. 249, Joint Explanatory Statement of Comm. of Conference, H.R. Rep. No. 229, 94th Cong., 1st Sess., 102 (1975).

[20] 15 U.S.C 78q–1(b)(3). *See also* Section 19 of the Exchange Act, 15 U.S.C. 78s, and Rule 19b–4, 17 CFR 240.19b–4, setting forth procedural requirements for registration and continuing Commission oversight of clearing agencies and other self-regulatory organizations.

[21] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (''Standards Release''). *See also*, Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (omnibus order granting registration as clearing agencies to The Depository Trust Company, Stock Clearing Corporation of Philadelphia, Midwest Securities Trust Company, The Options Clearing Corporation, Midwest Clearing Corporation, Pacific Securities Depository, National Securities Clearing Corporation, and Philadelphia Depository Trust Company).

or security or any class of clearing agencies or securities from any provisions of [Section 17A] or the rules or regulations thereunder, if the Commission finds that such exemption is consistent with the public interest, the protection of investors, and the purposes of [Section 17A], including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.[22]

The Commission reviews every application for exemption against the standards for clearing agency registration.

Euroclear notes that the Commission previously has granted exemptions from clearing agency registration, subject to certain volume limits, reporting requirements, and other conditions, to the Clearing Corporation for Options and Securities (''CCOS'') and to Cedel.[23] The Commission also has published notice of an application by Cedel to amend its exemption from registration as a clearing agency to the extent it performs the functions of a clearing agency for U.S. domestic debt and equity securities.[24]

Euroclear believes that providing it with an exemption from clearing agency registration would produce substantial benefits to its participants, would provide U.S. investors and the U.S. national clearance and settlement system with the same level of protection against custody, clearance, and settlement risks that full registration would provide, and would otherwise satisfy the statutory requirements for an exemption.

B. Participant Benefits

Euroclear believes that the proposed exemption would promote the U.S. public interest by reducing risk to credit providers and by reducing costs to credit seekers. Euroclear believes that it is currently too costly for many international credit providers and credit seekers to use U.S. government or agency securities to reduce credit and liquidity risks in a number of international transactions.[25] As a result, credit providers currently receive lower quality collateral or remain unsecured and are subject to a higher level of credit or liquidity risks in many international transactions. Credit seekers are subject to higher credit costs and lower credit limits than they would be if they used U.S. government or agency securities as collateral.

Euroclear believes that if international credit providers suffer substantial losses or fail because of this condition, it could have repercussive effects in the United States because of the growing interdependency among the world's financial markets. Euroclear further believes that credit seekers from the United States also could face higher credit costs and lower credit limits at home and abroad because of the growing interdependency in worldwide financial markets.

Euroclear believes that allowing its system to provide clearance and settlement services for interests in U.S. government and agency securities to U.S. entities would reduce these transaction costs and therefore would reduce the costs and risks of international financial transactions.

Euroclear also believes that the proposed exemption would promote the U.S. public interest by increasing competition in the provision of clearance and settlement services for U.S. government and agency securities. Euroclear maintains that greater competition can be expected to result in lower costs and greater innovation by both U.S. and international clearing agencies.

C. Formal Registration Unnecessary or Inappropriate

Euroclear believes that formal registration would subject it to substantial additional regulatory burdens without producing any material benefits for the U.S. public related to the fundamental goal of safe and sound custody, clearance, and settlement.[26] Euroclear further believes that it would be a substantial and unnecessary burden to require it to regulate the actions of U.S. brokers and dealers, which it believes are already adequately regulated by the U.S. national securities exchanges, the NASD, and the Commission itself. Euroclear also believes that it would not have any market power over the custody, clearance, or settlement of U.S. government or agency securities and in fact would operate in a highly competitive, private sector environment. Finally, Euroclear believes that the recordkeeping, fingerprinting, and other requirements of Section 17 are effectively satisfied by the substantially similar recordkeeping, reporting, and other requirements of U.S. Federal, New York State, and Belgian banking laws.[27]

D. Safety and Soundness Protections

Sections 17A(b) (3) (A) and (F) of the Exchange Act require a clearing agency be organized and its rules be designed to facilitate the prompt and accurate clearance and settlement of securities transactions for which it is responsible and to safeguard securities and funds in its custody or control or for which it is responsible.[28]

Euroclear has represented to the Commission that its financial condition, operational safeguards, and the extent to which it is already subject to substantial U.S. regulatory oversight will provide U.S. investors and the U.S. national clearance and settlement system with the same level of protection against custody, clearance, and settlement risks that full registration would provide.

1. Financial Condition

Euroclear has advised that Commission that MGT, which ultimately is the entity fiscally responsible for operations of the Euroclear System, is a U.S. bank that it is ''well-capitalized'' and ''well-managed'' as those terms are defined under applicable U.S. Federal banking

[22] 15 U.S.C. 78q–1(b)(1).

[23] Securities Exchange Act Release Nos. 36573 (December 12, 1995), 60 FR 65076 (CCOS) and 38328 (February 24, 1997), 62 FR 9225 (Cedel). The Commission also has granted temporary registration and partial exemptions from certain provisions of Section 17A to the Government Securities Clearing Corporation (''GSCC''), Participants Trust Company (''PTC''), MBS Clearing Corporation (''MBSCC''), Delta Clearing Corp. (''Delta''), and the International Securities Clearing Corporation (''ISCC''). Securities Exchange Act Release Nos. 37983 (November 25, 1996), 61 FR 64183 (GSCC); 38452 (March 28, 1997), 62 FR 16638 (PTC); 37372 (June 26, 1996), 61 FR 35281 (MBSCC); 38224 (January 31, 1997), 62 FR 5869 (Delta); and 37986 (November 25, 1996), 61 FR 64184 (ISCC). In granting these temporary registrations it was expected that the subject clearing agencies would eventually apply for permanent clearing agency registration.

[24] Securities Exchange Act Release No. 38329 (February 24, 1997), 62 FR 9222.

[25] Euroclear has advised the Commission in its Form CA–1 that time zone differences between where a transaction occurs for which credit support is required and the U.S. (*i.e.,* where transactions in U.S. government securities are settled) make it too costly to synchronize transactions in a way to utilize U.S. government securities to collateralize transactions that give rise to credit or liquidity risks. Furthermore, Euroclear believes that the lack of a securities intermediary with a critical mass of both securities and customers makes it too costly to have U.S. government securities in the right place at the right time to reduce such credit and liquidity risks.

[26] For example, registered clearing agencies are required to assume the rights and responsibilities of a self-regulatory organization (''SRO''), including the responsibility to police the actions of U.S. brokers, dealers, and other securities intermediaries, and to submit each of its proposed rule changes to the Commission. Euroclear believes that the rights and responsibilities of an SRO were designed primarily for U.S. national securities exchanges, like the New York Stock Exchange and the American Stock Exchange, and U.S. national securities associations, like the National Association of Securities Dealers (''NASD''), and were extended to registered clearing agencies mainly because the major clearing agencies at the time Section 17A was enacted were subsidiaries of national securities exchanges or other SROs.

[27] *See e.g.,* 12 CFR Part 208 (Membership of State Banking Institutions in the Federal Reserve System [Regulation H]).

[28] 15 U.S.C. 78q–1(b) (3) (A) and (F).

regulations.[29] MGT has represented to the Commission that it has over $13.5 billion in total capital and a total capital ratio of more than 11 percent[30] and access to billions of dollars of additional liquidity in the capital markets. Its senior debt is rated AAA by Standard & Poor's[31] and its long-term debt is rated Aa–1 by Moody's Investors Services.[32]

Euroclear states that the financial condition of each of the securities intermediaries through which it would hold its positions in U.S. government and agency securities on behalf of Euroclear participants is similarly strong. It would hold its positions through an adequately-capitalized and well-managed U.S. bank, which would in turn hold matching positions through the Federal Reserve Bank of New York or PTC.

2. Operational Safeguards

Euroclear believes that it has substantially similar subcustodian, recordkeeping, and auditing policies and procedures as those utilized by registered clearing agencies. MGT-Brussels is subject to annual on-site examinations by the Federal Reserve Bank of New York and to periodic examinations by the New York State Banking Department and the Belgian Banking and Finance Commission. Euroclear also represents to the Commission that it has a leading-edge information technology division and sophisticated contingency recovery facilities and maintains substantial insurance against the loss or theft of physical securities.

3. U.S. Federal and Other Regulatory Oversight

MGT-Brussels, as operator of the Euroclear System, is a division of the foreign branch of a U.S. bank and, accordingly, is subject to the comprehensive supervision and regulation of the Board of Governors of the Federal Reserve System. As noted above, the Federal Reserve Bank of New York conducts annual on-site examinations in Brussels and otherwise regulates MGT-Brussels' operations, including its operation of the Euroclear System. MGT-Brussels, also is subject to the comprehensive supervision of the New York State Banking Department and the Belgian Banking and Finance Commission and is authorized as a Service Company by the Securities and Investment Board under the U.K. Financial Services Act, 1986.

E. Fair Representation

Section 17A(b)(3)(C) of the Exchange Act requires that the rules of a clearing agency provide for fair representation of the clearing agency's shareholders or members and participants in the selection of the clearing agency's directors and administration of the clearing agency's affairs. This section contemplates that users of a clearing agency have a significant voice in the direction of the affairs of the clearing agency.

Although Euroclear participants do not have the right to appoint MGT directors or members of the Euroclear management, they all have the right to become members of the Belgian Cooperative and can use such membership to influence the range of Euroclear services and the level of fees charged to them by Euroclear. The Board of Directors of the Belgian Cooperative consists of 23 voting members, nominated from Euroclear participant organizations representing various financial sectors and geographical regions. Euroclear's goal was to fashion a Board with a cross-functional composition in order to ensure that important strategic and policy issues are viewed with a broad market perspective. The Board meets four times a year with Euroclear management to discuss major policy and operational issues regarding the Euroclear System, including new product development and the level of fees. Moreover, Euroclear believes that its participants are some of the world's leading banks, brokers, central banks, and other professional investors who are able to analyze the risks and benefits of clearing and settling transactions in the Euroclear System and to choose competitive substitutes for settling transactions in U.S. government or agency securities if they are not satisfied with the mix of risks and benefits in the Euroclear System.

F. Participant Standards

Section 17A(b)(3)(B) of the Exchange Act enumerates certain categories of persons that a clearing agency's rules must authorize as potentially eligible for access to clearing agency membership and services. Section 17A(b)(4)(B) of the Exchange Act contemplates that a registered clearing agency have financial responsibility, operational capability, experience, and competency standards that are used to accept, deny, or condition participation of any participant or any category of participants enumerated in Section 17A(b)(3)(B), but that these criteria may not be used to unfairly discriminate among participants. In addition, the Exchange Act recognizes that a clearing agency may discriminate among persons in the admission to or the use of the clearing agency if such discrimination is based on standards of financial responsibility, operational capability, experience, and competence.

Any broker-dealer, clearing agency, investment company, bank, insurance company, or other professional investor that demonstrates it meets Euroclear's financial and operational criteria may become a Euroclear System participant. They must demonstrate that they have adequate financial resources for their intended use of the Euroclear System and the ability to maintain this financial strength on an ongoing basis. They also must demonstrate that they have both the personnel and technological infrastructure to meet the operational requirements of the Euroclear System. Furthermore, they must show that they expect to derive material benefit from direct access to Euroclear and that they are reputable firms.

V. Proposed Exemption

A. Statutory Standards

As noted above, Section 17A of the Exchange Act directs the Commission to develop a national clearance and settlement system through, among other things, the registration and regulation of clearing agencies.[33] In fostering the development of a national clearance and settlement system generally and in overseeing clearing agencies in particular, Section 17A authorizes and directs the Commission to promote and facilitate certain goals with due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and the maintenance of fair competition among brokers, dealers, clearing agencies, and transfer agents.

Section 17A(b)(1) authorizes the Commission to exempt applicants from some or all of the requirements of Section 17A if it finds such exemptions are consistent with the public interest, the protection of investors, and the purposes of Section 17A, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds. The Commission has exercised its

[29] 12 CFR 208.33(b)(1) (definition of ''well-capitalized'') and 12 CFR 225.2(s) (definition of ''well-managed''). *See also* 12 CFR 211.2(u) (definition of ''strongly capitalized'') and (x) (definition of ''well managed'').

[30] 12 CFR Part 208, Appendix A (defining total capital as the sum of ''tier 1'' and ''tier 2'' capital and total capital ratio as total capital divided by total risk-weighted assets).

[31] Standard & Poor's, ''Morgan (J.P.) & Company Inc.,'' *Bank Ratings Analysis,* April 1997, at 1.

[32] Moody's Investor Service, ''Opinion Update: Morgan Guaranty Trust Company of New York,'' *Global Credit Research,* February 7, 1997, at 2.

[33] 15 U.S.C. 78q–1.

authority to exempt an applicant entirely from clearing agency registration on two prior occasions and has granted temporary clearing agency registrations that included exemptions from specific Section 17A statutory requirements on five previous occasions.[34]

As discussed above, applicants requesting exemption from clearing agency registration are required to meet standards substantially similar to those required of registrants under Section 17A in order to assure that the fundamental goals of Section 17A (*e.g.*, safe and sound clearance and settlement) are furthered. Therefore, the Commission invites commenters to address whether granting MGT-Brussels' application, as operator of the Euroclear System, for exemption from clearing agency registration, subject to the conditions set forth below, would further the goals of Section 17A.

B. Conditions

The Commission would expect to impose two types of conditions on the operation of the Euroclear System in conjunction with the grant of any exemption from clearing agency registration: limits on the volume of transactions in U.S. government and agency securities [35] involving a U.S. participant or its affiliate; [36] and informational requirements that will allow the Commission to monitor and control any possible adverse impact that the proposed activities of the Euroclear System could have on the safety and soundness of the U.S. national system for the clearance and settlement of eligible U.S. government securities.

1. Volume Limits

In granting Cedel and CCOS exemptions from clearing agency registration, the Commission placed a limit on the transactions in eligible U.S. government securities conducted by U.S. participants or their affiliates that can be processed through those systems.[37] Euroclear similarly proposes to limit the average daily volume of transactions in U.S. government or agency securities involving U.S. participants [38] or their affiliates that are settled through the Euroclear System to five percent of the average daily volume of total worldwide transactions in U.S. government and agency securities. Although Euroclear has proposed this volume limit, it has requested that due to its relatively strong capital position, its operational safeguards, and its comprehensive regulation by U.S. Federal and state authorities, this volume limit be transitional in nature. Accordingly, Euroclear also requests that the Director of the Division be granted delegated authority from the Commission to increase or eliminate the volume limit if the Division deems such action appropriate.

The Commission preliminarily believes the proposed volume limit appears to be appropriate in that it is large enough to allow Euroclear to commence operations in clearing and settling eligible U.S. Government securities transactions involving U.S. participants and to allow the Commission to observe the effects of the Euroclear System's activities on the U.S. securities market. Likewise, the Commission preliminarily believes that the proposed volume limit is sufficiently narrow in scope so that the safety and soundness of the U.S. markets would not be compromised if Euroclear or MGT experiences financial or operational difficulties.

2. Informational Requirements

To facilitate the monitoring of compliance with the proposed volume limits under the proposed exemption, Euroclear would be required to provide information on a monthly basis regarding aggregate volume for all Euroclear System participants for transactions in eligible U.S. Government securities. Euroclear also would be required to notify the Commission if there is a material adverse change in any Euroclear System account maintained by MGT-Brussels for Euroclear System participants that also are members of affiliates of members of a U.S. registered clearing agency.[39] Euroclear also would be required to respond to any Commission request for information about a U.S. participant or its affiliate about whom the Commission has concerns.

Euroclear specifically has agreed to promptly provide the Division with the following documents when made available to Euroclear System participants:

(1) Any amendments to or revised editions of (a) the Terms and Conditions, (b) the Supplementary Terms and Conditions Governing the Lending and Borrowing of Securities through Euroclear, and (c) the Operating Procedures of the Euroclear System;

(2) The annual report to shareholders of the Belgian Cooperative; and

[34] *Supra* note 23 and accompanying text.

[35] The Commission proposes that the U.S. government and agency securities eligible for Euroclear processing will be the same as those securities permitted to be processed by Cedel. Accordingly, eligible securities will include (i) Fedwire-eligible U.S. government securities, (ii) mortgage backed pass-through securities that are guaranteed by the Government National Mortgage Association (''GNMAs''), and (iii) any collateralized mortgage obligation whose underlying securities are Fedwire-eligible U.S. government securities or GNMA guaranteed mortgage-backed pass through securities and which are depository eligible securities (collectively, ''eligible U.S. government securities''). The Commission is of the view that this definition should not include those U.S. government or agency securities currently processed by Euroclear that are foreign targeted securities and/or guaranteed by an international organization.

[36] The Commission is proposing that ''U.S. entity'' should include (i) any entity organized under the laws of the United States or any state or subdivision thereof that is registered or regulated pursuant to state or federal banking laws or state or federal securities laws and should include, without limitation, U.S. registered broker-dealers, U.S. banks (as defined by Section 3(a)(6) of the Exchange Act), and (ii) foreign branches of U.S. banks or U.S. registered broker-dealers.

Additionally, the Commission is proposing that the term ''affiliate'' should be defined as any Euroclear System participant having a relationship with a U.S. entity where the U.S. entity has an arrangement on file at Euroclear to prevent a settlement default or credit default with respect to the Euroclear System participant or where Euroclear knows that the U.S. entity has an arrangement to prevent a settlement default or credit default with respect to the Euroclear System participant.

[37] The CCOS exemptive order contained volume limitations of US$6 billion net daily settlement for U.S. government securities and US$24 billion for repurchase agreements and reverse repurchase agreements transactions in U.S. government securities. These limits are calculated on an average daily basis over a ninety day period. At that time, the CCOS volume limits were designed to limit CCOS's activity to approximately five percent of the average daily dollar value of transactions in U.S. government securities and in repurchase agreements and reverse repurchase agreements involving U.S. government securities. In the Cedel exemptive order, the Commission determined that a percentage-based formula was more appropriate. Accordingly, Cedel may not process more than 5% of the total average daily value of the aggregate volume in eligible U.S. government securities. The total average daily dollar value of eligible U.S. government securities volume is derived from the total daily value of securities activity through Fedwire, GSCC, MBSCC, PTC, and any other source that the Division deems appropriate to reflect the aggregate volume in eligible U.S. government securities. Cedel's average daily volume is derived from the value of eligible U.S. government securities that are processed through Cedel involving a U.S. counterparty or its affiliate. Based upon December 31, 1996, information, this computation yields an average daily volume limit of approximately US$49 billion.

[38] For this purpose Euroclear proposes that ''U.S. participant'' would mean any participant of the Euroclear System having a U.S. residence (based on location of its executive office or principal place of business), including any foreign branch of such participant.

[39] For purposes of the exemption, the Commission preliminarily believes that the term ''material adverse change'' would include defaults in settlement for credit reasons in a Euroclear System account, liquidation of collateral posted by a participant in that participant's Euroclear System account, or the limitation on the extensions of credit to a participant through the Euroclear System.

(3) The annual report on the internal controls, policies and procedures of the Euroclear System (''SAS–70 Report'').[40]

Euroclear also has agreed to provide the Division with prompt notice upon the occurrence of any of the following events;

(1) The termination of any Euroclear System participant;

(2) The liquidation of any securities collateral pledged by a participant to secure an extension of credit made through the Euroclear System;

(3) The institution of any proceedings to have any Euroclear System participant declared insolvent or bankrupt; or

(4) The disruption or failure in the operations of the Euroclear System in whole or in part from its regular operating location or its contingency center.

Finally, Euroclear also has agreed to provide the Commission with quarterly reports, calculated on a twelve-month rolling basis, of the following:

(1) The average daily volume of transactions in eligible U.S. Government securities for U.S. participants and their affiliates that are subject to the volume limit described in IV.B.1 above; and

(2) The average daily volume of transactions in eligible U.S. Government securities for all participants, whether or not subject to the volume limit described in Section IV.B.1 above.

The Commission seeks comment on these proposed volume limits and the informational requirements. Specifically, commenters are requested to address the structure and the appropriate size of such limits. Commenters also are requested to address the types of information which should be provided to the Commission to help maintain the safety and soundness of the U.S. clearance and settlement systems and the U.S. securities markets. Finally, commenters are invited to comment on the specific information that Euroclear has agreed to provide to the Commission and on the occurrence of events for which Euroclear must notify the Commission.

C. Fair Competition

Section 17A of the Exchange Act requires the Commission, in exercising its authority under that section, to have due regard for the maintenance of fair competition among clearing agencies.[41] Therefore, the Commission must consider an applicant's likely effect on competition and on the U.S. securities markets in its review of any application for registration or exemption from registration as a clearing agency.

Consistent with this approach, the Commission invites commenters to address whether granting Euroclear an exemption from registration would result in increased competition, including greater access to the U.S. securities market by foreign broker-dealers, banks, and clearing agencies. Such competition may result in the development of improved systems capabilities, new services, and perhaps lower costs to market participants. The Commission also invites commenters to address whether the proposal would impose any burden on competition that is inappropriate under the Exchange Act.

VI. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application by June 16, 1997. Such written data, views, and arguments will be considered by the Commission in deciding whether to grant Euroclear's request for exemption from registration. Persons desiring to make written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. 601–01. Copies of the application and all written comments will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[42]

Margaret H. McFarland,

Deputy Secretary.

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[40] In addition, the Division will review the annual reports on Form 10–K and the quarterly reports on Form 10–Q for J.P. Morgan & Co. Incorporated, MGT's parent, which are already provided to the Commission.

[41] 15 U.S.C. 78q–1(a)(2).

[42] 17 CFR 200.30–3(a)(16).

SECURITIES AND EXCHANGES COMMISSION

[Release No. 34–38585; File No. SR–NASD–97–05]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Transfer of Limited Partnership Securities

May 8, 1997.

I. Introduction

On January 29, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to expand the current exemptions concerning the use of the Limited Partnership Transfer Forms and to require that these forms be utilized by members when transferring customer accounts containing limited partnership securities.

The proposed rule change was published for comment in the **Federal Register** on March 24, 1997.[3] No comments were received on the proposal. This order approves the proposal.

II. Description

On January 29, 1996, the Commission approved new NASD Rule 11580 to the NASD's Uniform Practice Code.[4] It requires members to use the Standardized Transfer Forms (''Forms'') when transferring limited partnership securities. NASD Regulation is proposing two amendments related to the use of the Forms. The first is an amendment to NASD Rule 11580 to expand the current exceptions to include limited partnerships that trade in the non-Nasdaq over-the-counter (''OTC'') market that are in a depository. The second is an amendment to NASD Rule 11870 to require members to use the Standardized Transfer Forms when transferring customer accounts that contain limited partnerships.

A. Amendment to NASD Rule 11580

Limited partnership securities that are listed on an national securities exchange or the Nasdaq Stock Market are not required to use the Forms. NASD

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 38398 (Mar. 13, 1997), 62 FR 13921 (Mar. 24, 1997).

[4] Securities Exchange Act Release No. 36783 (Jan. 29, 1996), 61 FR 3955 (Feb. 2, 1996).

Regulation is proposing to broaden this exception to cover those limited partnership securities that are quoted on the OTC Bulletin Board that trade with such frequency that use of the Forms would not be appropriate. To qualify for this exemption, the limited partnership securities must be in a depository and must settle regular way.[5] The Association believes these criteria identify that group of non-Nasdaq OTC limited partnership securities that would not benefit from using the Standardized Transfer Forms. The Forms were specifically adopted to address problems associated with the settlement of limited partnership interests that are generally liquid and where the transfer requirements contained in the General Partnership Agreement vary widely as to the type of information and documents necessary for a valid transfer of a interest.

B. Amendment to Rule NASD 11870

Since the adoption of NASD Rule 11580, members have inquired as to whether the Forms can be used to accomplish account transfers under NASD Rule 11870. In order to clarify this issue, NASD Regulation is proposing to amend Rule 11870 to provide that, in the case of limited partnership securities, members must use the Standardized Transfer Forms unless exempted by that rule.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association and, in particular, with the requirements of Section 15A.[6] Specifically, the Commission believes the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[7] because it is designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities and, in general, to protect investors and the public interest.[8]

Historically, limited partnership securities were not structured to be transferred freely in secondary market transactions, unless the issuer listed the securities on an exchange or qualified them for inclusion on Nasdaq. OTC markets now exist, however, for many limited partnership securities, and trading volumes reportedly have increased. As a result, quick, and accurate processing of the transfer of limited partnership securities has become more critical. To help address this situation, the NASD, after consulting the Investment Program Association[9] and various transfer agents, developed a set of standardized transfer forms for these securities and required that members use them in lieu of their own in-house forms.[10] The use and recognition of standardized forms should bring greater consistency and certainty in transactions involving limited partnership securities. In addition, the use of the Forms should significantly reduce the time and effort required by member firms to process the transfer of limited partnership securities. The Commission believes the proposed amendments to NASD Rule 11580 and NASD Rule 11870 further promote these benefits.

A. Amendment to Rule 11580

The Commission believes it is appropriate to expand the exemption currently contained in Rule 11580(a) to include non-Nasdaq OTC limited partnership securities that are physically present in a depository and settle regular way. The use of the Standardized Transfer Forms facilitates the transfer process. Nevertheless, the Forms need to meet the legitimate needs of issuers and transfer agents to be effective. In this regard, the Commission believes it is appropriate to exempt the OTC limited partnership securities identified by the NASD from utilizing the Forms. The criteria chosen by the Association are reasonable choices to identify that group of non-Nasdaq OTC limited partnerships that trade with such frequency that use of the Forms would not improve the transfer process. Indeed, it is possible that mandating that members utilize the Forms for these limited partnership securities could disrupt currently existing processes that are functioning efficiently.

B. Amendment to Rule 11870

The Commission believes it is appropriate to require members to utilize the Forms when transferring a customer's account. Limited partnership securities generally are not held in the beneficial owner's name. Rather, the beneficial owner's broker-dealer is listed on the partnership's books as the owner. As a result, broker-dealers must transfer ''ownership'' of the limited partnership securities whenever a customer whose account contains these securities decides to transfer that account to a different broker-dealer. This requires the customer's current broker-dealer to submit the appropriate paperwork to the general partner to transfer ''ownership'' of the securities to that customer's new broker-dealer. Although this transfer does not involve a sale of the securities, the process and paperwork is essentially the same. Therefore, many of the same efficiencies associated with the use of the Forms in connection with the sale of a limited partnership security can be realized when a broker-dealer is transferring a customer's account that contains these securities.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–97–05) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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[5] The securities must be physically present in a depository to qualify for this exception. Simply being ''eligible for deposit'' in a depository is not enough.

[6] 15 U.S.C. 78o–3.

[7] 15 U.S.C. 78o–3(b)(6).

[8] In approving this rule, the Commission notes that it has considered the proposal's impact on efficiency, competition, and capital formation, consistent with Section 3 of the Act. 15 U.S.C. 78c(f).

[9] The Investment Program Association is a trade organization for the partnership industry.

[10] Use of the standardized forms became mandatory for NASD members on May 15, 1996.

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38591; File No. SR–NASD–96–46]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by NASD Regulation, Inc. Relating to the Submission of Information in Electronic Form

May 9, 1997.

I. Introduction

On March 17, 1997,[1] the National Association of Securities Dealers Regulation, Inc. (''NASDR'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

[1] On December 17, 1996, the NASDR filed the proposed rule change with the Commission. However, Amendment No. 1, which modified the rule language, replaced the original rule filing. *See* Amendment No. 1, from Joan C. Conley, Secretary, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated March 17, 1997.

(''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to amend Rule 8210 of the Procedural Rules of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') to request that members provide regulatory information in electronic form and to establish electronic submission programs for regularly filed regulatory information. A notice of the proposed rule change appeared in the **Federal Register** on April 8, 1997.[4] The Commission received no comment letters concerning the proposed rule change. The Commission is approving the proposed rule change.

The proposed rule change addresses an NASDR rule that requires members to maintain records of compliance so that information will be available to NASDR staff for on-site examination. Rule 8210 of the Association's Conduct Rules (formerly, Article IV, Section 5 of the Rules of Fair Practice) requires members to respond to any NASD request for information for the purpose of any investigation or determination as to the filing of a complaint or any hearing of a complaint and to submit such information ''orally or in writing.'' This provision covers the Association's request for investigatory information in the context of an individual examination or investigation of a member firm and also covers the Association's programs for the receipt of regular reports from members.

II. Description of the Proposal

The Association believes that the current provision of Rule 8210 that permits the Association to request that a member or a person associated with a member report ''in writing'' covers information stored by a member in the form of electronic media, as the electronic format merely retains the written record. Thus, NASDR is proposing to amend Rule 8210 to provide specifically that a member may be required to submit a report in electronic form where the member maintains the information in that manner. The proposed rule change would amend subparagraph (a)(1) to require ''* * * any member of the Association, person associated with a member, or person no longer associated with a member when such person is subject to the Association's jurisdiction to report, either informally or on the record, orally or in writing *or electronically (if the requested information is maintained in electronic form)* with regard to any matter involved in any such investigation or hearing * * *'' and would amend subparagraph (b) to insert the word ''electronic'' in the provision regarding the receipt of any notice requiring a report (emphasis provided).

The NASDR has also worked with the membership over many years to develop procedures for the electronic submission of periodic reports or other frequently requested investigatory data that would otherwise be submitted in written form in order to better fulfill its regulatory responsibilities under the federal securities laws. Programs for electronic submissions have already been established for filing of members' FOCUS Reports, Blue Sheet Reports, Short Interest Reports, Form U–4 and U–5 with the Central Registration Depository (''CRD'').[5] The Association is, therefore, proposing to amend rule 8210 to add new paragraph (c) to provide general authority for the Association to establish programs for the submission of information on a regular basis through direct or indirect electronic interface between the Association and members, upon approval by the Commission.

III. Discussion

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder.[6] Specifically, the Commission believes that approval of the proposed rule change is consistent with Sections 15A(b)(6)[7] and 15A(b)(7)[8] of the Act. Consistent with Section 15A(b)(6), the proposal should improve NADSAD's ability to monitor its members' compliance with its rules, those of the Commission and of the MSRB, thus possibly detecting fraudulent and manipulative acts and practices before they seriously harm investors and the public interest. Consistent with Section 15A(b)(7), the speed of receipt of information should enable the NASDAR to detect violations rapidly and discipline accordingly.

The proliferation of securities transactions and attendant increase in volume has increased the need for rapid computer-based (''electronic'') technology. According to the NASDR, most of its members currently maintain their trading records in electronic, rather than hard copy form. Surveys conducted by the Association indicate that most members store their primary trading records in some from of electronic storage media.[9] To the extent that members stores their important trading records in electronic storage media, the Commission agrees that allowing Association members to electronically disseminate this information in response to inquiries will both increase examination efficiency and eliminate costs associated with providing electronically maintained information to examine in hard copy form.

As the Association continue to increase services to its membership and enhance its ability to surviel for regulatory compliance through the use of computer-based technology, the Commission agrees that it should establish electronic submission programs for information required to be submitted by members on a regular basis, upon approval by the Commission. Similar programs have been established for which members are currently submitting information electronically.[10] The Commission supports these programs and believers they provide a framework for future programs. The Commission believes that implementing such programs will benefit the Association and its members as any delays associated with paper submission will be decreased and any errors detected can be easily corrected.

IV. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the

[2] 15 U.S.C. 78s(b)(1) (1988).

[3] 17 CFR 240.19b–4 (1995).

[4] Securities Exchange Act Release No. 38468 (April 2, 1997); 62 FR 16884 (April 8, 1997).

[5] The FOCUS Filing Plan was approved in Securities Exchange Act Rel. No. 29105 (April 18, 1991); 56 FR 19131 (April 25, 1991). The Short Interest Reporting requirement was permanently approved in Securities Exchange Act Rel. No. 23482 (July 30, 1986); 51 FR 28472 (Aug. 7, 1986). The Blue Sheet Reporting Plan was approved in Securities Exchange Act Rel. No. 26539 (Feb. 13, 1989); 54 FR 7318 (Feb. 17, 1989). The Central Registration Depository electronic filing requirements were approved, but the revised Forms U–4 and U–5 are not being used at this time. *See* Securities Exchange Act Rel. No. 37439 (July 15, 1996); 61 FR 37950 (July 22, 1996).

[6] In approving the rule, the Commission has considered the proposal's impact on efficiency, competition and capital formation, consistent with Section 3 of the Act. 15 U.S.C. 78c(f) (1996).

[7] Section 15A(b)(6) requires the Commission to determine that a registered national securities association's rules are designated to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

[8] Section 15A(b)(7) requires that the rules of the Association provide that its members and persons associated with its members be appropriately disciplined for violation of the rules of the MSRB or the rules of the Association.

[9] *See, e.g.,* Survey and Analysis Concerning the Redesign of the Short Position Reporting System and the Electronic Submission Mechanism, submitted by Suzanne E. Rothwell, Associate General Counsel, NASD Regulation, Inc., to Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated March 25, 1997.

[10] *See supra* note 5.

provisions of the Act, and in particular with Sections 15A(b)(6) and 15A(b)(7).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–96–46) be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–12748 Filed 5–14–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38593; File No. SR–NASD–97–33]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Rule 2210 of the Conduct Rules

May 9, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 1, 1997, the NASD Regulation Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposal as concerned solely with the administration of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') pursuant to Section 19(b)(3)(A)(ii) of the Act[2] and paragraph (e) of Rule 19b–4[3] thereunder, which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing to amend Rule 2210 of the Conduct Rules of the NASD, by merging into this rule, effective immediately, the provisions contained in Section 8(c)(1) (A) and (B) of the Government Securities Rules, which provisions were deleted on August 20, 1996. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

CONDUCT RULES

2200. COMMUNICATIONS WITH CUSTOMERS AND THE PUBLIC

2210. Communications with the Public

* * * * *

(c) Filing Requirements and Review Procedures

(1) Advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts and unit investment trusts) not included within the requirements of paragraph (c)(2), and public direct participation programs (as defined in Rule 2810), *and advertisements concerning government securities (as defined in Section 3(a)(42) of the Act)* shall be filed with the Association's Advertising/Investment Companies Regulation Department (Department) within 10 days of first use or publication by any member. The member must provide with each filing the actual or anticipated date of first use. Filing in advance of use is recommended. Members are not required to file advertising and sales literature which have previously been filed and which are used without change. Any member filing any investment company advertisement or sales literature pursuant to this paragraph (c) that includes or incorporates rankings or comparisons of the investment company with other investment companies shall include a copy of the ranking or comparison used in the advertisement or sales literature.

(2) Advertisements concerning collateralized mortgage obligations [registered under the Securities Act of 1933], and advertisements and sales literature concerning registered investment companies (including mutual funds, variable contracts and unit investment trusts) that include or incorporate ranking or comparisons of the investment company with other investment companies where the ranking or comparison category is not generally published or is the creation, either directly or indirectly, of the investment company, its underwriter or an affiliate, shall be filed with the Department for review at least 10 days prior to use (or such shorter period as the Department may allow in particular circumstances) for approval and, if changed by the Association, shall be withheld from publication or circulation until any changes specified by the Association have been made or, if expressly disapproved, until the advertisement has been refiled for, and has received, Association approval. The member must provide with each filing the actual or anticipated date of first use. Any member filing any investment company advertisement or sales literature pursuant to this paragraph shall include a copy of the data, ranking or comparison on which the ranking or comparison is based.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) The Government Securities Act Amendments of 1993 (''Government Securities Amendments'') were signed into law on December 13, 1993, and eliminated the statutory limitation on the NASD's authority to regulate the sales practices of exempted securities, including government securities transactions, other than municipals.[4]

In order to implement the expanded sales practice authority granted to the NASD pursuant to the Government Securities Amendments, the NASD filed a rule change on September 15, 1995, to merge the rules which has governed the conduct of members with respect to transactions in government securities (''Government Securities Filing''), where applicable, into the Rules of Fair Practice (''Conduct Rules'') and to make other related changes.[5] Section 8(c)(1) (A) and (B) of the Government Securities Rules, were intended to be merged into the Conduct Rules, but were inadvertently omitted in the Government Securities Filing. This filing is intended to clarify the intent of the Government Securities Filing by merging old Section 8(c)(1) (A) and (B) of the Government Securities Rules into

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[11] 15 U.S.C. 78s(b)(2) (1988).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1)(1988).

[2] 15 U.S.C. § 78s(b)(3)(A)(iii).

[3] 17 CFR 240.19b–4(e) (1991).

[4] The terms ''exempted securities'', ''government securities'' and ''municipal securities'' are defined in Sections 3(a)(12), 3(a)(42) and 2(a)(29) of the Act, respectively.

[5] *See* Securities Exchange Act Release No. 36383 (October 17, 1995), 60 FR 54530 (October 24, 1995) [File No. SR–NASD–95–39].

the Conduct Rules, effective immediately.[6]

Section 8(c)(1)(A) of the Government Securities Rules required members to file for review with the Association's Advertising Department all advertisements concerning government securities (as defined in Section 3(a)(42) of the Act) other than collateralized mortgage obligations (''CMOs'') within 10 days of first use or publication. Section 8(c)(1)(B) of the Government Securities Rules required members to file for review with the Association's Advertising Department all advertisements concerning CMOs at least 10 days prior to use (or such shorter period as the Advertising Department allowed in particular circumstances). Section 8(c)(1)(B) also provided that, if the advertisements were changed or expressly disapproved by the Association, such advertisements would be withheld from publication or circulation until any changes specified by the Association had been made, or in the event of disapproval, until the advertisement had been refiled for, and had received, Association approval.

In order to merge the member obligations that were contained in Section 8(c)(1)(A) of the Government Securities Rules, NASD Regulation proposes inserting a similar provision into Rule 2210(c)(1) of the Conduct Rules. In Order to merge the member obligations that were contained in Section 8(c)(1)(B) of the Government Securities Rules, NASD Regulation proposes deleting the phrase ''registered under the Securities Act of 1933'' in Rule 2210(c)(2) of the Conduct Rules. This deletion would expand member obligations concerning registered CMOs in Rule 2210(c)(2) to all CMOs, which was the broader security product addressed in Section 8(c)(1)(B) of the Government Securities Rules.

NASD Regulation is proposing that the rule change be effective upon filing pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and paragraph (e) of Rule 19b–4[8] thereunder as concerned solely with the administration of the NASD because it is correcting the inadvertent omission of provisions from an earlier rule filing.

(b) NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[9] which requires that the rules of the Association be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest in that the proposed rule change will implement the Association's expanded sales practice authority over exempted securities, except for municipals, by adding certain member obligations concerning the advertising of government securities and CMOs, which were contained in Section 8(c)(1) (A) and (B) of the Government Securities Rules, to Rule 2210 of the Conduct Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective on May 1, 1997, the date of receipt of this filing by the Commission, pursuant to Section 19(b)(3)(A)(iii) of the Act[10] and paragraph (e) of Rule 19b–4[11] thereunder, because it is concerned solely with the administration of the NASD in that it is correcting the inadvertent omission of provisions from an earlier rule filing.

At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change it if appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. NASD–97–33 and should be submitted by June 5, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–12750 Filed 5–14–97; 8:45 am]

BILLING CODE 8010–01–M

[6] *See* Securities Exchange Act Release No. 37588 (August 20, 1996), 61 FR 44100 (August 27, 1996) [File No. SR–NASD–95–39].

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(e).

[9] 15 U.S.C. 78*o*–3(b)(6).

[10] 15 U.S.C. § 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(e).

[12] 15 U.S.C. 78s(b)(3)(A)(iii).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before July 14, 1997.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S.W., Suite 5000, Washington, D.C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''8(a) Electronic Application Pilot''.

Type of Request: New Information Collection.

Form No.: N/A.

Description of Respondents: Small Business Owners or Corporate Officers (Corporations) Interested in Applying for 8(A) Certification.

Annual Responses: 741.

Annual Burden: 37.5.

Comments: Send all comments regarding this information collection to Patricia A. Lefevre, Office Minority Enterprise Development, Small Business Administration, 409 3rd Street, S.W.,

Suite 8000, Washington, D.C. 20416. Phone No.: 202–205–6416.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Dated: May 9. 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–12694 Filed 5–14–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–028]

Agency Information Collection Activities Under OMB Review

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reducation Act, the U.S. Coast Guard announces three Information Collection Requests (ICR) for renewal. These ICRs include: 1. Approval Test Report and Plans for Safety Valves; 2. Financial Responsibility for Water Pollution Vessels; and 3. Recordkeeping of Refuse Discharges from Ships. Before submitting the ICR packages to the Office of Management and Budget (OMB), the U.S. Coast Guard is soliciting comments on specific aspects of the collections as described below.

DATES: Comments must be received on or before July 14, 1997.

ADDRESSES: Comments may be mailed to Commandant (G–SII–2), U.S. Coast Guard Headquarters, Room 6106 (Attn: Barbara Davis), 2100 Second St., SW., Washington, DC 20593–0001, or may be hand deliverd to the same address between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–2326. The comments will become part of this docket and will be available for inspection and copying by appointment at the above address.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, telephone (202) 267–2326.

SUPPLEMENTARY INFORMATION:

Request for Comments

The U.S. Coast Guard encourages interested persons to submit written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this Notice and the specific ICR to which each comment applies, and give reasons for each comment. The U.S. Coast Guard requests that all comments and attachments be submitted in an unbound format no larger than 8½ by 11 inches, suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed post card or envelope.

Interested persons can receive copies of the complete ICR by contacting Ms. Davis where indicated under **ADDRESSES.**

Information Collection Requests

1. Title: Approval Test Report and Plans for Safety Valves.

OMB No.: 2115–0525.

Summary: The collection of information requires manufacturers of safety equipment and materials that are to be installed on vessels, to submit to the Coast Guard, plans, drawings and test reports of the equipment.

Need: Title 46 CFR, Part 162, gives Coast Guard the authority to approve specific types of safety equipment and materials and to ensure that these items meet the minimum levels of safety before this equipment can be installed on vessels.

Respondents: Manufacturer of Safety Valves.

Frequency: On occasion.

Burden Estimate: The estimated burden is 288 hours annually.

2. Title: Financial Responsiblity for Water Pollution Vessels.

OMB No.: 2115–0543.

Summary: The collection of information requires operators of vessels over 300 gross tons to submit to the Coast Guard evidence of their financial responsiblity to meet the maximum amount of liability in case of an oil spill or hazardous substances.

Need: Under 22 U.S.C. 2716 and 42 U.S.C. 9608, the Coast Guard has the authority to ensure that those persons directly subject to these rules are in compliance with the provisions.

Respondents: Operators or Owners of vessels over 300 gross tons.

Frequency: On occasion.

Burden Estimate: The estimated burden is 2,162 hours annually.

3. Title: Recordkeeping of Refuse Discharges from Ships.

OMB No.: 2115–0613.

Summary: The collection of information requires certain U.S. ships and fixed or floating platforms to maintain and record into a refuse record book, the discharge and disposal operations of their generated waste.

Need: 33 CFR 151.55 gives the Coast Guard the authority to prescribe regulations to require certain U.S. ships, fixed or floating platforms, to maintain onboard, documentation of the disposal of their generated waste.

Respondents: Masters or persons-in-charge of U.S. ships, and fixed or floating platforms.

Frequency: On occasion.

Burden: The estimated burden is 526,624 hours annually.

Dated: May 12, 1997.

J.T. Tozzi,

Director of Information and Technology.

[FR Doc. 97–12792 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation, Federal Aviation Administration (DOT/FAA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The FAA is requesting an emergency clearance by June 18, 1997, in accordance with 5 CFR § 1320.13. The following information describes the nature of the information collection and its expected burden.

DATES: Submit any comments to OMB and FAA by July 14, 1997.

SUPPLEMENTARY INFORMATION:

Title: FAA Commercial Tour Overflights Study.

Need: The proposed research is the civilian counterpart of a study, mandated by Public Law 100–91, to determine the most appropriate allocation and uses of airspace for commercial tour overflights on National Parks. The FAA seeks to identify and reduce any problems or adverse impacts associated with commercial tour overflights on national parks. The results of this study will further the FAA's understanding of the issue by including the effects attributable to sound produced by commercial tour overflights. This data is necessary for the FAA to develop a national rule that

evaluates noise impacts of commercial tour overflights on national parks.

Respondents: Individuals (a maximum of 500 visitors at the selected national park.

Frequency: Annually.

Burden: 10 minutes per visitor for a total of 83 burden hours annually.

FOR FURTHER INFORMATION: You may contact: Federal Aviation Administration, Jake A. Plante, PhD, Analysis and Evaluation Branch (AEE–120), 800 Independence Avenue, SW., Washington, DC 20591.

Comments may be submitted to the agency at the address above and to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, Attention FAA Desk Officer, 725 17th Street, NW., Washington, DC 20503.

Issued in Washington, DC on May 9, 1997.

Patricia W. Carter,

Acting Manager, Corporate Information Division, ABC–100.

[FR Doc. 97–12755 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc., Special Committee 186; Automatic Dependent Surveillance—Broadcast (ADS–B)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 186 meeting to be held June 2–6, 1997. The Plenary Session will start at 1:00 p.m. on Monday, June 2, and will continue through Friday, June 6. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Introductory Remarks/ Review of Meeting Agenda; (2) Review and Approval of Minutes of the Previous Meeting; (3) Report of Working Group Activities: a. Working Group 1 (operations Working Group); b. Working Group 2 (Technical Working Group); c. Working Group 3 (CDTI Working Group); (4) Discussion of Enhanced Collision Avoidance Systems, Possible New Working Group to Develop MOPS for Generic Collision Avoidance Logic, Changes to Terms of Reference to Incorporate Generic Collision Avoidance Logic; (5) Review of Draft Near-Term CDTI Design Guidance; (6) Complete the Review of Updates to Section 3 of the Draft ADS–B MASPS; (7) Review of Section 2 of the Draft ADS–B MASPS; (8) Review of Appendixes of the Draft ADS–B MASPS; (9) Other Business; (10) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 9, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–12756 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–13–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 June 16, 1997.

ADDRESS COMMENTS TO: Dockets Unit, Research and Special Programs Administration, Room, 8421 DHM–30, 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 Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 8, 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
11862–N	RSPA–972450 ..	The BOC Group, Murray Hill, NJ.	49 CFR 178.338–11(c)	To authorize the use of a cargo tank in oxygen, refrigerated liquid service that is not equipped with a remotely controlled self closing shut-off valve. (mode 1)
11863–N	RSPA–972451 ..	Carrier Corp. /d/b/a United Technologies, Carrier Syracuse, NY.	49 CFR 173.307(a)(4)	To authorize the manufacture, mark and sale of refrigeration machines containing up to 50 pounds of hazardous materials to be transported as not subject to the regulations. (modes 1, 2, 3)
11864–N	RSPA–972453 ..	Boliden Intertrade, Inc., Atlanta, GA.	49 CFR 173.31(d)(1)(vi)	To authorize the transportation in commerce of tank cars containing the residue of a Class 9 material when the inspection required by 173.31(d)(1)(vi) does not include removing the rupture disk. (mode 2)

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11865–N	RSPA–972452	ACCU Conversion, Inc., City of Industry, CA.	49 CFR 174.67 (i) & (j)	To authorize rail cars containing Class 8 and Division 5.1 material to remain connected during loading and unloading operations without the physical presence of an unloader. (mode 2)
11866–N	RSPA–972454	Sea-Land Service, Inc., Charlotte, NC.	49 CFR 176.905	To authorize transportation in commerce of cars and other motor vehicles, with batteries connected with some fuel in the fuel tank with required ventilation of each hold or compartment of a vessel. (mode 3)
11869–N	RSPA–972456	Driscoll Children's Hospital, Corpus Christi, TX.	49 CFR 172.101 9(a)	To authorize the transportation in commerce of nitric oxide, Division 2.3, with a subsidiary risk of Division 5.1 and Class 8 in aluminum cylinders weighing no more than 11 lbs. for use as part of a emergency medical transport of critically ill newborns and infants care system. (mode 5)
11871–N	RSPA–972457	Biotech Research Laboratories, Rockville, MD.	49 CFR 173.196, 178.609	To authorize the transportation in commerce of infectious clinical samples and various other biological fluids in mechanical freezers. (mode 1)
11872–N	RSPA–972458	Polymet Alloys, Inc., Saginaw, AL.	49 CFR 172.101, B105 & B106.	To authorize the transportation in commerce of water reactive, solid, Division 4.3 in flexible intermediate bulk containers. (modes 1, 2, 3)
11873–N	RSPA–972459	Incendere Inc., West Chester, PA.	49 CFR 172.101, 172.101(8).	To authorize the transportation in commerce of regulated medical waste in plastic bags in non-DOT specifications steel roll-off containers as outer packaging. (mode 1)
11876–N	RSPA–972460	Portland General Electric Co., Rainer, OR.	49 CFR 173.427(b)	To authorize the transportation in commerce of reactor coolant pumps to be transported as DOT 7A Type A package. (mode 1)
11877–N	RSPA–972461	Monsanto Company, St. Louis, MO.	49 CFR 172.302(a)(2), 172.400(a)(2), 172.504(a).	To authorize the transportation in commerce of Class 9 hazardous materials in flexible intermediate bulk containers without required markings or labeling. (modes 1, 2)
11879–N	RSPA–972462	Cardone Industries, Inc., Philadelphia, PA.	49 CFR 100–180	To authorize the manufacture, mark, and sale of certain shock absorbers and struts, containing a Division 2.2 material for transportation in commerce as accumulators, not subject to the Hazardous Materials Regulations. (modes 1, 2, 3, 4, 5)
11880–N	RSPA–972463	International Catalyst Corp., Loydminster, CN.	49 CFR 173.241, 173.242	To authorize the transportation in commerce of Division 4.2 material in modified covered hopper railcars. (mode 2)
11881–N	RSPA–972132	Wampum Hardware Co., New Galilee, PA.	49 CFR 176.168(e)	To authorize the transportation in commerce of explosives classed in Division 1.1, 1.4 and 1.5 on the same vehicle aboard ferry vessel for quarry operations. (mode 3)
11882–N	RSPA–972464	FMC Corporation, Philadelphia, PA.	49 CFR 172.101, 173.244	To authorize the transportation in commerce of non-DOT specification packaging containing small quantities of high purity lithium metal for off-site cleaning. (mode 1)
11883–N	RSPA–972465	Brownie Tank Mfg. Co., Minneapolis, MN.	49 CFR 172.200, 173.242(b), 173.243(b).	To authorize the transportation in commerce of meter provers in assorted sizes with residual amounts of Class 3 hazardous materials. (mode 1)
11884–N	RSPA–972466	Degussa Corp., Ridgefield Park, NJ.	49 CFR 173.243	To authorize the transportation in commerce of tank containers not presently authorized for use in transporting Class 8 material. (mode 1, 2, 3)
11886–N	RSPA–972419	Standard Chlorine of Delaware, Inc., Delaware City, DE.	49 CFR 173.213(c)	To authorize the transportation in commerce of Environmentally Hazardous Substance, Solid, n.o.s., Class 9, in 5M1 bags. (mode 1)

[FR Doc. 97–12703 Filed 5–14–97; 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 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 May 30, 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.

Application No.	Applicant	Renewal of exemption
7657–M	Welker Engineering Co., Sugar Land, TX (See Footnote 1)	7657
7765–M	Carleton Technologies, Inc., Orchard Park, NY (See Footnote 2)	7765
8718–M	Structural Composites Industries, Pomona, CA (See Footnote 3)	8718
11005–M	Pressure Technology, Inc. Hanover, MD (See Footnote 4)	11005
11506–M	OEA, Inc. Denver, CO (See Footnote 5)	11506
11644–M	United States Can Company, Elgin, IL (See Footnote 6)	11644
11785–M	Chilton Products, Chilton, WI (See Footnote 7)	11785
11787–M	Bayer Corp., Pittsburgh, PA (See Footnote 8)	11787
11791–M	The Coleman Co., Inc., Wichita, KS (See Footnote 9)	11791
11799–M	Cryonix, Inc., Rockville, MD (See Footnote 10)	11799
11856–M	Olin Corp., Norwalk, CT (See Footnote 11)	11856
11868–M	United States Enrichment Corporation, Bethesda, MD (See Footnote 12)	11868

(1) To reissue emergency exemption modification to authorize use of non-DOT specification cylinders for shipment of certain chlorofluocarbon gases for analytical testing.

(2) To modify the exemption to provide for an additional non-DOT specification cylinder for use in transporting argon, Division 2.2 material.

(3) To modify the exemption to increase the water capacity from 55 lbs. to 150 lbs. for non-DOT specification fiberglass reinforced plastic cylinders for use in transporting various Division 2.2 material.

(4) To modify the exemption to provide for an additional design non-DOT specification reinforced plastic (FRP) full composite (FC) aluminum cylinders for the transportation of certain compressed gases.

(5) To modify the exemption to eliminate the flattening testing of non-DOT specification cylinders for use as components of automobile vehicle safety systems.

(6) To modify the exemption to provide for additional drawings and alternative burst pressure for non-DOT specification aerosal cans.

(7) To reissue the exemption originally issued on an emergency basis to manufacture, mark and sale DOT-Specification 39 cylinders with a marking deviation to be used for the transportation in commerce of Division 2.1 and 2.2 material authorized for DOT-Specification 39 cylinders.

(8) To modify the exemption originally issued on an emergency basis to authorize the transportation in commerce of Toxic liquid, flammable, organic n.o.s. Division 6.1, PIH, Zone A material in 6HA1 drums that have not been hydrostatic tested to 80 psig.

(9) To modify the exemption to provide for an increase in the water capacity of DOT Specification 2Q nonrefillable inner container for use in transporting Division 2.1 material.

(10) To modify the exemption originally issued on an emergency basis to authorize the transportation in commerce of alternative secondary packaging consisting of heat sealed, plastic sleeve, packed in small quantities with absorbent material to be transported inside commerical freezer, for use in transporting Infectious substances, Division 6.2.

(11)To reissue the exemption originally issued on an emergency basis for transportation of non-DOT specification packagings consisting of satellite fuel and thermal transport systems.

(12) To reissue the exemption originally issued on an emergency basis for the transportation in commerce of uranium hexafluoride cylinders with valves and plugs that contain different alloys.

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 May 8, 1997.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 97–12704 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33392]

Southern Freight Logistics, LLC; Lease and Operation Exemption; Community Reuse Organization of East Tennessee

Southern Freight Logistics, LLC (SFL), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease 7.0 miles of rail line from the Community Reuse Organization of East Tennessee (CROET) between milepost 0.0, at Blair, TN, and milepost 7.0, near Oak Ridge, TN. In addition, SFL will lease 24 spur tracks, totaling approximately 7.5 miles, from CROET.[1]

The transaction was scheduled to be consummated on or after May 2, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33392, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–

[1] SFL d/b/a Southern Freight Railroad will be the operator of the leased rail line.

0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik, LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Decided: May 8, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–12772 Filed 5–14–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub-No. 547X)]

CSX Transportation, Inc.; Abandonment Exemption; in Muskegon County, MI

On April 29, 1997, CSX Transportation, Inc. filed with the Surface Transportation Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a portion of its line of railroad known as the Montague Subdivision, extending from railroad milepost 62.12 at Berry to railroad milepost 72.25 at the end of the track at Montague, including a 3.5-mile industrial lead track at Montague, which traverses U.S. Postal Service Zip Codes 49445, 49461, and 49437, a distance of 13.63 miles, in Muskegon County, MI. The line includes the station of Montague at milepost 72.00.

The line does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 ICC 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued within 90 days (by August 15, 1997).

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 and any request for trail use/rail banking under 49 CFR 1152.29 will be due no later than 20 days after notice of the filing of the petition for exemption is published in the **Federal Register**. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–55 (Sub-No. 547X) and must be sent to: (1) Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: May 9, 1997.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 97–12771 Filed 5–14–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–439 (Sub–No. 2X)]

Dallas Area Rapid Transit; Abandonment Exemption; in Dallas and Collin Counties, TX

[STB Docket No. AB–12 (Sub-No. 191X)]

Southern Pacific Transportation Company—Discontinuance of Trackage Rights Exemption—in Dallas and Collin Counties, TX

[STB Docket No. AB–39 (Sub-No. 22X)]

St. Louis Southwestern Railway Company—Discontinuance of Trackage Rights Exemption—in Dallas and Collin Counties, TX

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: The Board, pursuant to 49 U.S.C. 10502, exempts from the prior approval requirements of 49 U.S.C. 10903 the abandonment by Dallas Area Rapid Transit (DART) of an 18.67-mile line of railroad, consisting of 15.45 miles of the White Rock/Plano line and 3.22 miles of a connecting branch line, the Soumethun Branch, in Dallas and Collin Counties, TX, and the discontinuance by Southern Pacific Transportation Company (SPT) and St. Louis Southwestern Railway Company (SSW) of local and overhead trackage rights on the White Rock/Plano line, subject to a historic condition and standard labor protective conditions.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 14, 1997. Formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2) must be filed by May 23, 1997, petitions to stay must be filed by May 30, 1997, requests for a public use condition conforming to 49 CFR 1152.28(a)(2) must be filed by June 4, 1997, and petitions to reopen must be filed by June 9, 1997.

ADDRESSES: Send pleadings, referring to STB Docket Nos. AB–439 (Sub-No. 2X), AB–12 (Sub-No. 191X), and AB–39 (Sub-No. 22X) to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; (2) Thomas J. Litwiler, 1020 Nineteenth Street, N.W., Suite 400, Washington, DC 20036; and (3) Gary A. Laakso, Southern Pacific Building, One Market Plaza, Room 846, San Francisco, CA 94015.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services (202) 565–1695.]

Decided: May 6, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–12773 Filed 5–14–97; 8:45 am]

BILLING CODE 4915–00–P

UNITED STATES INFORMATION AGENCY

Strengthening Social Services: A U.S.-Middle East Exchange Program

AGENCY: United States Information Agency.

NOTICE: Request for Proposals.

SUMMARY: The Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to design and conduct an international exchange program entitled ''Strengthening Social Services: A U.S.-Middle East Exchange Program,'' for which activities will commence in 1997. The proposed program should involve participants from Israel, Gaza, West Bank, Jordan, Oman, and Bahrain who have interest, expertise, and/or policy authority dealing with persons with disabilities, and it should emphasize strengthening civil society through the improvement of services for the disabled and the linking of professionals dealing with the disabled between and among all the participating countries.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Announcement Title and Number: All communications with USIA concerning this announcement should refer to the above title and reference number E/P–97–43.

Deadline For Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Friday, June 27, 1997. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. It is the responsibility of each applicant to ensure that proposals are received by the above deadline.

Contact for Further Information: Interested organizations/institutions should contact the Office of Citizen Exchanges, E/PS, Room 216, U.S. Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547, to request a Solicitation Package containing more detailed award criteria, required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget. Please direct inquiries and correspondence to Dr. Curtis Huff, telephone (202) 619–5972, fax (202) 619–4350, e-mail: CHUFF@USIA.GOV. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package via Fax on Demand: The entire Solicitation Package may be received from the Bureau's ''Grants Information Fax on Demand System,'' which is accessed by calling 202–401–7616. The ''Table of Contents'' listing available documents and order numbers should be your first order when entering the system.

Please specify Dr. Curtis Huff on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and ten copies of the application should be sent to: U.S. Information Agency, Ref.: E/P–97–43, Office of Grants Management, E/XE, Room 326, 301 Fourth Street, S.W., Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to promote this principle both in program administration and in program content. Please refer to the 'Support for Diversity' criterion under Review Criteria for suggestions on incorporating diversity into the total proposal. PUBLIC LAW 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should also reflect advancement of this goal in their program contents, to the fullest extent deemed feasible.

Programmatic Considerations: The objectives of the anticipated program should include the following:

—Strengthen local NGOs and other institutions which provide services to the disabled and work to integrate disabled into the broader country workforce;

—Enhance the education and career development of Middle Eastern local

staff, including relevant government and NGO professionals, working with the disabled;

—Promote international, regional, and national discussion and cooperation on policies and programs to address needs of the disabled;

—Introduce Middle Eastern disability service leaders to counterpart organizations and leaders in the United States and elsewhere in the Mideast, offering opportunities for the Middle Eastern leaders to learn from their U.S. counterparts and each other through job shadowing, short-term internships, workshops, and other activities; and

—Provide opportunities for U.S. experts to observe the work of Middle Eastern counterparts and consult with them on mutual interests.

The program should involve two or more phases, one of which would bring Mideast participants to the United States for a few weeks of workshops, site visits, internships, or other activities in pursuit of program objectives. The other phase would send U.S. experts to the participating Mideast countries for appropriate follow-on activities. Participants would likely include leaders of disability NGOs, appropriate government professionals, university faculty with relevant expertise, rehabilitation professionals, and people with disabilities. Selection of the Mideast participants who would come to the United States and timing of activities must be made in consultation with USIS posts in the participating countries.

In order to be competitive, the submitted proposal must demonstrate how the stipulated objectives will be addressed and should also provide detailed information on how major program activities will be undertaken. Beyond the immediate objectives of this exchange, USIA is interested in encouraging exchange projects which lay the groundwork for new and continuing, mutually beneficial links between American and Middle Eastern institutions and professional organizations and which will encourage the further growth and development of democratic institutions.

The grantee organization will be responsible for most arrangements associated with this program. These include organizing a coherent progression of activities, providing international and domestic travel arrangements for all participants, making lodging and local transportation arrangements for visitors, orienting and debriefing participants, preparing any necessary support materials, and working with host institutions and individuals to achieve maximum program effectiveness.

To prepare the Middle Eastern participants prior to their arrival in the United States, the grantee organization should develop materials to be sent to USIS offices overseas for distribution to the travellers before departure. These materials should include a tentative project outline and information on American individuals and organizations involved in the program.

At the beginning of the U.S.-based program, the grantee should conduct an orientation session for the visiting participants which addresses administrative details of the program and provides information about American society and culture which will facilitate the participants' understanding of and adjustment to daily life in the United States.

At the conclusion of the U.S.-based program, USIS recommends that the group meet in a symposium to review what has been presented to and experienced by the participants and to consider how what has been learned can most effectively be applied upon the participants' return to their home countries. This symposium should also be used to begin discussion of possible collaboration among the countries represented in the program.

Programs must comply with J–1 visa regulations. USIS officers in participating countries will facilitate the issuance of visas and other program-related material.

Funding: Competition for USIA funding is keen. The final selection of a grantee institution will depend on assessment of proposals according to the review criteria delineated below. The amount requested from USIA for this exchange program should not exceed $120,000. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. In addition, the overall budget should include cost sharing which amounts to at least 33 percent of the total program cost. Agency review of the proposed budget will benefit from the applicant's professional judgment of costs or activities in the proposal. USIA is committed to containment of administrative expenses, consistent with overall program objectives and sound management principles. Additional budget guidelines are explained in the Solicitation Package.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as a breakdown reflecting both the administrative budget and the program budget. For better understanding or further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding.

Unless the grantee will have an audit conducted for other purposes that will include this grant, the applicant's proposal shall include the cost of an audit which: (1) complies with the requirements of OMB Circular No. A–133, ''Audits of Institutions of Higher Education and Other Nonprofit Institutions''; (2) complies with the requirements of American Institute of Certified Public Accountants (AICPA) Statement of Position (SOP) No. 92–9; and (3) includes review by the recipient's independent auditor of a recipient-prepared supplemental schedule of indirect cost rate computation, if such a rate is being proposed.

The audit costs shall be identified separately for: (1) preparation of basic financial statements and other accounting services; and (2) preparation of the supplemental reports and schedules required by OMB Circular No. A–133, AICPA SOP 92–9, and the review of the supplemental schedule of indirect cost rate computation. If an audit conducted for other purposes obviates the above, it should be noted in the budget submission of the proposal.

USIA will consider funding the following project costs:

(1) International and domestic travel; visas; transit costs (e.g., airport taxes); ground transportation.

(2) Per diem: For the U.S. program, organizations have the option of using a flat rate of $140/day for international participants or the published Federal Travel Regulations per diem rates for individual American cities. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. For activities in the Middle East, the Standard Federal Travel Regulations per diem rates must be used.

(3) Escort-Interpreters: Interpretation for U.S.-based programs is provided by the State Department's Language Services Division. USIA grants do not pay for foreign interpreters to accompany delegations during travel to or from their home country. Grant proposal budgets should contain a flat $140/day per diem rate for each State Department interpreter, as well as home-program-home air transportation cost of $400 per interpreter and any U.S. travel expenses during the program itself. Salary expenses are covered centrally and are not part of the applicant's budget proposal. The cost

for phases of the program to be conducted abroad, during which interpreters are required to facilitate American participants, is to be covered from the grant. The grant applicant is encouraged to confirm with the appropriate USIS posts the local costs for interpreters.

(4) Book and cultural allowances: Participants may receive a one-time cultural allowance of $150 per person, plus a book allowance of $50. Escorts are reimbursed for actual cultural expenses up to $150. These benefits are not available to U.S. staff.

(5) Consultants may be used to provide specialized expertise or to make presentations. Honoraria ordinarily should not exceed $275 per day. Subcontracting organizations may also be used, in which case the written contract(s) must be included in the proposal.

(6) Room rental: Ordinarily, such cost should not exceed $250 per day.

(7) Materials development: Proposals may contain costs to purchase, develop, and translate relevant materials for participants.

(8) One working meal per project: Per capita cost may not exceed $5–8 per lunch and $14–20 per dinner, excluding room rental. The number of invited guests may not exceed the number of project participants by a factor of more than two to one.

(9) Return travel allowance of $70 for each participant which is intended for incidental and emergency expenditures incurred during international travel.

(10) Other costs necessary for the effective administration of the program, including salaries for grant organization employees while working on the project, benefits, and other direct and indirect costs per detailed instructions in the Solicitation Package.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

The Office of Citizen Exchanges requests cost sharing, which may be in the form of allowable direct or indirect costs. The Grant Recipient must maintain written records to support all allowable costs which are claimed as being its contribution, as well as costs to be paid by the USIA grant. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, Attachment E, ''Cost-Sharing and Matching,'' and should be described in the proposal. In the event the Recipient does not meet the minimum amount of cost-sharing as stipulated in the Recipient's budget and the grant agreement, the Agency's contribution will be reduced in proportion to the Recipient's contribution.

Please Note: During project activities, all participants will be covered under the terms of the USIA-sponsored health insurance policy, the premium for which is paid by USIA directly to the insurance company. USIA will provide instructions to the grant recipient for enrolling participants in this insurance program.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, the USIA Office of Near Eastern, North African, and South Asian Affairs, and USIA/USIS posts overseas. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer. The awarding of any grant is subject to availability of funds.

The U.S. Government reserves the right to reject any or all applications received. USIA will not pay for design and development costs associated with submitting a proposal. Applications are submitted at the risk of the applicant; should circumstances prevent the awarding of a grant, all preparation and submission costs are borne by the applicant. USIA will not fund activities conducted prior to the actual grant award.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered.

1. Quality of the Program Concept

Proposals should exhibit originality, substance, rigor, and relevance to Agency mission. They should demonstrate the matching of U.S. resources to a clearly defined need.

2. Program Planning

Detailed agenda and relevant work plan should demonstrate the applicant's ability to plan, organize, conduct, and evaluate a complex undertaking which involves international travel and collaboration among institutions and individuals to accomplish programs goals and objectives.

3. Institutional Capacity

Proposals should show that the personnel and institutional resources to be involved in the program include the thematic and logistical expertise relevant and adequate to achieve the program or project's purposes.

4. Institution's Record/Ability

Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

5. Cross-Cultural Sensitivity

Proposals should show experience and insight in managing cross-cultural professional programs.

6. Multiplier Effect/Impact

Proposed programs should strengthen mutual understanding between the United States and other participating countries, should contribute to maximum sharing of information, and should promote the establishment of long-term institutional and individual linkages.

7. Support of Diversity

Proposals should demonstrate support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

8. Follow-on Activities

Proposals should propose realistic and valuable follow-on activities (without USIA support) which ensures that the USIA-supported project is not an isolated effort.

9. Project Evaluation

Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

10. Cost-effectiveness

The overhead and administrative components of the proposed budget, including salaries and honoraria, should be kept as low as possible consistent with high quality management. All other items should be necessary and appropriate.

11. Cost-sharing

Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions. A minimum of 33 percent cost sharing is required in this program.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: May 9, 1997.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–12734 Filed 5–14–97; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 62, No. 94

Thursday, May 15, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312-7021-02; I.D. 042897A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands

Correction

PART 679 [CORRECTED]

In rule document 97–11472 beginning on page 24058 in the issue of Friday, May 2, 1997, the CFR part number is corrected to read as set forth above.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ26–2–165, FRL–5813–9]

Approval and Promulgation of Implementation Plans; New Jersey; Consumer and Commercial Products Rule

Correction

In rule document 97–11488, beginning on page 24035, in the issue of Friday, May 2, 1997, make the following correction:

§ 52.1605 [Corrected]

On page 24036, in § 52.1605, in the table, in the third column, ''66 FR'' should read ''62 FR''.

BILLING CODE 1505-01-D

federal register

Thursday
May 15, 1997

Part II

Department of Health and Human Services

Administration for Children and Families

Announcement of the Availability of Financial Assistance and Request for Applications to Support Child Abuse and Neglect Demonstration Projects; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. NCCAN/CB 97–04]

Announcement of the Availability of Financial Assistance and Request for Applications to Support Child Abuse and Neglect Demonstration Projects

AGENCY: Administration on Children, Youth and Families ACF, DHHS.

ACTION: Announcement of the availability of financial assistance and request for applications to support child abuse and neglect demonstration projects as authorized by the Child Abuse Prevention and Treatment Act, as amended by Pub. L. 104–235 (1996).

SUMMARY: The National Center on Child Abuse and Neglect/Children's Bureau announces the availability of Fiscal Year 1997 funding for demonstration projects designed to prevent, assess, identify, and treat child abuse and neglect.

Note: The National Center on Child Abuse and Neglect (NCCAN) was established in 1974 to carry out the functions of the Child Abuse Prevention and Treatment Act (CAPTA). Pursuant to Pub. L. 104–235, the Child Abuse Prevention and Treatment Act Amendments of 1996, the Office on Child Abuse and Neglect (OCAN) will, in the near future, be established by the Secretary for the purpose of coordinating the functions and activities of CAPTA, replacing NCCAN.

This announcement contains forms and instructions for submitting an application.

DATES: The closing time and date for the receipt of applications under this announcement is 4:30 p.m. (Eastern Time) [July 14, 1997.] Applications received after 4:30 p.m. will be classified as late.

FOR FURTHER INFORMATION CONTACT: The ACYF Operations Center Technical Assistance Team at 1–800–351–2293 is available to answer questions regarding application requirements and to refer you to the appropriate contact person in NCCAN for programmatic questions.

INTENT TO APPLY: If you are going to submit an application, call in the following information within two weeks of the receipt of this announcement: The name, address, and telephone number of the contact person; the name of the organization; and the priority area(s) in which you may submit an application or send a postcard with the information to: Administration on Children, Youth and Families, Operations Center, 3030 Clarendon Boulevard, Suite 240, Arlington, VA 22201. The telephone number is 1–800–351–2293. This information will be used to determine the number of expert reviewers needed and to update the mailing list of persons to whom future program announcements will be sent.

SUPPLEMENTARY INFORMATION: This program announcement consists of three parts. Part I provides information on the National Center on Child Abuse and Neglect and general information on the application procedures. Part II describes the review process, additional requirements for the grant applications, the criteria for the review and evaluation of applications, and the programmatic priorities for which applications are being solicited. Part III provides information and instructions for the development and submission of applications.

The forms to be used for submitting an application are included in Appendix A. Please copy as single-sided forms and use in submitting an application under this announcement. No additional application forms are needed to submit an application.

Applicants should note that grants to be awarded under this program announcement are subject to the availability of funds.

Outline of Announcement

Part I: General Information
- A. Background
- B. Statutory Authority Covered Under This Announcement

Part II: The Review Process and Priority Areas
- A. Eligible Applicants
- B. Review Process and Funding Decisions
- C. Evaluation Criteria
- D. Structure of Priority Area Descriptions
- E. Available Funds
- F. Priority Area Descriptions and Requirements

Part III: Information and Instructions for the Development and Submission of Applications
- A. Paperwork Reduction Act of 1995
- B. Availability of Forms
- C. Required Notification of the State Single Point of Contact
- D. Deadline for Submission of Applications
- E. Instructions for Preparing the Application and Completing Application Forms
  1. SF424, page 1, Application Cover Sheet
  2. SF424A, Budget Information-Non-Construction Programs
  3. Project Summary Description
  4. Program Narrative Statement
  5. Organizational Capability Statement
  6. Assurances/Certifications
- F. Checklist for a Complete Application
- G. The Application Package

Part I. General Information

A. Background

The Administration on Children, Youth and Families (ACYF) administers national programs for children and youth, works with States and local communities to develop services which support and strengthen family life, seeks out joint ventures with the private sector to enhance the lives of children and their families, and provides information and other assistance to parents, public and private agencies, States and local communities, and other entities.

The concerns of ACYF extend to all children from birth through adolescence. Many of the programs administered by the agency focus on children from low-income families; children and youth in need of foster care, adoption, or other child welfare services; preschool children; children with disabilities; abused and neglected children; runaway and homeless youth; and children from Native American and migrant families.

The National Center on Child Abuse and Neglect (NCCAN) located organizationally within ACYF was established in 1974 to carry out the functions of the Child Abuse Prevention and Treatment Act (CAPTA).

NCCAN provides Federal leadership and conducts activities designed to assist and enhance national, State and community efforts to prevent, assess, investigate and treat child abuse and neglect. These activities include: Supporting knowledge-building research projects and service improvement demonstration programs; awarding grants to eligible States for developing child protection systems that are comprehensive, child-centered, family-focused, and community-based; promoting coordinated planning among all levels of government; developing national policies that prevent child abuse and neglect, protect children, and preserve families; providing training and technical resources necessary to develop and implement a successful and comprehensive child and family protection strategy through a National Resource Center on Child Maltreatment; supporting mutual support/and parent self-help programs; gathering, processing and housing high quality data sets through a National Data Archive on Child Abuse and Neglect; and gathering, storing and disseminating child maltreatment information through a National Clearinghouse on Child Abuse and Neglect Information.

B. Statutory Authority Covered Under This Announcement

NCCAN solicits applications under the authority of the Child Abuse Prevention and Treatment Act (CAPTA), as amended in 1996 (42 U.S.C. 5101 *et*

seq.). Through the amendments of 1996, CAPTA is now reauthorized through September 30, 2001 (Pub. L. 104–235). Funds were appropriated under the 1997 Appropriations Act (Pub. L. 104–208) through September 1997 (CFDA: 93.670).

Part II. The Review Process and Priority Areas

A. Eligible Applicants

Each priority area description contains information about the types of agencies and organizations eligible to apply. Because eligibility varies depending on statutory provisions, it is critical that the ''Eligible Applicants'' section of each priority area be read carefully.

Before review, each application will be screened for eligibility. Applications from ineligible organizations will not be reviewed in the competition, and the applicants will be so informed.

Only agencies and organizations, not individuals, are eligible to apply under this Announcement. All applications developed jointly by more than one agency organization must identify a single lead organization as official applicant. Participating agencies and organizations can be included as co-participants, sub-grantees, or subcontractors. For-profit organizations are eligible to participate as sub-grantees or subcontractors with eligible non-profit organizations under all priority areas.

Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

B. Review Process and Funding Decisions

Before applications are reviewed, each application is screened to determine whether the applicant organization is eligible. Applications from ineligible organizations will not be reviewed in the competition, and the applicants will be so informed. Applicants that omit essential components of the application or fail to comply with the format specifications described in Part III will have their applications withdrawn from further consideration.

Timely applications from eligible applicants will be reviewed and scored competitively. Experts in the field, generally persons outside the Federal government, will use the evaluation criteria listed later in this section to review and score the applications. The result of this review is a primary factor in funding decisions.

NCCAN and ACYF reserve the option to discuss applications with, or refer them to other Federal or non-Federal funding sources when this is in the best interest of the Federal government or the applicants. ACYF may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations, national organizations, specialists, experts, States and the general public. These comments, along with those of the expert reviewers, will be considered by ACYF in making funding decisions.

In making award decisions, ACYF may give preference to applications that focus on: Substantially innovative strategies with the potential to improve theory or practice in child welfare and child protective services; a model practice or set of procedures that holds the potential for replication by organizations that administer or deliver child welfare and/or child protective services; substantial involvement of volunteers, where appropriate; substantial involvement (either financial or programmatic) of the private sector; a favorable balance between Federal and non-Federal funds available for the proposed project; the potential for high benefit from low Federal investment; and/or substantial involvement by national or community foundations.

To the greatest extent possible, funding decisions will reflect an equitable distribution of assistance among the States and geographical regions of the country, rural and urban areas, and ethnic populations. In making these decisions, ACYF may also take into account the need to avoid unnecessary duplication of effort.

C. Evaluation Criteria

A panel of at least three reviewers (primarily experts from outside the Federal government) will review the applications. To facilitate this review, applicants should address each requirement in the priority area under the appropriate section of the Program Narrative Statement.

The reviewers will determine the strengths and weaknesses of each application using the evaluation criteria listed below and provide verbal and written comments and assign numerical scores to each application. The point value following each criterion heading is the maximum score for that criterion.

All demonstration project applications will be evaluated against the following criteria:

(a). Objectives and Need for Assistance (20 points). The application states the objectives of the project; pinpoints the problem or issue requiring a solution and demonstrates the need for assistance; provides supporting documentation or other testimonies from concerned interests other than the applicant; identifies other successful research or demonstration projects that may have implications for the proposed demonstration (which may include a review of the relevant literature); identifies the conceptual or theoretical framework for this model; and describes whether the proposed project replicates or modifies previously evaluated model(s) addressing the identified problem or issue. The application must identify the location of the project and area and population to be served.

(b). Approach (35 points). The application outlines a sound and workable plan of action and time-line; details how the proposed work will be accomplished; describes the approach in detail; points out its unique features; cites factors that might accelerate or delay this approach, giving acceptable reasons for taking this approach as opposed to others; describes and supports any unusual features of the project, such as extraordinary social and community involvement; includes an adequate staffing plan that lists key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; and, describes the responsibilities, activities, and/or training plans for each (if applicable).

(The application proposes reasonable project costs and allocates sufficient funds appropriately across activities to accomplish the objectives. The application describes the fiscal control and accounting procedures that will be used to ensure prudent use and accurate accounting of funds received under this program announcement.

The application, when appropriate, identifies the kinds of data to be collected and maintained for evaluation purposes and discusses the criteria to be used to evaluate the results of the project. The application describes the evaluation methodology that will be used to determine if the needs identified were addressed, if the approach proposed was followed and if the benefits expected were achieved.

(c). Results or Benefits Expected (20 points). The application identifies the

results and benefits to be derived, the extent to which they are consistent with the objectives, their contributions to policy and practice, and the extent to which the proposed project costs are reasonable in view of the expected results.

(d). Staff Background and Organization Experience (25 points). The application identifies the educational and professional background of the project director and key project staff and the experience of the organization to demonstrate the applicant's ability to administer and implement the project effectively and efficiently. The role of the author(s) of this proposal in relation to the work plan and administrative structure should be explicitly identified. The application describes the project and other Federally assisted work planned, anticipated or underway by the applicant. If the project proposed is a collaboration, the application must describe the nature and extent of the collaboration including the responsibilities of the respective agencies in carrying out the activities identified in the work-plan.

D. Structure of Priority Area Descriptions

Each priority area description is composed of the following sections:

Eligible Applicants: This section specifies the type of organization eligible to apply under the particular priority area. Specific restrictions are noted where applicable.

Purpose: This section presents focus and/or broad goal(s) of the priority area.

Background Information This section briefly discusses the legislative background and the current state-of-the-art and/or current state-of-practice supporting the need for the particular priority area activity. Relevant information of projects previously funded by ACYF and/or others and State models are noted.

Minimum Requirements for Project Design: This section presents the minimum requirements which must be addressed in response to the evaluation criteria. For demonstration projects, these requirements relate to objectives and need for assistance, approach, results or benefits expected, staff background and organizational experience. Reviewers will expect the details under these headings to correspond to the evaluation criteria.

Project Duration: This section specifies the maximum allowable project period; it refers to the amount of time for which Federal funding is available.

Federal Share of Project Cost: This section specifies the maximum amount of Federal support for the project for the first budget year.

Matching Requirement: This section specifies the minimum non-Federal contribution, either cash or in-kind match, required in relation to the maximum Federal funds requested for the project.

Anticipated Number of Projects To Be Funded: This section specifies the number of projects ACYF anticipates funding under the priority area.

Non-responsiveness to the section ''Minimum Requirements for the Project Design'' is likely to result in a low evaluation score by the reviewers. Experience has shown that an application which is broader and more general in concept than the priority area description invariably scores lower than one more clearly focused on, and directly responsive to, the specific priority area.

E. Available Funds

The ACYF intends to award new grants resulting from this announcement during the fourth quarter of Fiscal Year 1997, subject to the availability of funds. The size of the actual awards will vary from priority area to priority area.

Each priority area description specifies that maximum Federal share of the project costs and the anticipated number of projects to be funded.

''Budget period'' is the interval of time (usually 12 months) into which a multi-year period of assistance (project period) is divided for budgetary and funding purposes. ''Project period'' is the total time a project is approved for support, including any extensions.

Where appropriate, applicants may propose project periods which are shorter than the specified maximums. Non-Federal share contributions may exceed the minimums specified when the applicant is able to do so. However, applicants should only propose a non-Federal share they can realistically provide because ACF will disallow any unmatched Federal funds.

For multi-year projects, continued Federal funding beyond the first budget period depends upon satisfactory performance by the grantee, availability of funds from future appropriations, and a determination that continued funding is in the best interest of the Government.

F. Priority Area Descriptions and Requirements

This announcement deals with only demonstration projects. A separate announcement will be forthcoming on research priorities.

The Child Abuse Prevention and Treatment Neglect Act Amendments of 1996 gives the Secretary the discretion to award grants for several new and innovative demonstration projects. The priority areas included in this announcement are selected from a range of projects which were suggested in the legislation.

1.01. National Network of Mutual Support/Self-Help Programs in Partnership with Communities
1.02. Innovation in Responding to Reports of Child Abuse and Neglect
1.03. Innovation Approaches to Kinship (Relative) Care of Children in the Child Welfare System
1.04. School-Based Child Maltreatment Prevention, Identification and Treatment Services

Applicants are strongly encouraged to build new projects on the results and findings of previously funded NCCAN grants. Information on prior research and demonstration projects supported by NCCAN and other references made in this announcement are available from the Clearinghouse on Child Abuse and Neglect Information, PO Box 1182, Washington, DC 20013, (1–800–FYI–3366). The Clearinghouse can provide information on the other Federal Clearinghouse and Resource Centers having special information and resources.

1.01. National Network of Mutual Support/Self-Help Programs in Partnership With Communities

Eligible Applicants: Private non-profit organizations with the capacity to establish and/or maintain a national network of Mutual Support and Self-Help Programs as a means of strengthening families are eligible to apply under this priority area.

Purpose: The primary purpose of this priority area is to build a national network of mutual support and self-help programs for families that work in close cooperation with State and community-based child abuse prevention and treatment programs. The network will function on two levels. The first level should focus on growth and capacity-building for mutual support and self-help programs for families that are or will become part of a national network, i.e., the network should promote the establishment of new mutual support and self-help programs in communities where they do not now exist, increase the capacity and scope of existing programs, provide training for program leaders, and engage in public awareness activities. The second level encompasses the network's relationship to the community-at-large, i.e., the

network should assure that its programs coordinate closely with activities under the new Community-Based Family Resource and Support Grants authorized in Title II of the Child Abuse Prevention and Treatment Act, as amended by Pub. L. 104–235. Title II grants will support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that coordinate resources among all the agencies that currently deal with children and families, e.g., education, vocational rehabilitation, disability, respite care, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State. Title II grants are also to be used to enhance an understanding of diverse populations in order to be effective in preventing and treating child abuse and neglect.

Parent self-help groups, with their emphasis on and expertise in shared leadership between parents and professionals, are natural partners with State and community-based programs such as those authorized under Title II. The national network established under this priority area should demonstrate the feasibility of developing close linkages with these programs, at the same time it goes about its work of strengthening the self-help movement in the prevention and treatment of child abuse and neglect.

The following are examples of various components of the potential demonstration activities under this priority area:

- Strengthening the relationships between family self-help programs and public and private agencies that serve maltreated children under Title II. This would entail increasing the participation of families involved in self-help programs in the Community-Based Family Resource and Support Program established under Title II of Pub. L. 104–235 in order to encourage consistent use of parent-self-help as part of a coordinated prevention and/or intervention strategy.
- Increasing the participation of fathers and other relatives in self-help groups by promoting and providing access to improved recruitment and training techniques;
- Promoting increased sensitivity in parent self-help groups to issues of cultural diversity as they affect child-rearing practices and questions of abuse and neglect;
- Increasing the participation of members of racial and ethnic minorities in parent self-help groups;
- Enhancing public awareness and outreach programs to at-risk families to encourage self-referral;
- Enhancing the capacity for local chapters and State organizations to communicate with each other and participate in national leadership development and agenda-setting;
- Supporting the preparation and dissemination of written materials for chapter leadership and development.

Background Information: Section 105 (a)(2) of the Child Abuse Prevention and Treatment Act, as amended by Pub. L. 104–235 (1996), authorizes the Secretary to award grants to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.

The NCCAN has long been committed to supporting the efforts of parent-led groups that use self-help techniques to treat parents who abuse and neglect their children. These groups also serve as a prevention program for troubled parents who believe that without this assistance they might potentially harm their children. Since 1975, NCCAN has expended some 2.4 million dollars to support parent self-help groups.

There is some evidence that self-help groups foster community ownership, self-reliance and relief from isolation for parents under stress, as well as cost-savings. In a 1988 review of the literature published in *Contemporary Family Therapy: An International Journal* (Volume 10, Number 4, Winter, 1988, pages 145–167), Gary Cameron notes that, given the social isolation of many child welfare clients, informal peer support networks created specifically for these groups may prove to be more accessible than those available within the community-at-large. He further states that self-help groups usually provide their members with a range of benefits often not available in a traditional professional-client setting, and these benefits can be seen as complementary to those provided by the mainstream service delivery system. These groups incorporate the ''helper-as-helped'' model, i.e., those who give the help are also helped. Providing help increases the helper's self-esteem, communication skills, and sense of connectedness to others, all of which can mitigate child maltreatment.

Given this, CAPTA suggests that the next step is to encourage the development of a national network of mutual support/self-help programs, and further, for this network to reach out actively to the Community-Based Family Resource and Support Programs around the nation, so that the informal helping methods or self-help programs and the formal interventions of the institutionalized social service delivery system can support and enhance each other for the benefit of children and their families.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

Objectives and Need for Assistance

- State the objectives of the project in specific, measurable terms.
- Pinpoint the problem or issue that needs to be addressed and establish the need for assistance; provide supporting documentation or other testimonies from concerned interests other than the applicant. Specifically provide evidence of the ability to establish a national network linked with Community-Based Family Resource and Support Program, using documentation such as statements that local chapters and other private, non-profit agencies and organizations will participate in the proposed demonstration activities.
- Demonstrate an awareness of current initiatives in the field and how the approach being proposed would build on this work.
- Identify the conceptual or theoretical framework used as the basis for the proposed model; provide a review of relevant literature and include information about similar successful demonstration projects that may have implications for the proposed demonstration project.
- Describe whether the proposed project replicates or modifies a previously evaluated model.
- Identify the precise location of the projects, communities, and populations to be served by the proposed project.

Approach

- Describe the approach in detail and point out its unique features including sensitivity to cultural, sociological, psychological, and ethnic dynamics which have affected the choice of approach.
- Describe a sound and workable plan of action and time-line which match the scope of the project and explain how the proposed work will be accomplished.
- Cite factors which might accelerate or delay this approach, giving acceptable reasons for taking this approach as opposed to others.

• Include an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describe the responsibilities, activities, and/or training plans for each (if applicable). If the proposed project is a collaboration, the application must describe the nature and extent of the collaboration and the responsibilities of the respective agencies in carrying out the activities identified in the work-plan.

• Propose an evaluation plan. Discuss the methods and criteria to be used to evaluate the results and benefits of the project in terms of the stated objectives of the project. Identify the kinds of data to be collected and maintained for this purpose. An external evaluator may be hired or an internal evaluation may be designed. It is recommended that not less than 15% of the proposed budget be set aside for evaluation efforts.

Results or Benefits Expected

• Identify the results and benefits to be derived by clients, communities, and agencies as a result of the implementation and evaluation of this project. Discuss how project findings are likely to improve practice and inform policy.

• Justify proposed project costs in view of the expected results and benefits.

• Describe strategies for disseminating findings to other practitioners in the field.

Staff Background and Organizational Experience

• Identify the educational and professional background of the project director and key project staff.

• Describe the organization's ability to administer and implement the project effectively and efficiently.

• Identify precisely the role of the author(s) of this proposal in relation to the work-plan and administrative structure.

• Describe the relationships between the proposed project and other Federally assisted work planned, anticipated, or underway by the applicant.

• Provide assurance that at least one key staff person will attend an annual three-day meeting in Washington, D.C.

• Provide assurance that all reports will be prepared in an NCCAN-suggested format and copies of final reports and other products shall be provided to the Clearinghouse.

Project Duration: The length of the project must not exceed a three-year period.

Federal Share of Project Cost: The maximum Federal share of this project is not to exceed $300,00 for the first 12-month budget period and $200,000 each for the second and third budget periods or a maximum of $700,000 for a period of three years.

Matching Requirement: Grantees must provide a non-Federal share or match of at least 25% of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three year project requesting $700,000 in Federal funds (based on an award of $300,000 for the first year and $200,000 each for the second and third years) must include a match of at least $233,333 over three years or $100,000 for year one and $66,667 for each of the remaining two years. Applicants are expected to bring in additional resources into the project during the second and third years in partnership with community based organizations.

Anticipated Number of Projects to be Funded: It is anticipated that one project will be funded.

CFDA Number: 93.670.

1.02 Innovation in Responding to Reports of Child Abuse and Neglect

Eligible Applicants: Public and private nonprofit agencies or a combination of such agencies, with only one being the primary applicant. The State and County Child Protective Service agencies are encouraged to apply under this priority area in collaborative partnerships with community social service agencies and family support programs, schools, churches and synagogues, and other community agencies. Private nonprofit agencies applying as primary applicants must include letters of commitment from State or County child protective services agencies willing to serve as demonstration sites.

Purpose: The intent of this priority area is the development and demonstration of innovative systems of differential response to reports of child abuse and neglect. Section 105(3)(A) of CAPTA, as amended by Pub. L. 104–235, authorizes the Secretary to award grants which ''demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective services agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system.'' Triage in this context means a differential, multi-tiered approach to handling referrals of child abuse and neglect, based on the assessed degree of severity of the referral, the assessed needs of the family and the assessed risk of future harm. ''The triage system should: (i) Accept, screen, and assess reports to determine which reports require intensive intervention and which require voluntary referral to another agency, program, or project; (ii) provide, directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and (iii) provide further investigation and intensive intervention where the child's safety is in jeopardy.''

Applicants may either propose new approaches or replicate previously evaluated and promising models. Applicants are strongly encouraged to address in their proposal multiple problem areas affecting children and families, which require creative, interdisciplinary responses. All responses should build on the strengths of families and provide community-based solutions to protecting children through partnerships with community-based agencies. This priority area embraces change in the way traditional systems of child protection operate, and proposals should reflect how the innovative system will ensure the safety of children and not let them ''fall through the cracks.'' The models should explain how legislative or policy-based issues have an impact on intake and assessment (e.g., the central registry and expungement) and how they will be addressed. A strong evaluation component is required. Data on the costs and potential cost-benefits of providing the proposed model should be collected for evaluation purposes.

Background Information

According to the most recent statistical information available from NCANDS (National Child Abuse and Neglect Data System), almost 3 million children were reported to State child protective services agencies and more than one million children were determined to have been victims of child abuse and neglect in 48 states *(Child Maltreatment 1995: Reports from the States to the National Center on Child Abuse and Neglect).* Despite an increase in victims of almost 27 percent since 1990, more than half of all investigations resulted in a finding of ''not substantiated.'' Child protective services agencies have, understandably, become overwhelmed with the increased volume of reports and more

stressed by static staffing patterns. It has become increasingly difficult to provide timely and thorough assessments and intervention, but more importantly, the NCANDS data noted above raise questions regarding screening and the extent of agency involvement in the lives of reported families. Given the numbers of unsubstantiated cases at one end of the continuum, and the rise in serious injuries and fatalities at the other, the dilemma centers on some families receiving unwarranted public agency involvement and other families not receiving enough agency attention to assure the safety of the children.

In light of this dilemma, various organizations and governmental agencies have begun exploring differential response systems. For example, in 1993, the Department of Navy Family Advocacy Program (FAP) began the development of a Navy-specific Risk Assessment Model. This ''life of the case'' model was piloted in 1995, and it introduced a triage system whereby reports are screened upon receipt, cases not meeting the two eligibility criteria for Family Advocacy services are referred directly to the appropriate resource, cases assessed as lower level in severity and risk of harm are classified as ''Families in Need of Services'' (FINS) and diverted to the needed prevention or intervention service. Under this system, the FINS cases are not officially ''opened'' and, therefore, not included in the program's Central Registry.

Another example of an organization's effort to respond to this dilemma is the Edna McConnell Clark Foundation ''Community Partnerships'' initiative. Designed to ''enhance the ability of local communities to keep children safe,'' the initiative has three key components: diversion, community-CPS partnerships, and CPS agency reform (The Edna McConnell Clark Foundation Program for Children Strategy Statement, March 1996). In 1995, the Foundation awarded grants to four sites to advance the efforts already underway to make fundamental changes in their handling of child abuse and neglect cases. In Jacksonville, Florida, CPS workers are out-stationed in full-service schools, and families deemed inappropriate for CPS response are referred out to a 24-hour resource and referral hotline. Through the use of Community Support Agreements, community volunteers contract to assist families reported to CPS. The Cedar Rapids, Iowa, Partnership project is piloting a new assessment approach, changing the way it responds to families reported to CPS, developing neighborhood based supports for families and placing CPS staff at family resource centers where they team with other local resources. The Neighborhood Places project in Louisville, Kentucky, through a collaboration of 20 public and private agencies, has developed community-based centers where staff for income support, child protection, health, employment, and other services are collected. At Neighborhood Place Ujima, safety strategies specifically developed for children under age five will be used in investigating and serving families whose cases involve serious injuries or neglect. The St. Louis, Missouri, Community Partnership supports State legislation which pilots a dual track system, limiting investigations to cases requiring police involvement and utilizing the family assessment method in responding to all other cases. It also joins the State's Division of Family Services with communities to develop local responses to families' needs. The partnership will hire Neighborhood Resource Specialists for outreach activities, as well as encourage neighborhood associations and other groups to become more involved in child safety by establishing a Community Innovation Fund.

Several States have responded legislatively to the call for reform efforts in the delivery of child protective services and much of the legislation contains language describing aspects of differential response systems. For example, the State of Florida was the first to pass legislation to create a dual track system for assessment of lower-risk cases. All reports are assessed (i.e., family functioning, circumstances and need for support are examined) rather than investigated (i.e., verifying whether or not an incident occurred), and Florida no longer maintains a central registry. Like Florida, Iowa is now using an assessment approach and limits the cases which go to the central registry to those involving greater risk or significant injury. Missouri also passed CPS reform legislation which limits investigations to cases requiring police involvement. Family assessments are conducted for all other situations. North Dakota only places reports on the central child abuse information index when services are required. The State of Virginia is planning to pilot a system whereby less serious reports are assessed and offered services through the local department or county without being entered into the central registry. Finally, Oregon has selectively adapted a family unity model first developed and implemented in New Zealand in 1989. There is no need to validate that a child has been abused or neglected under the family unity model. Instead, family members brainstorm options for the care and protection of the child.

Under this priority area, NCCAN is interested in proposals which are responsive to the CAPTA legislation and continue to promote CPS reform efforts. Proposals should establish a triage system to help determine which reports require intensive intervention in order to ensure the safety of the child and which warrant voluntary referral to another community resource. The system should also include a variety of community-linked services to assist families in preventing child abuse and neglect as well as provide for further investigation and intensive intervention when the safety of the child is jeopardized. Applicants should address procedures for accepting, screening and assessing allegations of abuse and neglect, describe measures taken to ensure child safety in the decision-making process, describe a range of responses that can be applied differentially, and demonstrate how community agencies will be involved in the response system.

Note: The examples of programs cited in this section are intended to stimulate thinking about new and innovative approaches. Interested applicants are encouraged to use this information as a resource in the preparation of their proposals. Citing of these programs is not to be considered as an endorsement of the programs by NCCAN. Each application will be considered on its own merit to the extent that it meets the expectations of this announcement.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

Objectives and Need for Assistance

- State the objectives of the project in specific, measurable terms.
- Pinpoint the problem or issue that needs to be addressed and establish the need for assistance; provide supporting documentation or other testimonies from concerned interests other than the applicant. Specifically, provide evidence of the ability to establish a collaborative partnership with community-based agencies and organizations who would be partners in the response system proposed under this project, using documentation such as statements that such entities will participate in the proposed demonstration activities.
- Demonstrate an awareness of current initiatives in the field and how

the approach being proposed would build on or improve this work.

• Identify the conceptual or theoretical framework used as the basis for the proposed model and provide a review of the relevant literature; include information about similar successful demonstration projects that may have implications for the proposed demonstration.

• Describe whether the proposed project replicates or modifies a previously evaluated model which addresses the identified need.

• Identify the precise location of the project, community, and population to be served by the proposed project.

Approach

• Describe the approach in detail and point out its unique features including sensitivity to cultural, sociological, psychological, and ethnic dynamics which have affected the choice of approach.

• Describe a sound and workable plan of action and time-line which match the scope of the project and explain how the proposed work will be accomplished.

• Cite factors which might accelerate or delay this approach, giving acceptable reasons for taking this approach as opposed to others.

• Include an adequate staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describe the responsibilities, activities, and/or training plans for each (if applicable). If the proposed project is a collaboration, the application must describe the nature and extent of the collaboration and the responsibilities of the respective agencies in carrying out the activities identified in the work-plan.

• Propose an evaluation plan. Discuss the methods and criteria to be used to evaluate the results and benefits of the project in terms of the stated objectives of the project. Identify the kinds of data to be collected and maintained for this purpose. An external evaluator may be hired or an internal evaluation may be designed. It is recommended that not less than 15% of the proposed budget be set aside for evaluation efforts.

Results or Benefits Expected

• Identify the results and benefits to be derived by clients, community, agency, and NCCAN as a result of the implementation and evaluation of this project. Discuss how project findings are likely to improve practice and inform policy.

• Justify proposed project costs in view of the expected results and benefits.

• Describe strategies for disseminating findings to other practitioners in the field.

Staff Background and Organization Experience

• Identify the educational and professional background of the project director and key project staff.

• Describe the organization's ability to administer and implement the project effectively and efficiently.

• Identify precisely the role of the author(s) of this proposal in relation to the work plan and administrative structure.

• Describe the relationship between the proposed project and other Federally assisted work planned, anticipated, or underway by the applicant.

• Provide assurance that at least one key staff person will attend an annual three-day meeting in Washington, D.C.

• Provide assurance that all reports will be prepared in an NCCAN-suggested format and copies of final reports and other products shall be provided to the Clearinghouse.

Project Duration: The length of the project must not exceed a three-year period.

Federal Share of Project Cost: The maximum Federal share of this project is not to exceed $200,000 for the first 12-month budget period, or a maximum of $600,000 for a period of three years.

Matching Requirement: Grantees must provide a non-Federal share or match of at least 25% of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three year project requesting $600,000 in Federal funds (based on an award of $200,000 per 12-month budget period) must include a match of at least $200,000 over three years or $66,667 per year.

Anticipated Number of Projects To Be Funded: It is anticipated that up to five projects will be funded.

CFDA Number: 93.670.

1.03 Innovative Approaches to Kinship (Relative) Care of Children in the Child Welfare System

Eligible Applicants: Public (State, Tribal or local) or private nonprofit agencies, organizations, and institutions of higher learning are eligible. Collaborative applications are encouraged. However, a primary applicant must be identified. If the primary applicant is a private nonprofit agency, organization or institution of higher learning, a clear statement of commitment and agreements with the State, Tribal or local child protection or child welfare entities must be provided which assures access to appropriate data sources and individuals.

Purpose: The purpose of this priority area is to develop innovative approaches for the use of kinship (relative) care for children in the child welfare system at the State, Tribal and local levels, to demonstrate the processes by which these approaches are implemented, and to assess the degree of success these approaches have in achieving desired goals. (Note: in this announcement, the terms ''kinship care'' and ''relative care'' are used interchangeably). These approaches are to focus on the following areas: (1) Policies and procedures for decision-making about the appropriateness of placement in kinship settings; (2) the licensing and certification requirements that facilitate the willingness and capability of relatives to care for children, and that support the safety and well-being of children; and (3) the service needs, including needs for economic support, of kinship care families and children, and the strategies for training, supervision, and service provision to meet the identified needs of such families and children. These approaches must be designed to meet the broad goals of demonstrated positive outcomes in the safety, permanency and well-being of the children involved. The knowledge gained from the demonstration, through a systematic evaluation, is to be shared with interested child protection and child welfare agencies nationwide and to be carefully analyzed for its implication for policy and practice. If proven successful, the models would then be suitable for replication elsewhere.

Background Information: Hornby, Zeller & Karraker, (*Child Welfare*, September–October, 1996) in their analysis of the use of relatives for the care of children, categorize the agency goals related to the use of relatives in five different ways: (1) Relative care can be a diversion from the foster care and child welfare system; (2) relative care can provide short-term support within the system while an agency pursues the goal of returning children to their birth-parent home; (3) relative care can provide short-term support within the system with a goal of long-term discharge to relatives; (4) relative care can provide long-term support outside the child welfare system; and (5) relative care can provide long-term support within the child welfare system. Evaluations about the nature of kinship

care as a service must begin, they suggest, with a consideration of which of these uses are being served.

The current state of knowledge about relative care is limited primarily to a recognition of the variety of purposes, definitions, payment structures, licensing, monitoring, and guardianship policies employed by States, Tribes and local child protective services agencies. The lack of knowledge about service usage, design, intent, and outcomes has unknown consequences for the increasing proportion of children that are living in relative care (*A Report from the Multistate Foster Care Data Archive: Foster Care Dynamics 1983–1992.* Chapin Hall, University of Chicago, 1994). Of added importance, the 1996 Amendments to the Adoption Assistance and Child Welfare Act require States to ''consider giving preference to an adult relative over a non-related caregiver when determining placement for a child, provided that the relative caregiver meets all relevant State child protection standards.''

Because so little systematic information is available about the elements of relative care which include but are not limited to usage, design, policy context, and effects on children—NCCAN/CB is interested in a set of demonstrations, with evaluations, of specified models of service design and delivery that have the potential for replication.

Demonstrations are expected to employ an evaluation paradigm which will determine how and if the proposed policies, procedures, or practices, if fully implemented, could translate into the desired outcomes. The applicant must provide a detailed description of the demonstration model used, and delineate the explicit or implicit theory of how and why the proposed policy, procedure, or practice should be expected to work. In delineating the project model (often referred to as a ''logic model''), the applicant must specify particular policy, procedure, or intervention; interim steps and accomplishments which are expected to occur in the implementation process; specific intended outcomes (e.g., safety, permanency and well-being) and outcome indicators; and describe the logical relationships among the various project components, i.e., the processes through which the program activities are expected to translate into outcomes for participants. The applicant should specify the planning assumptions (i.e., factors which can impact on the project, but over which the applicant may have no control) for the successful implementation of the model. Each component of the model should be specified in verifiable and measurable terms, and measurement strategies and sources of the data should be specified. This evaluation paradigm is meant to demonstrate whether or not a program has met the goals that it has set for itself (i.e., the project purpose), and to explicitly connect program components to the degree of success in achieving those goals, rather than to compare populations in one treatment against those in another.

All projects should have the goals of protecting and promoting the safety, permanency, and well-being of children. Applicants should consider the following.

- *Safety:* How does the relative care program protect the safety of a child in a relative care placement? What are the safety related policies, procedures, and activities? Are the activities that are conducted different from those for children in other placements, and if so, why? Does the implementation of safety-promoting policies or procedures for children in relative care vary in relation to the particular policy context or usage of relative care as described above by Hornby, et al.? What is the evidence that the policies, procedures, and practices for safety achievement have the desired benefits on safety as an outcome? Likely elements in safety promotion include, but are not limited to, licensing, certification, monitoring policies, access to the child(ren) by maltreating birth-parents or others, standards for removal, and assessment of relative willingness and capacity to parent and support the child(ren).
- *Permanency:* How is the use of kinship care expected to affect the permanency of placement, including returning home, adoption or guardianship? How might the effects on permanency be related to the policy context and use of kinship care as described above by Hornby, et al.? How are decisions about length of stay determined? What services are offered to promote permanency? Likely factors affecting permanency include, but are not limited to, agency preference for relative placements, adoption, or guardianship, operational definitions of relatives, decision-making regarding recruitment and selection of relative and non-relative placements, projected length of placement, placement history, siblings, service and economic support systems for relative caregivers, and, if applicable, special planning or support activities for hard-to-place, special needs child(ren) or children with disabilities.
- *Well-being:* Well-being of the child(ren) must be a key concern in each relative placement situation, as it should for non-relative placements. How do agencies and how will this project define and assess child well-being? Are activities for promoting child well-being altered or adjusted for children placed with relatives? How do the intra- and inter-familial tensions between the birth-parents and the relative caregiver affect the child's and family's well-being? What steps do agencies take to mitigate the potential negative impact of these tensions on the child's and family's well-being? Do removal standards for relative placements have a relationship to child well-being and are there reasons to expect that these standards should be different for relative placements versus non-relative placements? Likely factors related to child well-being include, but are not limited to psycho-social, medical, educational, and dental assessment, available therapeutic and support services, and placement monitoring and review.

In summary, NCCAN/CB expects that the types of policies, procedures, and practices surrounding kinship care will have consequences for the achievement of the desired outcomes. NCCAN/CB is interested in developing and describing viable models of the use of kinship care for children. These models of innovative kinship care use should include but are not limited to (1) policies and procedures for decision-making about who will go into kinship care and for how long; (2) requirements for licensing or certification specific to kinship homes; and (3) patterns of training and/or supervision, patterns of support services, systems of economic support (including the impact of the Temporary Aid to Needy Families [TANF]) for kinship care, and other aspects of services and supports as well as the economic costs associated with kinship care to the agency, as these affect the safety, permanency and well-being of the children.

It is the intent of NCCAN/CB to select replicable models which, based on the evaluations, are indicative of having the potential of producing desirable outcomes in terms of child safety, permanency, and well-being. Information about these models will be made available to the field and additional demonstration funds may be made available through a later competition for replications and a cross-site national evaluation.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant for a demonstration project must address the following items in the program narrative section of the proposal.

Objectives

- State the goals and objectives of the project in specific, measurable terms. At a minimum, goals must address safety, permanence, and well-being.
- Pinpoint the problem or issue that needs to be addressed and establish the need for assistance; provide supporting documentation or other data from concerned interests other than the applicant, as appropriate.
- Identify the conceptual or theoretical framework used as the basis for the proposed approach and provide a review of the relevant literature and current initiatives related to kinship placement that supports the model selected.
- Provide an overview of existing kinship care policies, procedures and practices in the State, Tribe or community in which the proposed demonstration will operate, including how they relate to the use of kinship care for the safety, permanency and well-being of the children. Describe the regulatory, policy, administrative and procedural changes/innovations, if any, which are to be introduced as part of this demonstration.
- Define each component of the proposed project, describe how it relates to the other components, and articulate the theoretical basis or the assumptions that lead to the expectation that the proposed project components will result in the expected project outcomes for children and families.
- Identify the location(s), community and the specific population to be included in the proposed project. Provide assurance that the number of clients served in the demonstration project will be adequate for testing of the theoretical assumptions of the project and conducting the evaluation.
- Indicate the relationship of this proposed demonstration to any Title IV–E Waiver for Assisted Guardianship or other waivers in your State.

Approach

- Describe the approach in detail and point out its unique features including sensitivity to cultural dynamics, child and family outcomes, and the community setting.
- Describe the criteria and procedures to be developed and implemented to assure the safety, permanency and well-being of the children in kinship care placement in the project and detail specific plans for revision of State or Tribal standards, regulations, procedures, and existing materials as necessary.
- Make provision for clearly demonstrating the degree of implementation and for describing the outcomes of various policies and procedures for kinship care, including but not limited to requirements for decision-making about placement and length of stay, licensing or certification of kinship homes, patterns of training and/or supervision, patterns of support services, and/or systems of economic support. It should also make provision to assess the degree of success for kinship care arrangement in meeting goals related to the safety, permanency and well-being of the children as well as the economic costs associated with it to the agency.
- Make sure that the proposed approach is theoretically and conceptually sound, reflecting the current state of knowledge in this field, with sufficient detail on various project components (activities, milestones etc.), and related indicators and measures to allow accurate determination of its feasibility and evaluability.
- Propose an evaluation plan using the evaluation paradigm described in the background information section and discuss the criteria to be used to evaluate the success of achieving programmatic goals in terms of the stated objectives and approach of the project. Identify the kinds of data to be collected and maintained and the proposed methods for analysis, both for documenting the types of procedures and services to be implemented as well as for documenting the outcomes of such procedures and services. Include description of any planned use of data available through your State's automated child welfare information system.
- Outline the services, policies, or procedures which singly or in combination are expected to lead to positive child safety, permanency and well-being outcomes; and propose methods for measuring each component of the model.
- Provide assurance that at least 25% of the proposed demonstration grant budget be set aside for evaluation efforts. This evaluation may be conducted internally, or externally, by an independent evaluation unit within an agency, a university, or an independent evaluation contractor.
- Provide assurance that, in addition to the project-specific evaluation, project and evaluation staff will cooperate in any cross-project data collection or other collaborative efforts for establishing common measures or data collection tools which allows for aggregation of results across projects. Technical assistance for common data collection and evaluations will be made available.
- Describe a plan of action and time-line for the project.
- Cite factors which might create barriers to the implementation of the project and plans for overcoming those barriers.
- Include a staffing plan, listing key and support staff, consultants, any agency, organization, other key group, and/or advisory panels or steering committee involved or proposed; describe the responsibilities, activities, and/or training plans for each (if applicable).
- Describe the nature and extent of the collaboration and the responsibilities of the respective agencies in carrying out the activities identified in the work-plan if the proposed project is a collaborative effort.

Results or Benefits Expected

- Identify the results and benefits to be derived by clients, community, agency, and NCCAN/CB as a result of the implementation and evaluation of this project. Discuss how project findings are likely to improve practice and inform policy.
- Describe strategies for disseminating findings and products to other practitioners in the field.
- Justify proposed project costs in view of the expected results and benefits.
- Provide assurance that all reports will be prepared in an NCCAN-suggested format and copies of final reports and other products shall be provided to the Clearinghouse on Child Abuse and Neglect Information. Also, provide assurance that grantees will make all necessary materials and documentation available if the model is selected for replication upon completion of the project.

Staff Background and Organization Experience

- Identify the educational and professional background of the project director and key project staff, including the individual(s) responsible for the evaluation (a curriculum veta for each key staff must be included with the application and letters of commitment as applicable).
- Describe the organization's ability to administer and implement the project effectively and efficiently. Provide letters of commitment from proposed collaborating organizations.
- Identify the author(s) of this proposal and the role(s) of the author(s) on the proposed project.
- Describe the relationships between the proposed project and other Federally assisted work planned,

anticipated, or underway by the applicant.

• Provide assurance that (1) at least one key staff person will attend an annual three-day grantee meeting in Washington, DC and (2) at least one key staff person and the evaluator will attend a two-day annual technical assistance meeting in Washington D.C. on data collection and evaluation procedures.

Project Duration: The length of the project for the demonstration projects must not exceed a three-year period.

Federal Share of Project Cost: The maximum Federal share of the project is not to exceed $200,000 for the first 12-month budget period or a maximum of $600,000 for a period of three years.

Matching Requirement: The project must provide a non-Federal share or match of at least 25% of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three year project requesting $600,000 in Federal funds (based on an award of $200,000 per 12-month budget period) must include a match of at least $200,000 over three years ($67,667 per 12-month budget period).

Anticipated Number of Projects to be Funded: It is anticipated that up to nine demonstration projects will be funded.

1.04 School-Based Child Maltreatment Prevention, Identification and Treatment Services

Eligible Applicants: Public or private nonproject agencies or organizations are eligible to apply under this priority area in collaboration with preschool programs, particularly Head Start and publicly supported early childhood development centers, elementary school systems and secondary school systems that mutually benefit from the cooperative development and delivery of services proposed under this project.

Purpose: The intent of this priority area is the development and demonstration of service models that address the prevention, identification and treatment of child abuse and neglect by communities in cooperation with preschool, elementary and secondary school systems, in response to CAPTA, as amended by Pub. L. 104–235 (1996). Applicants may target preschool during the first year of this project and elementary and secondary schools during the second and third years respectively or all three school systems throughout the project period.

Through the prevention aspects of this priority area, NCCAN seeks to promote the safety and minimize the risk of harm to preschool, elementary school, and secondary school children. One approach to focusing on preschool children is funding community partnerships and innovative training of staff in Head Start and other preschool programs in the areas of positive discipline, recognizing signs of child abuse and neglect, alternatives to physical punishment, and behavior management practices, in support of Head Start performance standards, as applicable. Another approach could involve use of the professional expertise of school social workers in the service delivery proposed. Expected outcomes of this project across all three target school systems should include effective use of protective strategies by staff in their interactions with students and in their training roles with parents, better identification and referral of child abuse and neglect cases, and higher sensitivity among staff to issues of cultural diversity as they affect child behavior management practices and questions of abuse and neglect.

Addressing the intervention aspects of the legislation, demonstration activities under this project should include innovative child abuse and neglect intervention services in the form of individual or group counseling, therapeutic intervention groups for children who witness violence and/or who are victims of abuse and neglect.

Background Information: Section 105(b)(1) of CAPTA, as amended by Pub. L. 104–235, authorizes the Secretary to award grants for projects which provide ''educational identification, prevention and treatment services in cooperation with preschool, elementary and secondary schools.'' In addition, Title II of CAPTA supports State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resources and support programs that coordinate resources among all the agencies that currently deal with children and families, including educational institutions.

According to the findings of the *Third National Incidence Study of Child Abuse and Neglect*, (NIS–3), published in September 1996, schools are a frequent source of child abuse and neglect recognition: Thirty-four percent of the children included in the study under the ''Harm Standard'' receiving a CPS investigation and 69 percent of those not investigated but meeting the ''Harm Standard'' were identified by schools. Educators account for over 15 percent of all referrals to Child Protective Service agencies in the latest National Child Abuse and Neglect Date System (NCANDS) data report (*Child Maltreatment 1995: Reports from the States to the National Center on Child Abuse and Neglect).*

As noted in the August 1995 Harvard Family Research Project working paper, *Challenges in Evaluating School-Linked Services: Toward a More Comprehensive Evaluation Framework.*

> School linked services have emerged as one type of program model intended to give children greater access to needed social services and community supports * * * Yet the concept of linking schools with social services and community resources is not new. As Tyack (1992) points out, schools have always been ''attractive targets for reformers seeking to improve the health and welfare of children * * * [They provide] sustained contact with children and a captive audience * * *'' (p. 7).

Although this paper raises issues of resistance to schools as social service entities, such as distrust by a disenfranchised population of schools and reluctance of organizations to rework lines of authority to achieve collaboration, on a more basic level, ''proponents of school-linked services maintain that delivering social services to children via schools makes sense because, of all public institutions, schools provide the most sustained and non-stigmatizing contact with children, and therefore the most access to them'' (Koppich and Kirst, 1993; Tyack, 1992).

The Parent Partner Program, in Elmira, NY, designed to prevent child abuse and neglect by strengthening the connection among families, neighborhoods and schools, was part of the NCCAN-sponsored Community Lifelines project of Cornell University and the Elmira City School District. Its final year of Federal funding was 1994; an evaluation that year was generally positive (*Program Manual*, p. 24).

In their 1994 article on ''The Mediating Effect of Good School Performance on the Maltreatment-Delinquency Relationship'' (*Journal of Research in Crime and Delinquency* 31(1):62–91, February, 1994), based on research funded by NCCAN, authors Zingraff, Lieter, Johnson, and Meyers state that ''maltreated children are at a significantly higher risk of delinquent involvement than the general school population''; however, ''with the introduction of school outcome variables, physically abused children are no longer at a statistically elevated risk of delinquency.'' Their data suggest that positive school experiences can mitigate the effects of physical abuse and, to a lesser extent, neglect. ''The potential of schools as intervention sites

derives from the concentration of children in them, which allows scarce resources to be stretched further * * *.''

The U.S. Department of Education Office of Elementary and Secondary Education has recently completed a five year project, funding 18 early child education/violence counseling training programs directed by universities across the country. Thirteen of the 18 projects' recruitment efforts focused on current employees of Head Start, Early Start, and other early childhood education programs.

The Edna McConnell Clarke Foundation is sponsoring a ''Community Partnerships'' CPS reform initiative in sites within 4 States, designed ''to enhance the ability of individual communities to keep children safe from harm and neglect.'' The role of the school as a community resource is especially key to the Jefferson County, Kentucky, site. Under the Kentucky Education Reform Act, ''over 300 school-based Family Resource and Youth Service Centers have been developed which serve as mechanisms to identify and refer at risk families to Neighborhood Place centers.'' (*The Edna McConnell Clark Foundation Program for Children Strategy Statement*, March 1996). Health, mental health, child protective, employment and other such community services are all provided by the staff of the Neighborhood Place.

''The Rainbow House Handbook to a Violence Free Future: Choosing Non-Violence for Young Children'' (A. Parry, M. Walker, C. Heim, Rainbow House/Arco Iris, Chicago, 1991) is one example of an educational curriculum on abuse prevention which was developed by The Rainbow House Training Institute for Choosing Non-Violence in Chicago, Illinois. The training institute, considered to be one of the first programs in the United States to address violence prevention with young children, provides training for Head Start staff, child care providers and parents. Initially supported by Administration on Children, Youth and Family funds, the program has subsequently received positive evaluation and attention as an effective approach.

Projects proposed under this priority area may either present innovative approaches or be replications of previously evaluated and promising models. In either case, proposed activities should build on previous research and evaluation findings. An evaluation component is required for each proposal submitted under this priority area. Applicants are referred to the National Clearinghouse on Child Abuse and Neglect Information for access to the literature cited herein, as well as access to additional background and information on school involvement in child maltreatment prevention and intervention activities.

Minimum Requirements for Project Design: As part of addressing the evaluation criteria outlined in Part II of this announcement, each applicant must address the following items in the program narrative section of the proposal.

Objectives and Need for Assistance

- State the objectives of the project in specific, measurable terms.
- Pinpoint the problem or issue that needs to be addressed and establish the need for assistance; provide supporting documentation or other testimonies from concerned interests other than the applicant. Specifically, provide evidence of the ability to establish collaborative partnerships with related organizations and agencies, especially with the school systems, child care providers as well as the new Community-Based Family Resource and Support Grants authorized in Title II of Pub. L. 104–235, the Child Abuse Prevention and Treatment Act of 1996 (CAPTA), by attaching letters of commitment to the effect that such entities will participate in the proposed demonstration activities.
- Demonstrate an awareness of current initiatives in the field and how the approach being proposed would build on this work.
- Identify the theoretical framework of prevention or treatment used as the basis for the proposed model and provide a review of the relevant literature, demonstrating an awareness of the current status of child abuse and neglect prevention, identification and treatment efforts, at the State, local and community-based levels, particularly those which involve school-based programs and child care providers; include information about successful demonstration projects that may have implications for the proposed demonstration.
- Describe whether the proposed project replicates or modifies a previously evaluated model which addresses the identified need.
- Identify the precise location of the project, community, and population to be served by the proposed project.

Approach

- Describe the approach in detail and point out its unique features including collaboration with child care providers and other partners, sensitivity to cultural, sociological, psychological, and ethnic dynamics which have affected the choice of approach.
- Describe a sound and workable plan of action and time-line which match the scope of the project and explain how the proposed work will be accomplished.
- Cite factors which might accelerate or delay this approach, giving acceptable reasons for taking this approach as opposed to others.
- Include an adequate staffing plan, listing Program Director duties and qualifications as well as other key and support staff, consultants, any agency, organization, other key group, and/or advisory panels involved or proposed; describe the responsibilities, activities, and/or training plans for each (if applicable). If the proposed project is a collaboration, the application must describe the nature and extent of the collaboration and the responsibilities of the respective agencies in carrying out the activities identified in the work-plan.
- Propose an evaluation plan. Discuss the methods and criteria to be used to evaluate the results and benefits of the project in terms of the stated objectives of the project. Identify the kinds of data to be collected and maintained for this purpose. An external evaluator is required to carry out the evaluation. It is recommended that not less than 15 percent of the proposed budget be set aside for evaluation efforts.

Results or Benefits Expected

- Identify the results and benefits to be derived by clients, community, agency, and NCCAN as a result of the implementation and evaluation of this project. Discuss how project findings are likely to improve practice and inform policy.
- Justify proposed project costs in view of the expected results and benefits.
- Describe strategies for disseminating findings to other practitioners in the field.

Staff Background and Organization Experience

- Identify the educational and professional background of the project director and key project staff.
- Describe the organization's ability to administer and implement the project effectively and efficiently.
- Describe the organization's experiences in establishing linkages and collaborating with partners at the community level.
- Identify precisely the rule of the author(s) of this proposal in relation to the work plan and administrative structure.

• Describe the relationships between the proposed project and other Federally assisted work planned, anticipated, or underway by the applicant.

• Provide assurance that at least one key staff person will attend an annual three-day meeting in Washington, DC.

• Provide assurance that all reports will be prepared in an NCCAN-suggested format and copies of final reports and other products shall be provided to the Clearinghouse.

Project Duration: The length of the project must not exceed a three-year period.

Federal Share of Project Cost: The maximum Federal share of this project is not to exceed $100,000 for the first 12-month budget period, or a maximum of $300,000 for a period of three years.

Matching Requirement: Grantees must provide a non-Federal share or match of at least 25 percent of the total approved cost. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a three-year project requesting $300,000 in Federal funds (based on an award of $100,000 per 12-month budget period) must include a match of at least $100,000 ($33,333 per 12-month budget period).

Anticipated Number of Projects to be Funded: It is anticipated that up to 7 projects will be funded.

CFDA Number: 93.670.

Part III. Information and Instructions for the Development and Submission of Applications

This part contains information and instructions for submitting applications in response to this announcement. Application forms are provided in Appendix A–ACF Uniform Discretionary Grant Application Form (ACF/UDGAF) and a checklist for assembling an application package is included in Section F. Please copy and use these forms in submitting an application.

Potential applicants should read this section carefully in conjunction with the information in the specific priority area under which the application is to be submitted. The priority area description are in Part II.

A. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record-keeping requirements or program announcements. This program announcement meets all information collection requirements approved for ACF grant applications under OMB Control Number 0970–0139.

B. Availability of Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms at the end of this program announcement in Appendix A. In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 (approved by OMB under Control Number 0348–0043). Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs'' (approved by OMB under control number 0348–0040). Applicants must sign and return the Standard Form 424B (approved by OMB Control Number 0348–0340) with their application. Applicants must provide a certification regarding lobbying (approved by OMB under Control Number 0348–0046). Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification (approved by OMB under control number 0348–0046). Applicants must sign and return the certification with their application.

Applicants must make the appropriate certification of their compliance with the Drug-free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Application must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for an award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants will be held accountable for the smoking prohibition in Pub. L. 103–227, Part C Environmental Tobacco Smoke (also known as the Pro-Children's Act of 1994). By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

C. Required Notification of the State Single Point of Contact

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Program and Activities.'' Under the Order, States may design and own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty one jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this material (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Appendix B of this announcement.

D. Deadline for Submission of Applications

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Mail Stop 6C–462, Washington, DC 20447, Attention: Application for [insert Program Name]. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., at the U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding weekends and Federal holidays). *Any application received after 4:30 p.m. on the deadline date will not be considered for competition.* Applicants using express/overnight services should allow for two working days prior to the deadline date for receipt of applications. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of Date or time of submission and time of receipt.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is a widespread disruption of the mails. However, if ACF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicants.

E. Instructions for Preparing the Application and Completing Application Forms

Applications submitted for funds under this announcement are considered NEW APPLICATIONS, therefore, follow instructions in Appendix A for NEW APPLICATIONS.

The SF 424, 424A (approved by OMB under Control Number 0348–0044), 424B, and certifications are included in Appendix A. You should reproduce single-sided copies of these forms from the reprinted forms in the announcement, typing your information onto the copies. Please do not use forms directly from the **Federal Register** announcement, as they are printed on both sides of the page.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet. Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Top of Page. Enter the single priority area number under which the application is being submitted under only one priority area.

Item 1. Type of submission—Pre-printed on the form.

Item 2. Date Submitted and Applicant Identifier—Date application is submitted to ACYF and applicant's own internal control number, if applicable.

Item 3. Date Received by State—State use only (if applicable).

Item 4. Date Received by Federal Agency—Leave blank.

Item 5. Applicant Information Legal Name—Enter the legal name of the applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

Organizational Unit—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. Do not use the name of an individual as the applicant. If this is the same as the applicant organization, leave the organizational unit blank.

Address—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

Name and telephone number of the person to be contacted on matters involving this application (include area code)—Enter the full name (including academic degree, if applicable) and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given here and will receive all correspondence regarding the application.

Item 6. Employer Identification Number (EIN)—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. Type of Applicant—Self-explanatory.

Item 8. Type of Application—Check new application.

Item 9. Name of Federal Agency—ACYF/NCCAN/CB.

Item 10. Catalog of Federal Domestic Assistance Number and Title—Enter the Catalog of Federal Domestic Assistance (CFDA) number assigned to the program under which assistance is requested and its title, as indicated in the relevant priority area description.

Item 11. Descriptive Title of Applicant's Project—Enter the project title. The title is generally short and is descriptive of the project, not the priority area title.

Item 12. Areas Affected by Project—Enter the governmental unit where significant and meaningful impact could be observed. List only the largest unit or units affected, such as State, county, or city. If an entire unit is affected, list it rather than sub-units.

Item 13. Proposed Project—Enter the desired start date for the project and projected completion date.

Item 14. Congressional District of Applicant/Project—Enter the number of the Congressional District where the applicant's principal office is located and the number of the Congressional district(s) where the project will be located. If statewide, a multi-State effort, or nationwide, enter 00.

Items 15. Estimated Funding Levels. In completing 15a through 15f, the dollar amounts entered should reflect, for a 12-month budget period, the total amount requested.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount specified in the priority area description.

Items 15b–e. Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or matching funds. The value of third party in-kind contributions should be included on appropriate lines as applicable.

Item 15f. Enter the estimated amount of income, if any, expected to be

generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. Is Application Subject to Review By State Executive Order 12372 Process? Yes, except for the 23 jurisdictions listed above. Enter the date the applicant contacted the SPOC regarding this application. Select the appropriate SPOC from the listing provided at the end of Part III. The review of the application is at the discretion of the SPOC. The SPOC will verify the date noted on the application. If there is a discrepancy in dates, the SPOC may request that the Federal agency delay any proposed funding until September 1997.

Item 16b. Is Application Subject to Review By State Executive Order 12372 process? No.—Check the appropriate box if the application is not covered by E.O. 12372 or if the program has not been selected by the State for review.

Item 17. Is the Applicant Delinquent on any Federal Debt?—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. Typed Name of Authorized Representative, Title, Telephone Number—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. Signature of Authorized Representative—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. Date Signed—Enter the date the application was signed by the authorized representative.

1. SF 424A, Budget Information—Non-Construction Programs. This is a form used by many Federal agencies. For this application, Sections A, B, C, E and F are to be completed. Section D does not need to be completed.

Sections A and B should include the Federal as well as the non-Federal funding for the proposed project covering the first year budget period.

Section A—Budget Summary. This section includes a summary of the budget. On line 5, enter total Federal costs in column (e) and total non-Federal costs, including third party in-kind contributions, but not program income, in column (f). Enter the total of (e) and (f) in column (g).

Section B—Budget Categories. This budget, which includes the Federal as well as non-Federal funding for the proposed project, covers the first year budget period if the proposed project period exceeds 12 months. It should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal dollars in one column and non-Federal in the other) by object class category.

A separate, itemized, budget justification for each line item is required. The types of information to be included in the justification are indicated under each category. For multiple-year projects, it is desirable to provide this information for each year of the project. Applicants should refer to the Budget and Budget Justification information in the Program Narrative section of the ACF/UDGAF on page 27 (Item D) in Appendix A.

Personnel—Line 6a. Enter the total costs of salaries and wages of applicant/grantee staff. Do not include the costs of consultants, which should be included on line 6h, Other.

Justification: Identify the principle investigator or project director, if known. Specify by title or name the percentage of time allocated to the project, the individual annual salaries, and the cost to the project (both Federal and non-Federal) of the organization's staff who will be working on the project.

Fringe Benefits—Line 6b. Enter the total cost of fringe benefits, unless treated as part of an approved indirect cost rate.

Justification: Provide a break-down of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, etc.

Travel—6c. Enter total costs of out-of-town travel (travel requiring per diem) for staff of the project. Do not enter costs for consultant's travel or local transportation, which should be included on Line 6h, Other.

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, transportation costs and subsistence allowances.

Equipment—Line 6d. Enter the total costs of all equipment to be acquired by the project. Equipment is defined as non-expendable tangible personal property having a useful life of more than one year and a acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be justified. The equipment must be required to conduct the project, and the applicant organization or its sub-grantees must not have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Supplies—Line 6e. Enter the total costs of all tangible expendable personal property (supplies) other than those included on Line 6d.

Justification: Specify general categories of supplies and their costs.

Contractual—Line 6f. Enter the total costs of all contracts, including (1) procurement contracts (except those which belong on other lines such as equipment, supplies, etc.) and (2) contracts with secondary recipient organizations, including delegate agencies. Also include any contracts with organizations for the provision of technical assistance. Do not include payments to individuals on this line. If the name of the contractor, scope of work, and estimated total costs are not available or have not been negotiated, include on Line 6h, other.

Justification: Attach a list of contractors, indicating the names of the organizations, the purposes of the contracts, and the estimated dollar amounts of the awards as part of the budget justification. Whenever the applicant/grantee intends to delegate part or all of the program to another agency, the applicant/grantee must complete this section (Section B, Budget Categories) for each delegate agency by agency title, along with the supporting information. The total cost of all such agencies will be part of the amount shown on Line 6f. Provide back-up documentation identifying the name of contractor, purpose of contract, and major cost elements. Applicants who anticipate procurement that will exceed $5,000 (non-governmental entities) or $25,000 (governmental entities) and are requesting an award without competition should include a sole-source justification in the proposal which at a minimum should include the basis for contractor's selection,

justification for lack of competition when competitive bids or offers are not obtained and basis for award cost or price. (**Note:** Previous or past experience with a contractor is not sufficient justification for sole source.)

Construction—Line 6g. Not applicable. New construction is not allowable.

Other—Line 6h. Enter the total of all other costs. Where applicable, such costs may include, but are not limited to: insurance, medical and dental costs, noncontractual fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs, including wage payments to individuals and supportive service payments, and staff development costs. Note that costs identified as miscellaneous and honoraria are not allowable.

Justification: Specify the costs included.

Total Direct Charge—Line 6i. Enter the total of Lines 6a through 6h.

Indirect Charges—6j. Enter the total amount of indirect charges (costs). If no indirect costs are requested, enter none. Generally, this line should be used when the applicant has a current indirect cost rate agreement approved by the Department of Health and Human Services or another Federal agency.

Local and State governments should enter the amount of indirect costs determined in accordance with DHHS requirements. When an indirect cost rate is requested, these costs are included in the indirect cost pool and should not be charged again as direct costs to the grant.

Justification: Enclose a copy of the indirect cost rate agreement.

Total—Line 6k. Enter the total amounts of line 6i and 6j.

Program Income—Line 7. Enter the estimated amount, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount.

Justification: Describe the nature, source, and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources. This section summarizes the amounts of non-Federal resources that will be applied to the grant. Enter this information on line 12 entitled Totals. In-kind contributions are defied in 45 CFR 74.51 and 45 CFR 92.3, as property or services which benefit a grant-supported project or program and which are contributed by non-Federal third parties without charge to the grantee, the sub-grantee, or a cost-type contractor under the grant or sub-grant.

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs, Not applicable.

Section E—Budget Estimate of Federal Funds Needed For Balance of the Project. This section should only be completed if the total project period exceeds 15 months.

Totals—Line 20. For projects that will have more than one budget period, enter the estimated required Federal funds for the second budget period (months 13 through 24) under column (b) First. If a third budget period will be necessary, enter the Federal funds needed for months 25 through 36 under (c) Second. Columns (d) and (e) would be used in the case of a 60 month project.

Section F—Other Budget Information.

Direct Charges—Line 21, Not applicable.

Indirect Charges—Line 22, Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Remarks—Line 23. If the total project period exceeds 12 months, you must enter your proposed non-Federal share of the project budget for each of the remaining years of the project.

3. Project Summary Description. Clearly mark this separate page with the applicant name as shown in item 5 of the SF 424, the priority area number as shown at the top of the SF 424, and the title of the project as shown in item 11 of the SF 424. The summary description should not exceed 300 words. These 300 words become part of the computer database on each project.

Care should be taken to produce a summary description which accurately and concisely reflects the application. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The description should also include a list of major products that will result from the proposed project, such as software packages, materials, management procedures, data collection instruments, training packages, or videos. (Please note that audiovisuals should be closed captioned.) The project summary description, together with the information on the SF 424, will constitute the project abstract. It is the major source of information about the proposed project and is usually the first part of the application that the reviewers read in evaluating the application.

At the bottom of the page, following the summary description, type up to 10 key words which best describe the proposed project, the service(s) involved and the target population(s) to be covered. These key words will be used for computerized information retrieval for specific types of funded projects. Applicants should refer to the instructions in Appendix A under the Program Narrative section (Item A.1) regarding the project summary.

4. Program Narrative Statement. The Program Narrative Statement is a very important part of an application. It should be clear, concise, and address the specific requirements mentioned under the priority area description in Part II.

The narrative should provide information concerning how the application meets the evaluation criteria using the following headings for demonstration applications:

(a) Objective and Need for Assistance

(b) Approach

(c) Results or Benefits Expected

(d) Staff Background and Organization Experience

The narrative should be typed double-spaced on a single-side of an 8½″ × 11″ plain white paper, with 1″ margins on all sides, using standard type sizes or fonts (e.g., Times Roman 12 or Courier 10). Applicants should not submit reproductions of larger size paper reduced to meet the size requirement. Applicants are requested not to send pamphlets, brochures, or other printed material along with their application as they pose copying difficulties. All pages of the narrative (including charts, references/footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with ''Objectives'' or ''Objectives and Need for Assistance'' as page number one.

The length of the application, including the application forms and all attachments, should not exceed 60 pages. Anything over the limit will not be reproduced and distributed to reviewers. A page is a single side of an 8½″ × 11″ sheet of paper. Applicants are requested not to send pamphlets, brochures or other printed material along with their application as these pose xeroxing difficulties. These materials, if submitted, will not be included in the review process if they exceed the page limit criteria. Each page of the application will be counted to determine the total length.

Applicants should respond to the Program Narrative instructions in Appendix A—Components section (Item A) as described below.

A.2. Objectives and Need for Assistnace—This information is

addressed under the Objectives and Need for Assistance section (Part II.C.) of this announcement.

A.3. Results and Benefits Expected—This information is addressed in the Results and Benefits section (Part II.C.) of this announcement.

A.4. Approach—This information is addressed in the Approach section (Part II.C.) of this announcement.

A.5. Evaluation—This information is addressed in the Approach section (Part II.C.) of this announcement.

A.6. Geographic Location—This information is addressed in the Objectives and Need for Assistance section (Part II.C.) of this announcement.

A.7. Additional Information—This information is addressed in the Staff Background and Organization Experience section (Part II.C.) of this announcement.

Note: Item B. Noncompeting Continuation Applications and Item C. Supplemental Requests do not apply to this announcement.

5. Organizational Capability Statement. The Organizational Capability Statement should consist of a brief (two pages is suggested) background description of how the applicant organization (or the unit within the organization that will have responsibility for the project) is organized, the types and quantity of services it provides, and/or the research and management capabilities it possesses. This description should cover capabilities not included in the Program Narrative Statement. It may include descriptions of any current or previous relevant experience, or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization must be included.

6. Assurances/Certifications. Applicants are required to file an SF 424B, Assurances—Non-Construction Programs and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-free Work-place Requirements; and (2) Debarment and Other Responsibilities. Copies of the assurances/certifications are reprinted at the end of this announcement and should be reproduced, as necessary. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances/certifications. A signature on the SF 424 indicates compliance with the Drug-free Work-place Requirements, and Debarment and Other Responsibilities certifications.

A signature on the application constitutes an assurance that the applicant will comply with the pertinent Departmental regulations contained in 45 CFR part 74.

F. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original, signed and dated application, plus two copies. Applications for different priority areas are packaged separately;

—Application is from an organization which is eligible under the eligibility requirements defined in the priority area description (screening requirement);

—Application length does not exceed 60 pages, unless otherwise specified in the priority area description. A complete application consists of the following items in this order:

—Application for Federal Assistance (SF 424, REV 4–92);

—A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424;

—Budget Information-Non-Construction Programs (SF 424A);

—Budget justification for Section B-Budget Categories;

—Table of Contents;

—Letter from the Internal Revenue Service to prove non-profit status, if necessary;

—Copy of the applicant's approved indirect cost rate agreement, if appropriate;

—Project summary description and listing of key words;

—Program Narrative Statement (See Part III, Section D);

—Organizational capability statement, including an organization chart;

—Any appendices/attachments;

—Assurances-Non-Construction Programs (Standard Form 424B);

—Certification Regarding Lobbying.

G. The Application Package

Each application package must include an original and two copies of the complete application. Each copy should be stapled securely (front and back if necessary) in the upper left-hand corner. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with page one. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials as attachments, such as agency promotion brochures, slides, tapes, film clips, minutes of meetings, survey instruments or articles of incorporation.

Do not include a self-addressed, stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application. If acknowledgment of receipt of your application is not received within two weeks after the deadline date, please notify the ACYF Operations Center by telephone at 1–800–351–2293.

Dated: May 8, 1997.

Olivia A. Golden,

Principal Deputy Assistant Secretary for Children and Families.

BILLING CODE 4184–01–M

Appendix A

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ - ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify)_____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐ - ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:

a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

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Standard Form 424 (REV 4-92)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF 424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348–0042), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET, SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State, if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities.)
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit allowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4184–01–M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A - BUDGET SUMMARY						
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES					
6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7. Program Income	$	$	$	$	$

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Standard Form 424A (Rev. 4-92)
Prescribed by OMB Circular A-102

SECTION C — NON-FEDERAL RESOURCES				
(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS					
	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E — BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT				
(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	$	$	$	$

SECTION F — OTHER BUDGET INFORMATION	
21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

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Standard Form 424A (Rev. 4-92) Page 2

BILLING CODE 4184-01-C

Instructions for the SF 424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET, SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This from is designed so that application can be made for funds form one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary Lines 1–4, Column (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple function of activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number of each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g)

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For *continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in Columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the total for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of direct cost.

Line 6k—Enter the total of amounts of Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k, should the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agency should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals in Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15

minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET, SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental; Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one to the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g)§§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd–3 and 290 ee–3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to non-discrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statue(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91–646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §§ 1501–1508 and 7324–7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. §§ 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91–190) and Executive order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. §§ 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93–205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 et seq.).

14. Will comply with P.L. 93–348 regarding the protection of human subjects involved in research development, and related activities supported by this award of assistance.

15. Will comply with the laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984 or OMB Circular No. A–133, Audits of Institutions of Higher Learning and other Non-profit Institutions.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Applicant Organization

_____

Date Submitted

Program Narrative

This program narrative section was designed for use by many and varied programs. Consequently, it is not possible to provide specific guidance for developing a program narrative statement that would be appropriate in all cases. Applicants must refer the relevant program announcement for information on specific program requirements and any additional guidelines for preparing the program narrative statement. The following are general guidelines for preparing a program narrative statement.

The program narrative provides a major means by which the application is evaluated and ranked to compete with other applications for available

assistance. It should be concise and complete and should address the activity for which Federal funds are requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those which will not be used in support of the specific project for which funds are requested.

Cross-referencing should be used rather than repetition. ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Narratives are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities which will not be directly funded by the grant or information which does not directly pertain to an integral part of the grant funded activity should be placed in an appendix.) Pages should be numbered for easy reference.

Prepare the program narrative statement in accordance with the following instructions:

- Applicants submitting new applications or competing continuation applications should respond to Items A and D.
- Applicants submitting noncompeting continuation applications should respond to Item B.
- Applicants requesting supplemental assistance should respond to Item C.

A. Project Description—Components

1. Project Summary/Abstract

A summary of the project description (usually a page or less) with reference to the funding request should be placed directly behind the table of contents or SF–424.

2. Objectives and Need for Assistance

Applicants must clearly identify the physical, economic, social, financial, institutional, or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation such as letters of support and testimonials from concerned interests other than the applicant may be included. Any relevant data based on planning studies should be included or referenced in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the narrative, the applicant may volunteer or be requested to provide information on the total range of projects currently conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

3. Results or Benefits Expected

Identify results and benefits to be derived. For example, when applying for a grant to establish a neighborhood child care center, describe who will occupy the facility, who will use the facility, how the facility will be used, and how the facility will benefit the community which it will serve.

4. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking this approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of microloans made. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

Identify the kinds of data to be collected, maintained, and/or disseminated. (Note that clearance from the U.S. Office of Management and Budget might be needed prior to an information collection.) List organizations, cooperating entities, consultants, or other key individuals who will work or the project along with a short description of the nature of their effort or contribution.

5. Evaluation

Provide a narrative addressing how you will evaluate (1) the results of your project and (2) the conduct of your program. In addressing the evaluation of results, state how you will determine the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program. Discuss the criteria to be used to evaluate results; explain the methodology that will be used to determine if the needs identified and discussed are being met and if the project results and benefits are being achieved. With respect to the conduct of your program, define the procedures you will employ to determine whether the program is being conducted in a manner consistent with the work plan you presented and discuss the impact of the program's various activities upon the program's effectiveness.

6. Geographic Location

Give the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

7. Additional Information (Include if Applicable)

Additional information may be provided in the body of the program narrative or in the appendix. Refer to the program announcement and ''General Information and Instructions'' for guidance on placement of application materials.

Staff and Position Data—Provide a biographical sketch for key personnel appointed and a job description for each vacant key position. Some programs require both for all positions. Refer to the program announcement for guidance on presenting this information. Generally, a biographical sketch is require for original staff and new members as appointed.

Plan for Project Continuance Beyond Grant Support—A plan for securing resources and continuing project activities after Federal assistance has ceased.

Business Plan—When federal grant funds will be used to make an equity investment, provide a business plan. Refer to the program announcement for guidance on presenting this information.

Organization Profiles—Information on applicant organizations and their cooperating partners such as organization charts, financial statements, audit reports or statements from CPA/Licensed Public Accountant, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with federal/state/local government standards, documentation

of experience in program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of the currently valid IRS tax exemption certificate, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Dissemination Plan—A plan for distributing reports and other project outputs to colleagues and the public. Applicants must provide a description of the kind, volume and timing of distribution.

Third-Party Agreements—Written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements may detail scope of work, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Waiver Request—A statement of program requirements for which waivers will be needed to permit the proposed project to be conducted.

Letters of Support—Statements from community, public and commercial leaders which support the project proposed for funding.

B. Noncompeting Continuation Applications

A program narrative usually will not be required for noncompeting continuation applications for nonconstruction programs. Noncompeting continuation applications shall be abbreviated unless the ACF Program Office administering this program has issued a notice to the grantee that a full application will be required.

An abbreviated application consists of:

1. The Standard Form 424 series (SF 424, SF 424A, SF–424B).

2. The estimated or actual unobligated balance remaining from the previous budget period should be identified on an accurate SF–269 as well as in Section A, Columns (c) and (d) of the SF–424A.

3. The grant budget, broken down into the object class categories on the 424A, and if category ''other'' is used, the specific items supported must be identified.

4. Required certifications.

A full application consists of all elements required for an abbreviated application plus:

1. Program narrative information explaining significant changes to the original program narrative statement, a description of accomplishments from the prior budget period, a projection of accomplishments throughout the entire remaining project period, and any other supplemental information that ACF informs the grantee is necessary.

2. A full budget proposal for the budget period under consideration with a full cost analysis of all budget categories.

3. A corrective action plan, if requested by ACF, to address organizational performance weaknesses.

C. Supplemental Requests

For supplemental assistance requests, explain the reason for the request and justify the need for additional funding. Provide a budget and budget justification *only* for those items for which additional funds are requested. (See Item D for guidelines on preparing a budget and budget justification.)

D. Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

The following guidelines are for preparing the budget and budget justification. Both federal and non-federal resources should be detailed and justified in the budget and narrative justification. For purposes of preparing the program narrative, ''federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other federal and non-federal resources. It is suggested that for the budget, applicants use a column format: Column 1, object class categories; Column 2, federal budget amounts; Column 3, non-federal budget amounts, and Column 4, total amounts. The budget justification should be a narrative.

Personnel. Cost of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, show name/title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits. Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of amounts and percentages that comprise fringe benefit costs, such as health insurance, FICA, retirement insurance, taxes, etc.

Travel. Costs of project related travel by employees of the applicant organization (does not include cost of consultant travel).

Justificaiton: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF sponsored workshops as specified in this program announcement should be detailed in the budget.

Equipment. Costs of all non-expendable, tangible personal property to be acquired by the project where each article has a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the applicant organization for financial statement purposes, or (b) $5000.

Justification: For each type of equipment requested, provide a description of the equipment, cost per unit, number of units, total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends.

Supplies. Costs of all tangible personal property (supplies) other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual. Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations including delegate agencies and specific project(s) or businesses to be financed by the applicant should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. If procurement competitions were held or if a sole source procurement is being proposed, attach a list of proposed contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and the award selection process. Also provide back-up documentation where necessary to support selection process.

Note: Whenever the applicant/grantee intends to delegate part of the program to another agency, the applicant/grantee must provide a detailed budget and budget narrative for each delegate agency by agency title, along with the required supporting information referenced in these instructions.

Applicants must identify and justify any anticipated procurement that is expected to exceed the simplified purchase threshold (currently set at $100,000) and to be awarded without competition. Recipients are required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc. under the conditions identified at 45 CFR Part 74.44(e).

Construction. Costs of construction by applicant or contractor.

Justification: Provide detailed budget and narrative in accordance with instructions for other object class categories. Identify which construction activity/costs will be contractual and which will be assumed by the applicant.

Other. Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, space and equipment rentals, printing and publication, computer use, training costs, including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Indirect Charges. Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or another cognizant Federal agency.

Justification: With the exception of most local government agencies, an applicant which will charge indirect costs to the grant must enclose a copy of the current rate agreement if the agreement was negotiated with a cognizant Federal agency other than the Department of Health and Human Services (DHHS). If the rate agreement was negotiated with the Department of Health and Human Services, the applicant should state this in the budget justification. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent DHHS Guide for Establishing Indirect Cost Rates, and submit it to the appropriate DHHS Regional Office. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not be also charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under this program announcement, the authorized representative of your organization needs to submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income. The estimated amount of income, if any, expected to be generated from this project. Separately show expected program income generated from program support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Justification: Describe the nature, source and anticipated use of program income in the budget or reference pages in the program narrative statement which contain this information.

Non-Federal Resources. Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process.

Total Direct Charges, Total Indirect Charges, Total Project Costs. (self explanatory)

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason by changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility

and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed to debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitions for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630 (c) and (d)(2) and 76.645 (a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW., Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identify of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantee's attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacturer, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate 1. (Grantees Others Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d) (2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form—LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

_____

Signature

_____

Title

_____

Organization

_____

Date

BILLING CODE 4184–01–M

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ a. initial filing b. material change **For material change only** Year_____ Quarter_____ date of last report_____

4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, *if known.* Congressional District, *if known*	**5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:** Congressional District, *if known*
6. Federal Department/Agency:	**7. Federal Program Name/Description:** **CFDA Number,** *if applicable:*
8. Federal Action Number, ***if known*****:**	**9. Award Amount,** ***if known*****:** $
10. a. Name and Address of Lobbying Registrant *(if individual, last name, first name, MI):*	**b. Individuals Performing Services** *(including address if different from No. 10a)* *(last name, first name, MI):*

Items 11 through 15 are deleted.

16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only:	Authorized for Local Reproduction Standard Form - LLL

BILLING CODE 4184–01–C

Certification Regarding Environmental Tobacco Smoke

Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

OMB State Single Point of Contact Listing

Arizona

Joni Saad, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280–1315, FAX: (602) 280–8144

Arkansas

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, FAX: (501) 682–5206

California

Grants Coordinator, Office of Planning & Research, 1400 Tenth Street, Room 121, Sacramento, California 95814, Telephone (916) 323–7480, FAX: (916) 323–3018

Delaware

Francine Booth, State Single Point of Contact Executive Department, Thomas Collins Building, P.O. Box 1401, Dover, Delaware 19903, Telephone: (302) 739–3226, FAX: (302) 739–5661

District of Columbia

Charles Nichols, State Single Point of Contact, Office of Grants Mgmt. & Dev., 717 14th Street, N.W.—Suite 500, Washington, D.C. 20005, Telephone: (202) 727–6554, FAX: (202) 727–1617

Florida

Florida State Clearinghouse, Department of Community Affairs, 2740 Centerview Drive, Tallahassee, Florida 32399–2100, Telephone: (904) 922–5438, FAX: (904) 487–2899

Georgia

Tom L. Reid, III, Administrator, Georgia State Clearinghouse, 254 Washington Street, S.W.—Room 401J, Atlanta, Georgia 30334, Telephone: (404) 656–3855 or (404) 656–3829, FAX: (404) 656–7938

Illinois

Virginia Bova, State Single Point of Contact, Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, FAX: (312) 814–1800

Indiana

Frances Williams, State Budget Agency, 212 State House, Indianapolis, Indiana 46204–2796, Telephone: (317) 232–5619, FAX: (317) 233–3323

Iowa

Steven R. McCann, Division for Community Assistance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, FAX: (515) 242–4859

Kentucky

Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capitol Center Drive, Frankfort, Kentucky 40601–8204, Telephone: (502) 573–2382, FAX: (502) 573–2512

Maine

Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone: (207) 287–3261, FAX: (207) 287–6489

Maryland

William G. Carroll, Manager, State Clearinghouse for Intergovernmental Assistance, Maryland Office of Planning, 301 W. Preston Street—Room 1104, Baltimore, Maryland 21201–2365, Staff Contact: Linda Janey, Telephone: (410) 225–4490, FAX: (410) 225–4480

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Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Telephone: (314) 751–4834, FAX: (314) 751–7819

Nevada

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone: (702) 687–4065, FAX: (702) 687–3983

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 271–2155, FAX: (603) 271–1728

New Mexico

Robert Peters, State Budget Division, Room 190 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–3640

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone: (518) 474–1605, FAX: (518) 486–5617

North Carolina

Chrys Baggett, Director, N.C. State Clearinghouse, Office of the Secretary of Admin., 116 West Jones Street, Raleigh, North Carolina 27603–8003, Telephone: (919) 733–7232, FAX: (919) 733–9571

North Dakota

North Dakota Single Point of Contact, Office of Intergovernmental Assistance, 600 East Boulevard Avenue, Bismarck, North Dakota 58505–0170, Telephone: (701) 224–2094, FAX: (701) 224–2308

Ohio

Larry Weaver, State Single Point of Contact, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43266–0411

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Rhode Island

Kevin Nelson, Review Coordinator, Department of Administration, Division of Planning, One Capitol Hill, 4th Floor, Providence, Rhode Island 02908–5870, Telephone: (401) 277–2656, FAX: (401) 277–2083

Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

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Mr. Alvaro A. Santos, Executive Officer, State Single Point of Contact, Office of Management and Budget, Office of the Governor, Saipan, MP, Telephone: (670) 664–2256, FAX: (670) 644–2272, Contact Person: Ms. Jacoba T. Seaman, Federal Programs Coordinator, Telephone: (670) 644–2289, FAX: (670) 644–2272

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North Mariana Islands

Mr. Alvaro A. Santos, Executive Officer, State Single Point of Contact, Office of Management and Budget, Office of the Governor, Saipan, MP, Telephone: (670) 664–2256, FAX: (670) 664–2272

Contact Person: Ms. Jacoba T. Seman, Federal Programs Coordinator, Telephone: (670) 644–2289, FAX: (670) 644–2272.

Virgin Islands

Nelson Bowry, Director, Office of Management and Budget, #41 Norregade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802

Please direct all questions and correspondence about intergovernmental review to: Linda Clarke, Telephone: (809) 774–0750, FAX: (809) 776–0069.

[FR Doc. 97–12686 Filed 5–14–97; 8:45 am]

BILLING CODE 4181–01–M

federal register

Thursday
May 15, 1997

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 27744; Special Federal Aviation Regulation (SFAR) No. 67]

RIN 2120–AG40

Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; amendment.

SUMMARY: This action amends Special Federal Aviation Regulation (SFAR 67) to extend, with the exception noted below, the prohibition on flight operations within the territory and airspace of Afghanistan by any United States air carrier or commercial operator, by any person exercising the privileges of an airman certificate issued by the FAA, or by an operator using an aircraft registered in the United States, and to permit flight operations by the aforementioned persons through Afghan airspace over what is hereinafter described as the Wakhan Corridor. The current SFAR was issued on May 13, 1994, and was subsequently extended twice to the current expiration date of May 10, 1997. This action is taken to prevent an undue hazard to persons and aircraft engaged in such flight operations as a result of the ongoing civil war in Afghanistan.

DATES: This amendment to SFAR 67 is effective May 9, 1997. SFAR 67 shall remain in effect until May 10, 1998.

FOR FURTHER INFORMATION CONTACT: Mark W. Bury, International Affairs and Legal Policy Staff, AGC–7, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591. Telephone: 202–267–3515.

SUPPLEMENTARY INFORMATION:

Availability of Document

An electronic copy of this document may be downloaded using a modern and suitable communications software from the FAA regulations section of the Fedworld bulletin board service (telephone: 703–321–3339), the Federal Register's electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee bulletin board service (telephone: 800–FAA–ARAC).

Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's web page at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

Any person may obtain a copy of this document by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue S.W., Washington, DC 20591, or by calling 202–267–9680. Communications must identify the number of this SFAR or the docket number of this document. Persons interested in being placed on a mailing list for future rules should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

The FAA is responsible for the safety of flight in the United States and for the safety of United States-registered aircraft and operators throughout the world. Section 40101(d)(1) of Title 49, United States Code, declares, as a matter of policy, that the regulation of air commerce to promote safety is in the public interest. Section 44701(a) of Title 49, United States Code, provides the FAA with broad authority to carry out this policy by prescribing regulations governing the practices, methods, and procedures necessary to ensure safety in air commerce.

In the exercise of these statutory responsibilities, the FAA on May 13, 1994, issued SFAR 67, prohibiting flight operations within the territory and airspace of Afghanistan by any United States air carrier or commercial operator, any person exercising the privileges of an airman certificate issued by the FAA, or any operator using an aircraft registered in the United States unless the operator of such aircraft is a foreign air carrier. Notice of SFAR 67 was published at 59 FR 25282 (May 13, 1994). The FAA issued SFAR 67 based upon a determination that the ongoing civil war in Afghanistan justified the imposition of certain measures to ensure the safety of United States-registered aircraft and operators that are conducting flight operations in the vicinity of Afghanistan's territory and airspace. SFAR 67 was originally scheduled to expire after one year. Notice of the extension of SFAR 67 for an additional year was published at 60 FR 25980 (May 15, 1995). Subsequently, by notice published at 61 FR 24430 (May 14, 1996), the FAA extended the expiration date of SFAR 67 to May 10, 1997.

Fighting between government and opposition forces continues throughout much of Afghanistan at a level and intensity similar to that described when SFAR 67 was originally issued and later amended. Government and opposition forces still possess a wide range of sophisticated surface- and air-based weapons that potentially could be used to attack civil aircraft overflying Afghanistan at cruising altitudes. These weapons include fighter and attack aircraft armed with cannons and air-to-air missiles, and surface-to-air missiles (SAM) systems. Although aircraft have been used primarily for ground attacks against airfields and other key facilities, air-to-air encounters have also been observed. Press reports also suggest that a number of Afghan military and civil aircraft have been shot down using SAMs. Large areas of the country continue to be the scene of factional fighting. Fluctuations in the level and intensity of combat create an unsafe environment for transiting civilian aircraft in most areas of the country.

Advisories have been issued by the International Civil Aviation Organization (ICAO) urging civil aircraft to avoid Afghan airspace. In a letter dated April 8, 1994, Assad Kotaite, President of the ICAO Council, issued a notice urging air carriers to discontinue flights over Afghanistan. In a subsequent letter dated November 14, 1994, Dr. Kotaite warned of the continuing risks associated with flights over Afghanistan, including operations using certain routes developed by the Afghan government or neighboring countries. On September 18, 1995, in yet another letter addressing flight safety over Afghanistan, Dr. Kotaite advised that ''the safety of international civil flight operations through the Kabul [Flight Information Region] can not be assured.'' Dr. Kotaite did indicate in this letter that if operators were using Afghan airspace, flying time over Afghanistan should be minimized and that route V500, promulgated by a Pakistani NOTAM, involves only a two minute flying time over Afghanistan.

A letter of May 10, 1996, advised of a report by the crew of a Boeing 747 cargo aircraft of anti-aircraft fire in the vicinity of Kabul. These advisories, which are still germane, reflect the uncertain nature of the situation and underscore the dangers to flights in Afghan airspace. There are also indications that at least two major factions in Afghanistan have in recent fighting deliberately targeted civil aircraft. Such policies occasionally have been publicly announced. In a statement released in September 1995, General Dostam, who at the time opposed the nominal Rabbani Government, warned all international air carriers that his forces would force or shoot down any airplane venturing into airspace

controlled by his faction without first obtaining proper clearance from them. This statement followed a similar warning issued in 1994 by an opposition council. Air corridors over central Afghanistan have been closed frequently as a result of these threats and active factional fighting.

Although it is not certain that any faction in the civil war would deliberately target a foreign-flagged commercial air carrier, the Taliban's growing frustration with the airlift of arms, ammunition, and supplies to other factions, and the other factions' interest in bringing down Taliban flights, creates a potentially hazardous environment whereby an airliner might be misidentified and inadvertently targeted. The FAA continues to receive reports that scheduled passenger flights have been intercepted by opposition fighter aircraft. In July 1996, a Taliban fighter intercepted a Pakistan International Airlines flight enroute from London to Lahore. Charter flights appear to be equally or more vulnerable. A Russian-operated charter flight from the UAE carrying unmanifested ammunition to Kabul was forced to land in Kandahar; the aircraft and its crew were held there for almost one year before escaping in August 1996.

At the very least, central Afghan government control over installations critical to navigation and communication cannot be assured. The Taliban now controls Kabul and most government facilities, including air traffic control facilities. Moreover, the use of combat aircraft and SAMs by all factions in the conflict calls into question the security/safety of the majority of Afghan airspace for civil aircraft. An environment for long-term stability in Afghanistan has yet to emerge.

Although other areas of the country continue to be the scene of sporadic factional fighting, most of the recent combat has occurred in areas to the immediate north of Kabul, the central province of Bamiayan, and the northwestern provinces, away from the Wakhan Corridor. The Wakhan Corridor is a remote, sparsely populated expanse of Afghan territory jutting eastward to the Chinese border (from approximately 071°35′ east longitude). The territory is nominally controlled by Commander Masood; however, due to its remoteness, inhospitable terrain and limited population, the Wakhan Corridor plays an insignificant role in the current conflict. No combat action is known to have taken place there, and the population is generally removed from the effects of the fighting. There is no evidence to suggest that Afghan factions or terrorist elements harbor any intent to conduct activity against United States or other international air carriers overflying the Wakhan Corridor. The only potential threat against civil aircraft over the Wakhan Corridor is of a limited capability. While an action aimed at shooting down or intercepting an aircraft over the Wakhan Corridor cannot be absolutely ruled out, it is considered unlikely. The U.S. Government assessment is that the overall risk is minimal. Several non-U.S. air carriers currently operate safely over the Wakhan Corridor along the V500 airway.

Amendment of Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan

On the basis of the above information, and in furtherance of my responsibilities to promote the safety of flight of civil aircraft in air commerce, I have determined that continued action by the FAA is necessary to prevent the injury to U.S. operators or loss of certain U.S.-registered aircraft conducting flights in the vicinity of Afghanistan. I find that the current civil war in Afghanistan continues to present an immediate hazard to the operation of civil aircraft over Afghan territory and in most Afghan airspace. Accordingly, I am ordering a one-year extension of the prohibition under SFAR 67 on flight operations within the territory and airspace of Afghanistan. This action is necessary to prevent an undue hazard to aircraft and to protect persons and property on board those aircraft. SFAR 67 will now expire on May 10, 1998. Because the circumstances described in this notice warrant immediate action by the FAA to maintain the safety of flight, I also find that good cause exists for making this amendment effective immediately on publication.

I also am ordering the amendment of SFAR 67 to allow flights by United States air carriers and commercial operators, by any person exercising the privileges of a certificate issued by the FAA, or by an operator using aircraft registered in the U.S. through Afghan airspace east of 071°35′ east longitude. Because this action lifts a restriction, I find that good cause exists for making this amendment effective immediately upon publication.

The Department of State has been advised of, and has no objection to, the actions taken herein.

Regulatory Evaluation Summary

In accordance with SFAR 67, United States air carriers and commercial operators currently use alternate routes to avoid Afghan territory and airspace. Navigating around Afghanistan results in increased variable operating costs, primarily for United States air carriers operating between Europe and India. Based on data identified during the promulgation of SFAR 67, the FAA estimates that the weighted-average variable cost for a wide-body aircraft is approximately $3,200 per hour. Based on data received from two United States air carriers, the additional time it takes to navigate around Afghanistan ranges from 10 minutes by flying over Iran to between one and four hours by flying over Saudi Arabia (depending on the flight's origin and destination). Additional costs associated with these alternate routes range from $530 by flying over Iran to between $3,200 to $12,700 per flight over Saudi Arabia.

In addition, there is an amendment to the extension to SFAR 67, which allows United States air carriers through Afghan airspace east of 071°35′ east longitude. There is no inordinate hazard to persons and aircraft, due to the remote, sparsely populated nature of the Wakhan Corridor, and because no combat action is known to have occurred in the area. Therefore, if U.S. air carriers choose to fly over the Wakhan region, they could experience cost savings ranging from approximately $530 by flying over Iran, and between $3,200 to $12,700 per flight over Saudi Arabia.

This Action imposes no additional burden on domestic and foreign air carrier certificate holders. In view of the foregoing, the FAA has determined that the extension to SFAR 67 is cost beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a proposed rule would have ''significant economic impact on a substantial number of small entities.'' FAA Order No. 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. The FAA has determined that none of the United States air carriers or commercial operators are ''small entities'' as defined under FAA Order No. 2100.14A. Therefore, the SFAR would not impose a ''significant economic impact on a substantial number of small entities.''

International Trade Impact Assessment

When the FAA promulgated SFAR 67, it found that the SFAR could have an adverse impact on the international flights of United States air carriers and

commercial operators because it could marginally increase their operating costs and flight times relative to foreign carriers who continue to overfly Afghanistan. This action does not impose any restrictions on United States air carriers or commercial operators beyond those originally imposed by SFAR 67. Therefore, the FAA believes that the SFAR would have little, if any, effect on the sale of United States aviation products and services in foreign countries.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate on a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain any Federal intergovernmental mandates, but does contain a private sector mandate. However, because expenditures by the private sector will not exceed $100 million annually, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 USC. 3507 *et seq.*).

Federalism Determination

The amendment set forth 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 (52 FR 4168; October 30, 1987), it is determined that this regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons set forth above, the FAA has determined that this action is not a ''significant regulatory action'' under Executive Order 12866. This action is considered a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because revenue flights to Afghanistan are not currently being conducted by United States air carriers or commercial operators, the FAA certifies that this rule 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.

List of Subjects in 14 CFR Part 91

Afghanistan, Aircraft, Airmen, Airports, Air traffic control, Aviation safety, Freight.

The Amendment

For the reasons set forth above, the Federal Aviation Administration is amending 14 CFR Part 91 as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for Part 91 continues to read as follows:

Authority: 49 USC 106(g), 40103, 40113, 40120, 44101, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–, 47122, 47508, 47528–47531.

2. Paragraph 3 and 5 of SFAR 67 are (revised to read as follows:

Special Federal Aviation Regulation No. 67—Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan.

* * * * *

3. *Permitted Operations.* This SFAR does not prohibit persons described in paragraph 1 from conducting flight operations within the territory and airspace of Afghanistan:

a. Where such operations are authorized either by the exemption issued by the Administrator or by another agency of the United States Government with the approval of the FAA; or

b. East of 071°35′ east longitude.

* * * * *

5. *Expiration.* This Special Federal Aviation Regulation expires May 10, 1998.

Issued in Washington, DC, on May 9, 1997.

Barry Valentine,

Acting Administrator.

[FR Doc. 97–12744 Filed 5–12–97; 1:04 pm]

BILLING CODE 4910–13–M

federal register

Thursday
May 15, 1997

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Chapter I

Review of Existing Rules; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. 28910]

Review of Existing Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Review of regulations; request for comments.

SUMMARY: This notice requests that the pubic identify those regulations currently in effect which it believes should be amended, eliminated, or simplified. This action is based on Presidential recommendations that the FAA perform regulatory reviews consistent with its statutory authority and public interest responsibilities. Comments will assist the agency in conducting these reviews and in determining the direction of resulting actions. Also, based upon recommendations stemming from the White House Commission on Aviation Safety and Security, the FAA requests the public to forward specific examples of where the agency should develop rules that are performance-based rather than prescriptive, and provide any suggestions on specific plain-English language that might be used to rewrite them.

DATES: Comments should be submitted on or before August 13, 1997.

ADDRESSES: Comments should be mailed in triplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules docket (AGC–200), Docket No. 28910 800 Independence Ave., SW., Washington, DC., 20591, or faxed to (202) 267–5075. Comments also may be submitted via the Internet to 9–nprm–cmts@faa.dot.gov. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m. except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gerri Robinson (ARM–24), Office of Rulemaking, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 267–9678.

SUPPLEMENTARY INFORMATION: In recent years, the FAA conducted several regulatory reviews: In his 1992 State of the Union address, then-President Bush called for a 90-day moratorium and review of federal regulations, and the FAA responded by soliciting public comments on its regulatory programs as part of an overall review (57 FR 4744, Feb. 7, 1992). Based on comments received, the agency revised its regulatory agenda accordingly. In 1994, responding to recommendations from the National Commission to Ensure a Strong Competitive Airline Industry and the Vice President's National Performance Review, and acting on Department of Transportation (DOT) and FAA regulatory initiatives, the FAA initiated a regulatory review to reduce regulatory burdens and sought public comments (59 FR 1362, Jan. 10, 1994). As a result, the FAA revised its regulatory agenda and priorities accordingly, and proposed a Regulatory Review Program by seeking public input every three years (60 FR 44142, Aug. 24, 1995). The agency later published a disposition of the comments it received and made the determination to continue the 3-year review cycle (61 FR 53610, Oct. 15, 1996). In addition to the ongoing regulatory review program, the FAA is currently in the process of responding to recommendations from the White House Commission on Aviation Safety and Security that it simplify and, as appropriate, rewrite its regulations in performance-based, plain-English formats.

Three-Year Regulatory Review Program; Request for Comments

As part of its ongoing Regulatory Review Program, the FAA is requesting that the public identify three regulations, in priority order, that it believes should be amended or eliminated. The agency's goal is to identify regulations which impose undue regulatory burdens, are no longer necessary, or overlap, duplicate, or conflict with other federal regulations. In addition, the FAA is also requesting the public to identify unnecessary regulations that have a significant impact on small entities. In order to focus on areas of greatest interest, and to effectively manage agency resources, the FAA asks that commenters responding to the three-year Regulatory Review Program limit their input to three issues they consider most urgent, and to list them in priority order. The FAA will review the issues addressed by the Commenters against its regulatory agenda and rulemaking program efforts and adjust its regulatory priorities consistent with its statutory responsibilities. At the end of this process, the FAA will publish a summary and general disposition of comments and indicate, where appropriate, how its regulatory priorities will be adjusted.

White House Commission on Aviation Safety and Security Recommendations; Request for Public Comments

On February 12, 1997, the White House Commission on Aviation Safety and Security, chaired by Vice President Al Gore, issued its final report to President Clinton. One of the recommendations contained in that report states ''The Federal Aviation Regulations (FARs) should be simplified and, as appropriate, rewritten as plain English, performance-based regulations.'' The Commission believes that government can achieve better regulatory compliance if its objectives are stated clearly and its focus is on goals, not process. The public is requested to provide any specific suggestions where rules could be developed as performance-based rather than prescriptive, any specific plain-English language that might be used, and provide suggested language on how those rules should be written. These comments will assist the agency in simplifying the FARs pursuant to recommendations from the Commission.

Issued in Washington DC, on May 9, 1997.

Guy S. Gardner,

Associate Administration for Regulation and Certification, AVR–1.

[FR Doc. 97–12757 Filed 5–14–97; 8:45 am]

BILLING CODE 4910–13–M

federal register

Thursday
May 15, 1997

Part V

Environmental Protection Agency

Sustainable Development Grant Program; Notice

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5825–6]

Sustainable Development Challenge Grant Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Solicitation of Proposals for FY 1997.

SUMMARY: The Environmental Protection Agency (EPA) is soliciting proposals for the FY 1997 Sustainable Development Challenge Grant (SDCG) program, one of President Clinton's ''high priority'' actions described in the March 16, 1995 report, ''Reinventing Environmental Regulation.'' The EPA has a total of $5 million dollars available for this program in FY 1997. Of the total resources available through this program in FY 1997, approximately 80% will support city/metropolitan-related projects. Other rural, tribal and non-metropolitan projects are encouraged and will be funded at approximately 20% of the total amount.

We are encouraging proposals that place an emphasis on city/metropolitan-related projects because approximately 80% of the U.S. population lives in metropolitan areas where the goals of a healthy environment compete with economic development, affordable housing, public safety, and mobility for attention from both government and the private sector. EPA's program to protect the health of Americans by protecting their community's air, water and land must acknowledge this reality. The SDCG program provides an opportunity to develop place-based approaches to problem solving related to current patterns of urban growth and public investment/disinvestment, patterns that accelerate loss of open space and wetlands, and increase consumption of fossil fuels for energy and transportation. Projects will be selected on a competitive basis using the criteria outlined below. Applicants may compete for funding in two ranges for FY 1997: (1) $50,000 or less, and (2) between $50,001 and $250,000. Proposals will compete with other proposals in the same range (i.e., a proposal for $50,000 will not compete with a proposal for $250,000). Applicants in each category are required to demonstrate how they will meet the minimum 20% match.

The Sustainable Development Challenge Grant program strongly encourages partnering among community, business and government entities to work cooperatively to develop flexible, locally-oriented approaches that link place-based environmental management, and quality of life activities with sustainable development and revitalization. This program challenges communities to invest in a sustainable future that links environmental protection, economic prosperity and community well-being. These grants are intended to: catalyze community-based projects to promote environmentally and economically sustainable development; build partnerships which increase a community's capacity to take steps that will ensure the long-term health of ecosystems and humans, economic vitality, and community well-being; and leverage public and private investments to enhance environmental quality by enabling sustainable community efforts to continue beyond the period of EPA funding. While EPA expects to award approximately 80% of the funds available for this program in FY 1997 to support projects that comprehensively address environmental and economic issues in cities and metropolitan areas which stimulate broad participation by engaging all sectors of the community, all applications which demonstrate the requisite criteria will be considered.

This document includes: background information on the Sustainable Development Challenge Grant program; a description of the FY 1997 program which incorporates comments received through the FY 1996 pilot program (both public and Agency comments/suggestions) on the design of the program; the criteria successful projects must meet; the process for selection of projects; and the program's relationship to other related EPA activities. Also included is a summary of projects funded under the pilot program. (More detailed information is available via Internet at: http://www.epa.gov/ecocommunity)

DATES: The period for submission of proposals for FY 1997 will begin upon publication of this **Federal Register** notice pursuant to the Information Collection Request (ICR No. 1755.01) approved by the Office of Management and Budget (OMB Approval No. 2010–0026) under the Paperwork Reduction Act. Project proposals must be postmarked by August 15, 1997 to be considered for funding.

ADDRESSES: Please provide three copies of your proposal to Pamela Hurt, U.S.EPA, Office of Air & Radiation (MC–6101), 401 M Street, SW., Washington, DC 20460.

APPLICATIONS: Proposal kits for FY 1997 are available via Internet at: http://www.epa.gov/ecocommunity or from EPA Headquarters and EPA Regional Offices. These kits will include more detailed guidance and may be requested in writing from your regional or headquarters representative, *or* by fax at 202–260–2555 *or* by voice mail at 202–260–6812. Although you may fax your request, these documents are not available by fax. EPA will notify applicants of selected proposals in writing and provide technical assistance in preparation of formal applications. Please do not duplicate requests. Proposals must include the following: a one page cover sheet that summarizes the amount of assistance requested from EPA, the various entities or organizations that will be partners in the project, and the project's anticipated results. The cover sheet must also include the applicant's name, address, and phone number. The project proposal narrative must be limited to five (5) double-sided pages and explain the relationship of the proposal to the criteria for project selection described in this notice. Please follow the format provided in criteria section of this notice to structure your narrative. A detailed budget along with letters of commitment from stakeholders contributing either in-kind services or dollars must be attached to the proposal in order to be considered. Applicants must also include a copy of documentation demonstrating non-profit status or articles of incorporation. A plan for overall project evaluation must also be attached. The budget page, commitment letters, project evaluation plan, and non-profit status documentation will not count toward the 5 double-sided narrative page limit. Proposals lacking complete documentation will not be considered. Any other attachments to the proposal will be discarded.

FOR FURTHER INFORMATION CONTACT: Pamela A. Hurt, U.S. EPA, Office of Air & Radiation (MC 6101), 401 M Street SW., Washington, DC 20460, phurt@epamail.epa.gov or the regional representative for your state.

Regional Offices

Rosemary Monahan, US EPA Region I, JF Kennedy Federal Bldg. (CSP), Boston, MA 02203, (617) 565–3551, States: ME, NH, VT, MA, CT, RI

Theresa Martella, US EPA Region 3, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–5423, States: DE, DC, MD, PA, VA, WV

Daniel Werbie, US EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604–3507, (312) 353–5791, States: MN, WI, MI, IL, IN, OH

Anita Street, US EPA Region 2, 290 Broadway, New York, NY 10007–1866, (212) 637–3590, States & Territories: NY, NJ, PR, VI

Cory Berish, US EPA Region 4, 345 Courtland Street, NE, Atlanta, GA 30365, (404) 562–8276, States: AL, FL, GA, KY, MS, NC, SC, TN

Karen Alvarez, US EPA Region 6, Fountain Place, Suite 1200, 1445 Ross Avenue, Dallas, TX 75202–2733, (214) 665–7273, States: AR, LA, NM, OK, TX

Dick Sumpter, US EPA Region 7, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 551–7661, States: KS, MO, NE, IA

Debbie Schechter, US EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1624, States & Territories: CA, NV, AZ, HI, AS, GU

David Schaller, US EPA Region 8, 999 18th Street, Suite 500, Denver, CO 80202–2466, (202) 312–6146, States: CO, MT, ND, SD, UT, WY

Jim Werntz, US EPA Region 10, 1200 Sixth Avenue, Seattle, WA 98101, (206) 553–2634, States: AK, ID, OR, WA

SUPPLEMENTARY INFORMATION:

Purpose

EPA intends these competitive grants to be catalysts that challenge communities to invest in a more sustainable future, recognizing that sustainable environmental quality, economic prosperity, and community well-being are inextricably linked. The Sustainable Development Challenge Grant program is an important opportunity for EPA to award competitive grants that leverage private and other public sector investment in communities (ranging in size from neighborhoods to cities to larger geographic areas such as watersheds or metropolitan areas) to build partnerships that increase the capacity of communities to ensure long-term environmental protection through the application of sustainable development strategies.

Overview of the Sustainable Development Challenge Grant Approach

The grant program encourages communities to recognize and build upon the fundamental connection between environmental protection, economic prosperity and community well-being. Accomplishing this linkage requires integrating environmental protection in policy and decision-making at all levels of government and throughout the economy. The SDCG program recognizes the significant role that communities have and should play in environmental protection. The program acknowledges that sustainable development is often best designed and implemented at a community level. This program also requires grantees to implement a stakeholder process to identify measurable milestones to assess progress towards integrating environmental and economic goals and community well-being.

Achieving sustainability is a responsibility shared by environmental, community and economic interests at all levels of government and the private sector. This emphasis on strong community involvement requires a commitment to ensuring that all residents of a community, of varying economic and social groups, have opportunities to participate in decision-making. Only through the combined efforts and collaboration of governments, private organizations, and individuals can our communities, regions, states, and nation achieve the benefits of sustainable development.

The EPA will implement this program consistent with the principles of Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (February 11, 1994). Projects funded must ensure that no one is subjected to unjust or disproportionate environmental impacts.

Linkages to Other Initiatives

The EPA initiated this program as a pilot effort in 1996. With only $500,000 in funding to distribute, the Agency received more than 600 proposals requesting $20,000,000 in assistance. Approximately 75% of the projects received were urban or urban-related. Through a highly competitive process and after careful review, ten projects were chosen for funding: Community Supported Agriculture in the Mid-Atlantic Region, Washington Smart Wood Certification Program, Sustainable Craft Industry in Appalachia, Building Materials Exchange in New Orleans, Sustainable Forestry in New Hampshire, Marketing the Economic Benefits of Sustainable Development in the Rappahannock River Watershed, Preserving Sustainability in Jefferson County Virginia, Eco-Park Development in Omaha, Implementing a Strategic Plan for Sustainable Development in South Carolina, Sustainable Neighborhood Design for the Desert Southwest. Projects descriptions are available via the Internet at http://www.epa.gov/ecocommunity/)

EPA and its state and local partners continue to refine how environmental protection is accomplished in the United States. The Agency recognizes that environmental progress will not be achieved solely by regulation, but also requires individual, institutional, and corporate responsibility, commitment and stewardship. The Sustainable Development Challenge Grant program is consistent with other community-based efforts EPA has introduced, such as the Brownfields Initiative, Project XL, the President's American Heritage Rivers Initiative, Watershed Protection Approach, Transportation Partners, the $mart Growth Network, and the Community-Based Environmental Protection Approach. All of these programs require broad community participation to identify and address environmental issues. EPA welcomes proposals for many different types of projects, however, approximately 80% of funds available in FY 1997 will support those proposals that address comprehensive environmental and economic issues in cities and metropolitan areas which stimulate broad community participation and apply innovative problem-solving techniques. The Sustainable Development Challenge Grant program is also a step in implementing Agenda 21, the Global Plan of Action on Sustainable Development, signed by the United States at the Earth Summit in Rio de Janeiro in 1992.

Through the Sustainable Development Challenge Grant Program, EPA also intends to further the vision and goals of the President's Council on Sustainable Development (PCSD), created in 1993 by President Clinton. The President charged the Council, composed of corporate, government, and non-profit representatives, to find ways to ''bring people together to meet the needs of the present without jeopardizing the future.'' The Council has declared this vision:

> Our vision is of a life-sustaining Earth. We are committed to the achievement of a dignified, peaceful and equitable existence. We believe a sustainable United States will have a growing economy that equitably provides opportunities for satisfying livelihoods and a safe, healthy, high quality of life for current and future generations. Our nation will protect its environment, its natural resource base, and the functions and viability of natural systems on which all life depends. (February 1996)

The Sustainable Development Challenge Grant program furthers this vision by encouraging community initiatives that achieve environmental quality with economic prosperity through public and private involvement and investment.

Examples of Potential Projects

EPA welcomes proposals for many types of projects, as demonstrated in the description of projects funded in the pilot year. The following are examples of the types of projects EPA could consider for funding. These examples

are only illustrative and are not intended to limit proposals in any way.

◆ Demonstrate the range of environmental, economic and community benefits associated with alternative development patterns. This project would examine drinking water quality, air quality, and wildlife habitat. For instance, open spaces may offer protection of water quality by acting as natural retention areas for the treatment of storm water runoff and increase aesthetic value and recreation opportunities. Elements of the project may include the comparison of the environmental, fiscal and community benefits of the purchase and trade of development rights, and alternative zoning provisions related to various densities and degrees of automobile, bicycle and pedestrian accessibility.

◆ Demonstrate a cutting edge approach to the cleanup and redevelopment of contaminated property. This project would demonstrate a comprehensive, interagency, inter-governmental approach to the challenges of abandoned, idled, or under used properties that blight the landscape of our urban centers. In addition to strategies being used at Brownfield assessment pilot sites across the country, it would move beyond the narrow limits of the Superfund law and include issues of contamination from oil fields and leaking underground storage tanks—currently excluded by the Superfund law, yet thought to be the cause of significant contamination. Instead of staying within the confines of land-based contamination, this effort would address issues with other environmental media, including water, non-point source permitting and non-point sources in air quality non-attainment areas relating to the siting of new businesses and industries.

Practical applications of environmental justice principles, public participation and environmental job training/workforce development strategies will be woven throughout the entire effort. Training will be provided for public officials as well as local citizens to ensure that local land use decision-making processes will be fair, open and inclusive.

◆ Demonstrate how a stakeholder group can comprehensively identify the multiple sources of pollution contributing to environmental problems within their watershed; collaboratively develop solutions to address these causes to the satisfaction of stakeholders; develop policy and financial support and commitment for the solution along with the plan to implement the necessary actions. Project elements may include: how you will organize and develop your stakeholders and community-based support; watershed-based problem identification, priority-setting and monitoring; the mix of voluntary and regulatory programs; the most promising approaches to the restoration of urban river corridors and wetlands; to identify and, to the maximum extent possible, eliminate EPA activities and programs that create unintended barriers and disincentives to sustainable revitalization.

◆ Support a regional bottom-up process for better managing rapid, sprawling development. Local governments along with public and private interests will join together to secure written agreements on actions to be taken to carry out the community's vision of a sustainable future, and to prepare a State of the Region report outlining the area's most significant challenges and opportunities for improving local conditions.

◆ Demonstrate the benefits of implementing metropolitan-wide transportation programs that promote sustainable development. Specific projects would examine new and innovative ways of integrating air quality, storm water and other urban wet weather flows management, transportation, and land use planning processes to effectively reduce vehicle miles traveled, thereby reducing congestion, lowering energy consumption, improving air quality, and reducing green house gas emissions. Specific pilots could focus on demonstrating effective methods of community collaboration and linkage with other planning efforts traditionally conducted at different jurisdiction levels (e.g. state, city, county). In addition, pilots could integrate a number of important, but to date, separate federal initiatives such as Federal Transit Administration's Livable Communities, Federal Highway Administration's Congestion Mitigation and Air Quality Program, Department of Energy's Clean Cities program, or the Department of Agriculture's Urban Resources Partnership along with various innovative transportation control measures. Both short and long-term strategies could be selected.

◆ Nature-based tourism: Demonstrate a cooperative effort among environmental groups, business interests, and community leaders to design and implement a community-based strategy for ecological-based tourism. The strategy would identify techniques to manage appropriate travel to, and recreation within, natural areas which are designed to contribute substantially to the area's conservation and improvement of the welfare of local people, through education and the dedication of tourism dollars to protect natural resources. The goal would be to support properly planned and managed nature tourism which will have minimal impacts on the environment, conserve and enhance social and cultural values, and improve the economic well-being of residents.

Selection Criteria

The proposed project must meet the two statutory threshold determinations described below in the Statutory Authority section, then EPA will also consider the following criteria, weighting each as indicated. Please format your proposal using the numbered sections below and addressing each bullet point listed.

(1) Sustainability: 50 Points

- How well does the proposal integrate environmental protection and economic prosperity and community well-being?
- Does the proposal address what type of sustainable behavior is desired, and what type of non-sustainable behavior needs to be changed?
- Does the proposal take into account a multi-media perspective and a regionally appropriate geographic solution to specific human or ecosystem environmental problems? Explain how the proposal aims to benefit a substantial or significant population or significant portion of a community or region?
- How does the proposal assure that economic activities do not exhaust or degrade the environment?
- Explain how the proposal will result in long-term environmental protection as well as sustainable economic vitality, (such as more appropriate, efficient use of resources and changes in consumption patterns) so that jobs created will be sustained, or the amount of money retained in the local economy will be maximized?
- How does the proposal represent new solutions for the community, given their previous history and current circumstances?

(2) Community Commitment and Contribution: 25 Points

- Explain how the partners fully represent those in the community who have an interest in or will be affected by the project?
- Will the proposal's outcomes and results benefit all affected groups to the maximum extent possible?
- Does the proposal describe effective methods for community involvement to

assure that all affected by the project are provided an opportunity to participate?

• Does the proposal describe the depth and breadth of the community's support (financial and in-kind) for the proposal? Does the community have in place the legal and regulatory authority they need to implement the project? Does it provide evidence of long-term commitment to the proposal? Are the EPA grant funds leveraged beyond the 20% match?

(3) Measurable Results: 25 Points

• Does the proposal describe the specific environmental, economic, and quality of life benefits to be gained by the community? Is there a plan to identify which non-sustainable behaviors will be addressed by the proposal and how will behavior change be measured?

• How does the proposal include significant achievable short-term (within three years) and long-term targets or benchmarks to measure the proposal's contribution to the community's environmental and economic sustainability? (These should be both quantitative and qualitative.)

• Does the proposal set goals for the proactive environmental approaches it employs?

• After seed funds from EPA are exhausted, does the proposal demonstrate how the work will continue, or how it will evolve into or generate other sustainability efforts, either locally or regionally?

• Will the experiences gained during the project be transferable to other communities? If so, how?

Statutory Authority

EPA expects to award Sustainable Development Challenge Grants program under the following eight grant authorities: Clean Air Act section 103(b)(3); Clean Water Act section 104 (b)(3); Resource Conservation and Recovery Act section 8001; Toxics Substances Control Act section 10; Federal Insecticide, Fungicide, and Rodenticide Act section 20; Safe Drinking Water Act sections 1442 (a) and (b); National Environmental Education Act, section 6; and Pollution Prevention Act, section 6605.

A proposal must meet the following 2 important criteria to be considered for funding. The first threshold determination for a project to be selected for funding, is that it must consist of activities within the statutory terms of these EPA grant authorities. Most of the statutes authorize grants for the following activities: ''research, investigations, experiments, training, demonstrations, surveys and studies.'' These activities relate generally to the gathering or transferring of information or advancing the state of knowledge. Grant proposals should emphasize this ''learning'' concept, as opposed to ''fixing'' an environmental problem via a well-established method. For example, a proposal to plant some trees in an economically depressed area, in order to prevent erosion, would probably not, in itself, fall within the statutory terms ''research, studies'' etc., nor would a proposal to start a routine recycling program.

On the other hand, the statutory term ''demonstration'' can encompass the first instance of the application of a pollution control technique, or an innovative application of a previously used method. Similarly, the application of established practices may qualify when they are part of a broader project which qualifies under the term ''research.''

The second threshold determination, in order to be funded, is that a project's focus generally must be one that is specified in the statutes listed above. For most of the statutes, a project must address the causes, effects, extent, prevention, reduction, and elimination of air, water, or solid/hazardous waste pollution, or, in the case of grants under the Toxic Substances Control Act or the Federal Insecticide, Fungicide and Rodenticide Act, to ''carrying out the purposes of the Act.'' While the purpose of this program's grants will include the other two aspects of sustainable development and economic prosperity, the overarching concern or principal focus must be on the statutory purpose of the applicable grant authority, in most cases ''to control pollution.'' Note that proposals relating to other topics which are sometimes included within the term ''environment'' such as recreation, conservation, restoration, protection of wildlife habitats, etc., should describe the relationship of these topics to the statutorily required purpose of pollution control.

Definitions

Sustainable Development: Sustainable development means integrating environmental protection, and community and economic goals. Sustainable development meets the needs of the present generation without compromising the ability of future generations to meet their own needs. The sustainable development approach seeks to encourage broad-based community participation and public and private investment in decisions and activities that define a community's environmental and economic future and social equity.

Community: The scale used to define ''community'' under this challenge grant program will vary with the issues, problems, or opportunities that an applicant intends to address. The SDCG program recognizes the significant role that communities have and should play in environmental protection. ''Community'' means a geographic area within which different groups and individuals share common interests related to their homes and businesses, their personal and professional lives, the surrounding natural landscape and environment, and the local or regional economy. A community can be one or more local governments, a neighborhood within a small or large city, a large metropolitan area, a small or large watershed, an airshed, tribal lands, ecosystems of various scales, or some other specific geographic area with which people identify.

Metropolitan Area: A geographic area consisting of a large population nucleus together with adjacent communities which have a high degree of economic and social integration with that nucleus, generally these are cities of 50,000 or more population, or a total area in city and suburbs with a population of 100,000 or more. (U.S. Census Bureau)

Non-sustainable Behavior: Development, or land and water activities, management or uses, which limit the ability of humans and ecosystems to live sustainably by destroying or degrading ecological values and functions, diminishing the material quality of life, and diverting economic benefits away from long-term community prosperity and decreases the long-term capacity for sustainability.

Collaborative or Partnership Approach: A project which attempts to use various government and private programs, authorities, jurisdictions and sectors, to simultaneously achieve as many sustainability goals as possible, recognizing the interdependencies between environmental quality, community vitality and economic prosperity.

Who Should Apply

Eligible applicants include: (1) Incorporated non-profit (or not-for-profit) private agencies, institutions and organizations; and (2) public (state, county, regional or local) agencies, institutions and organizations, including those of federally-recognized Indian tribes. While state agencies are eligible they are encouraged to work in partnership with community groups to strengthen their proposals. Federal agencies are not eligible for funding, however, they are also encouraged to work in partnership with state and local

agencies on these projects. For instance, the Urban Resources Partnership places government resources into the service of community-led environmental projects.

Applicants are not required to have a formal Internal Revenue Service (IRS) non-profit designation, such as 501(c)(3) or 501(c)(4), however they must present their letter of incorporation or other documentation demonstrating their nonprofit or not-for-profit status. Failure to enclose the letter of incorporation or other documentation demonstrating their nonprofit or not-for-profit status will result in an incomplete submission and will not be reviewed. Applicants who do have an IRS 501(c)(4) designation are not eligible for grants if they engage in lobbying, no matter what the source of funding for the lobbying activity. (No recipient may use grant funds for lobbying.) Further, profit-makers are not eligible to receive sub-grants from eligible recipients, although they may receive contracts, subject to EPA's regulations on procurement under assistance agreements, 40 Code of Federal Regulations (CFR) 30.40 (for non-governmental recipients) and 40 CFR 31.36 (for governments).

Funding Ranges and Match

Applicants may compete for funding in two ranges: (1) $50,000 or less, and (2) between $50,001 and $250,000. Applicants may submit multiple proposals, but each specific proposal must be for a separate and distinct project. No organization may receive funding for more than one proposal each year. In addition, projects awarded will be ineligible for future competition for this program.

This program is intended to provide seed money to leverage a broader public and private investment in sustainability activities. As a result, the program requires a minimum non-federal match of at least 20% of the project budget. EPA funds can be used for no more than 80% of the total cost of the project. EPA strongly encourages applicants to leverage as much investment in community sustainability as possible. The match can come from a variety of public and private sources and can include in-kind goods and services. No federal funds, however, can be used as matching funds without specific statutory authority.

Selection Process

EPA Regional Offices will assess how well the proposals meet the selection criteria outlined above. The Regional Offices will then forward their top proposals to Headquarters for review by a National Panel consisting of Headquarters and Regional representatives. The panel's recommendations will be presented to EPA Senior Management for final selection. In making these final selections such factors as geographic diversity, project diversity, costs, and project transferabililty may be considered.

What Costs Can Be Paid

Even though a proposal may involve an eligible applicant, eligible activity, and eligible purpose, grant funds cannot necessarily pay for all of the costs which the recipient might incur in the course of carrying out the project. Allowable costs are determined by reference to the EPA regulations cited below and to OMB Circulars A–122, ''Cost Principles for Non-profit Organizations'', A–21 ''Cost Principles for Education Institutions'' and A–87, ''Cost Principles for State, Local, and Indian Tribal Governments.'' Generally, costs which are allowable include salaries, equipment, supplies, training, rental of office space, etc., as long as these are ''necessary and reasonable.'' Entertainment costs are an example of unallowable costs.

Applicable Grant Regulations

40 CFR Part 30 (for other than state/local governments e.g. non-profit organizations) (recently revised, see 61 FR 6065 (Feb. 15, 1996)), and Part 31 (for state and local governments and Indian tribes).

Paperwork Reduction Act

The information collection provisions in this Notice, for solicitation of proposals, have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* (ICR No. 1755.01 and OMB Approval No. 2010–0026). The approved Information Collection Request (ICR No. 1755.01) is in effect and will cover all burdens associated with Sustainable Development Challenge Grants. Copies of the ICRs (ICR Nos. 1755.01 and 1755.02) may be obtained from the Information Policy Branch, EPA, 401 M Street, S.W. (Mail Code 2136), Washington, DC 20460 or by calling (202) 260–2740.

This action does not impose annual costs of $100 million or more, will not significantly or uniquely affect small governments, and is not a significant federal intergovernmental mandate. The Agency thus has no obligations under sections 202, 203, 204 and 205 of the Unfunded Mandates Reform Act. Moreover, since this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to sections 603 or 604 of the Regulatory Flexibility Act.

Submission to Congress and the General Accounting Office

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

Dated: May 8, 1997.

Fred Hansen,

Deputy Administrator.

[FR Doc. 97–12789 Filed 5–14–97; 8:45 am]

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federal register

Thursday
May 15, 1997

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area; Proposed Rule

Air Tour Routes for the Grand Canyon National Park; Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 28902; Notice No. 97–6]

RIN 2120–AG38

Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend two of the Flight-free Zones within the Grand Canyon National Park by establishing two corridors. The first corridor through the Bright Angel Flight Free Zone would be an incentive corridor to be used only by the most noise efficient aircraft. The second corridor through the Torroweap/Shinumo Flight-free Zone would go through the National Canyon area and would create a viable air tour route through the central section of the Park while addressing concerns of the Native Americans. The proposed corridor would not affect the existing Tuckup Corridor currently used by general aviation. These proposals are made in response to comments received on related Grand Canyon rulemaking actions, National Park Service recommends the environmental merit of such routes conducted pursuant to the comments, and ongoing discussions with Native American tribal government units and their representatives.

DATES: Comments must be received on or before June 16, 1997.

ADDRESSES: Comments on this NPRM should be mailed, in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 28902, 800 Independence Avenue, SW., Washington, DC 20591. Comments may also be sent electronically to the Rules Docket by using the following Internet address: 9–nprm–cmts@faa.dot.gov. Comments must be marked Docket No. 28902. Comments may be examined in the Rules Docket in Room 915G on weekdays between 8:30 a.m. and 5:00 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Dave Metzbower, Air Carrier Operations Branch, AFS–220, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone: (202) 267–3724. For the draft Environmental Assessment contact Mr. William J. Marx, Division Manager, ATA–300, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC, 20591; Telephone: (202) 267–3075.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that may result from adopting the proposals in this notice are also invited. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. Communications should identify the regulatory docket number and be submitted in triplicate to the above specified address. All communications and a report summarizing any substantive public contact with FAA personnel on this rulemaking will be filed in the docket. The docket is available for public inspection both before and after the closing date for receiving comments.

Before taking any final action on this proposal, the Administrator will consider all comments made on or before the closing date for comments, and the proposal may be changed in light of the comments received.

The FAA will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked ''Comments to Docket No. 28902.'' When the comment is received by the FAA, the postcard will be dated, time stamped, and returned to the commenter.

Availability of the NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9677. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future FAA NPRM's should request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes application procedures.

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the Federal Register's electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board Service (telephone: 800–FAA–ARAC). Internet users may reach the FAA's web page at http://www.faa.gov or the Federal Register's webpage at http://www.access.gpo.gov/su__docs for access to recently published rulemaking documents.

History

On December 31, 1996, the FAA published three concurrent actions, a Notice of Proposed Rulemaking (NPRM), a Notice of Availability of Proposed Commercial Air Tour Routes, and a final rule, in the **Federal Register** (61 FR 69301). These actions are part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100–91.

The NPRM, Notice No. 96–15, proposed to establish noise limitations for certain aircraft operating in the vicinity of GCNP. The comment period for the NPRM closed on March 31, 1997. Notice No. 96–15 had several purposes. The first was to provide incentives for the use of quieter aircraft within the GCNP. The second was to establish additional noise limitations to reduce further the impact of aircraft noise on the GCNP environment. The third would have lifted for the quietest aircraft the immediate temporary cap placed on the number of aircraft permitted to be used for commercial sightseeing operations in the GCNP.

The Notice of Availability of Proposed Commercial Air Tour Routes for the GCNP was published with a 30-day comment period that closed on January 30, 1997. The Notice requested comments on the proposed new or modified existing air tour routes, which complement the final rule affecting the Special Flight Rules in the Vicinity of GCNP.

The final rule amended 14 CFR part 93 of the Federal Aviation Regulations (Part 93) by adding a new subpart which codified and replaced SFAR No. 50–2; modified the dimensions of the GCNP SFRA; established and modified existing flight corridors; established reporting requirements for commercial sightseeing operations; established curfews for operations in the Zuni and Dragon corridors during certain time periods; and placed a temporary limit on the number of aircraft that can be used for commercial sightseeing operations in the GCNP SFRA. The final rule was originally scheduled to become effective May 1, 1997. However, for the

reasons stated below, the FAA published another final rule on February 26, 1997, 62 FR 8861, which changed the effective date to January 31, 1998, for those portions of the December 31, 1996, final rule which define the Grand Canyon SFRA (14 CFR Sec. 93.301), define the flight free zones and flight corridors (14 CFR Sec. 93.305), and establish minimum flight altitudes in the vicinity of the GCNP (14 CFR Sec. 93.307). The February 26, 1997, final rule also reinstated the corresponding sections of SFAR 50–2 until January 31, 1998.

In order to meet the May 1, 1997 effective date, the FAA would have had to transmit the data on the proposed routes to the National Ocean Service (NOS) by February 21, 1997. The NOS is the agency responsible for the production and printing of aeronautical charts. The NOS would then have produced by April 1, 1997, an aeronautical chart that would have been used by the air tour operators for training purposes.

However, during the comment period, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits and also address other related impacts. Both the FAA and the DOI believe that a number of the suggested changes would produce a significantly better rule for GCNP users, the aviation operators, and interested Native American tribes. The FAA had to decide between proceeding with the proposed routes to meet the May 1 final rule effective date, or developing a better and more comprehensive route structure in response to the comments and suggestions. The latter would require additional time for analysis and would not go into effect until after the busy summer tourist season.

For the reasons stated above, the FAA determined that permitting the final rule to become effective on May 1, 1997, would be contrary to the public interest and, therefore, decided not to send the originally proposed routes to NOS for charting at that time. Rather, the FAA decided to analyze the new ideas with the expectation of creating the best possible routes.

The FAA's training and checking experience indicates that qualifying air tour pilots on new routes during a peak tourist season when the air traffic is the densest is not the appropriate time for such a transition. At GCNP, the peak season extends approximately from May through October. To afford operators a more favorable opportunity for training on the new routes, the FAA determined that the training should take place after the summer tourist season when the volume of air traffic is lower. Therefore, the FAA determined that January 31, 1998, would be an appropriate revised effective date of the new airspace and route structure. This additional time will permit the FAA to develop the best possible route structure, facilitate production and printing of aeronautical charts, and give the operators sufficient time to train their pilots adequately and safely on the new routes after the close of the busy summer season.

The FAA determined that 5 U.S.C. 553(b) provides sufficient justification to issue a final rule delaying the effective date of the relevant portions of the December 31, 1996 final rule without notice or an opportunity for comment. Therefore, the FAA changed the effective date of 14 CFR 93.301, 93.305, and 93.307 to January 31, 1998, and reinstated the corresponding sections of SFAR 50–2. While there was not sufficient time to allow prior notice or comment concerning the FAA decision to delay the May 1 effective date, the FAA invited comments concerning any other aspect of the notice, including the new implementation date of January 31, 1998. The comment period closed March 24, 1997. The temporary cap provisions, curfews, and reporting requirements were unaffected by these actions and will go into effect for Grand Canyon air tour operators on May 1, 1997.

Public Comments on Proposed Routes and on Noise Limitations NPRM

During the comment period on the Notice of Availability of Proposed Commercial Air Tour Routes for the GCNP, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits. Based on an analysis of these comments and suggestions the FAA issued a new proposed route structure concurrent with the issuance of this proposal. Several of the comments relate to the proposals in this NPRM.

Public Comments on the Central Region

Commenters state that, with the move of air tours south of the National Canyon as required by the expansion of the Toroweap/Shinumo Flight-free Zone, operators will not be able to sell an air tour in the central region of GCNP as passengers would not be able to see the Canyon or its other unique topography. Commenters further believe that the loss of a viable air tour route in the National Canyon area would cause significant and irreparable harm to economic viability of air tour operators and other dependent businesses as well as the local economy. According to commenters, this will result in shifting of traffic to the routes south of the Sanup Flight-free Zone or to the routes around the Bright Angel Flight-free Zone. Commenters fear that the resulting compression and congestion of traffic in those areas will eventually lead to a mid-air collision.

Other comments address the proposed Blue One Alpha route through the proposed National Canyon Corridor as addressed in Notice 96–15, published December 31, 1996. These commenters believe that no air tour routes should be permitted through the Toroweap-Shinumo Flight-free Zone, even for less noisy (Category C) aircraft. The river corridor from National Canyon to Havasu Creek should receive maximum protection from air tour noise. The addition of the National Canyon to the Toroweap-Shinumo Flight-free Zone was critically necessary for the restoration of natural quiet. Furthermore, commenters allege that this route is non-essential since most of the Las Vegas-Tusayan flights are shuttles to the Canyon and not solely air tours.

Consultation with the Havasupai Tribe under section 106 of the National Historic Preservation Act also revealed potential impacts on sacred and cultural sites should the National Canyon Corridor be implemented as proposed in the December 31, 1996, NPRM.

FAA Response: The National Canyon Corridor, as proposed in this NPRM, provides a workable solution to several issues addressed by commenters and raised in consultation with Native American tribes.

The air tour routes in the central region of the park, as previously proposed on December 31, 1996, did not provide air tour operators using less noise efficient aircraft with a viable air tour route. The proposed incentive route for Category C aircraft would have resulted in a continued level of aircraft activity just north of Supai Village, which is the central location of the Havasupai Tribe. In addition, there would have been a number of flights over some of the sites sacred to the Havasupai Tribe. By altering the National Canyon Corridor, and by permitting all aircraft to use the corridor until December 31, 2001, after which time westbound traffic would only be permitted to traverse the corridor in Category C aircraft, and proposing an

incentive route on the eastern region of the GCNP, the FAA expects several benefits to accrue.

First, the Corridor, as proposed in this NPRM, feeds into an altered proposed route that is significantly shorter than that previously proposed. By eliminating the portion of the route north of Supai Village, it eliminates air tour flights around Supai Village, the current home of the Havasupai Tribe, and minimizes and/or avoids increased overflights of the vast majority of their traditional cultural properties, including sacred sites. It also minimizes socio-economic impacts to their economy which is based primarily on tourism which in turn is based on the isolated and natural character of the northern part of the reservation.

Second, this proposal produces positive net effects on the environment over the previous proposal. The redefined corridor traverses a much smaller segment of the Toroweap/Shinumo Flight-free Zone than does the corridor proposed in Notice No. 96–15. While the corridor proposed in this NPRM would be open to all aircraft until December 31, 2001, as opposed to only Category C aircraft as in the previous proposal, the overall effect of aircraft noise is lessened by routing air traffic over less frequently used, less noise-sensitive areas. The FAA believes that permitting only Category C aircraft to be used in westbound traffic of the National Canyon Corridor after December 31, 2001, would work toward further reduction of noise in the corridor.

Third, this proposal permits the establishment of a viable air tour route in the central region of the GCNP, which will be available to all aircraft. The operators have informed the FAA that the Blue One route, as depicted on December 31, 1996, is not a viable air tour, and that the proposed Blue One Alpha route was an example of a viable air tour route. In view of all of these concerns, the FAA is proposing a route that is similar in nature to the previously proposed Blue One Alpha but would permit all operators to operate on a viable route in the central region of the GCNP and provide relief to a number of areas that are considered sacred to the Havasupai Nation.

This proposal avoids the economic harm which otherwise could be expected to accrue to air tour operators should they be deprived of a viable air tour route through the central region of the GCNP.

Finally, the FAA believes that a viable air tour route over the central region of the park, open to all aircraft until December 31, 2001, would promote air safety. The FAA believes that if there were not a viable air tour route in the central region of the GCNP, operators would divert their operations to the routes south of the Sanup Flight-free Zone resulting in compression of traffic. The corridor as proposed in this NPRM enhances air traffic safety by removing a factor that could lead to compression of traffic in the routes south of the Sanup Flight-free Zone. In the absence of the proposed corridor, and associated route, the potential for unsafe operating conditions could lead to mid-air collision due to the resulting compression of air traffic.

Athough the FAA believes that there are many advantages to the National Canyon route as proposed, it also acknowledges that the actual users of the GCNP—air tour operators, Native Americans, and Park visitors—may suggest an alternate route that could be more viable than the exact route proposed. Therefore, based on comments received and on further consultation with Native Americans, the FAA advises commenters that the route, as proposed, may be altered in the final rule.

Public Comments on the Eastern Region

Some commenters state that the routes proposed in the December 31, 1996, notice of availability offer no reduction of aircraft sound in the eastern and most sensitive region of GCNP and that there should be route incentives for quiet airplanes.

The FAA has also conducted a preliminary review of the comments received on Notice 96–15. Most of the comments received on that NPRM will be addressed in a future final rule.

FAA Response: The expansion of the Bright Angel Flight-free Zone is a significant step towards achieving the substantial restoration of natural quiet in the eastern region of the GCNP by relocating the air tour aircraft to the north of an expanded Flight-free Zone. While this modification is beneficial for a major part of the eastern region, the expansion does create a concentration of aircraft in the northeastern end of the GCNP SFRA north of the Bright Angel Flight-free Zone.

The NPS reviewed this situation and recommended that a new incentive route should be available for the most noise efficient aircraft. This proposed corridor would pass through the Bright Angel Flight-free Zone along the northern boundary of the current Bright Angel Flight-free Zone as defined in SFAR 50–2. The proposed Bright Angel Corridor would have a three-fold benefit. First, fewer aircraft would be flying over the northern rim of the canyon along Saddle Mountain, where the NPS has pointed out some noise sensitivity. Second, noise from the air tour aircraft would be dispersed between the northern boundary of the new Bright Angel Flight-free Zone and the proposed corridor, thereby reducing the level of concentrated aircraft noise along any one route. Third, opening this corridor only to the most noise efficient aircraft would provide a valuable and tangible incentive for the air tour operators to convert to quieter aircraft well before they are required to do so. The GCNP could thereby experience the benefit of an earlier reduction in the level of aircraft noise.

The FAA agrees with this analysis. For that reason, the FAA is proposing the creation of the Bright Angel Corridor available for use only by the most efficient aircraft.

The Proposal

The FAA proposes to create two corridors that pass through flight-free zones.

One corridor would be through the Bright Angel Flight-free Zone along the route that is currently depicted on the Grand Canyon VFR Aeronautical Chart as the Green One Alpha and Black One Alpha. The establishment of this corridor would mitigate any potential adverse effects by dispensing the noise from air tour aircraft through out the eastern sector of the park. This corridor, one mile in width, is being proposed for the most noise efficient aircraft only.

The second proposed corridor, which is two miles in width, would be through the Toroweap/Shinumo Flight-free Zone in that portion of that Flight-free Zone which covers the National Canyon area. This corridor is proposed to allow the route known currently as the Blue One on the Grand Canyon VFR Aeronautical Chart and as Blue One Alpha on the Proposed Air Tour Routes map to continue through that portion of the Toroweap/Shinumo Flight-free Zone that covers the National Canyon area. At the approximate point (estimated to be within 1 to 3 miles) where the current Blue One or proposed Blue One Alpha makes its first right turn in the National Canyon area the route would turn southeast from that point intercepting a route that goes directly to Tusayan.

The FAA proposes to place the corridor through the National Canyon area in a location that will provide the greatest amount of noise mitigation for Grand Canyon National Park and the Havasupai tribe, while addressing the economic concerns of the air tour industry. The official position of the Havasupai is that there should be no air tour routes over Havasupai tribal lands.

After a meeting between the tribe and the FAA on April 9, 1997, the Havasupai representatives agreed to present the FAA's suggestions to the Tribal Council and to discuss possible ways of dealing with the issue. The FAA is working with the Havasupai to minimize any potential adverse effects and will continue to work with the tribal and monitor the situation in the future. Therefore, the FAA is requesting comments on this specific proposal as well as alternative placements of a corridor in the National Canyon area.

Based on comments from the public and further consultation with Native Americans, the FAA may alter the routes to create the most viable route structure in the GCNP for all concerned. The FAA advises the public that comments on the proposed routes or any alternative routes should be sufficiently detailed and show definitive benefits so that they may be adopted in a final rule.

Relationship of This NPRM to Other Actions

As previously stated, the FAA published three actions on December 31, 1996, that related to the airspace management of the GCNP. One of those actions was a final rule that established a reporting requirement on the air tour operators, established operational curfews on certain air tour routes within the GCNP, and temporarily restricted the number of aircraft that could be operated on commercial air tour routes within the GCNP. These three provisions will become effective on May 1, 1997. The final rule, as amended on February 26, 1997, also enlarged the existing flight free zones in the GCNP. Those provisions will become effective on January 31, 1998.

A Notice of Availability of Routes was the second of the three actions published on December 31, 1996. The FAA issued a map that delineated proposed routes for air tour operations within the GCNP. Subsequent comments on the proposed routes from the air tour operators, environmental groups, and Native American tribal government units strongly supported alternative routes that could protect the sacred sites of the Native Americans, further reduce aircraft overflight noise, and continue to provide viable air tour routes for the operators. Based on those comments, concurrent with the issuance of this proposal, the FAA issued further refinements to the air tour routes previously proposed. The FAA will consider the comments already received along with the new comments submitted by the end of the current comment period. The FAA plans to release a chart that depicts the air tour routes which can be used for training and familiarizing the operators well in advance of the January 31, 1998, effective date of the expansion of the flight free zones. The new routes would also become effective on January 31, 1998.

In addition to the two actions listed above, the FAA also published an NPRM on December 31, 1996, proposing a methodology and outlining the effects of classifying the air tour aircraft in noise efficiency categories. The categories are based on the concept that the most desirable aircraft to be used in the GCNP are those aircraft that can accommodate air tour passengers with the least amount of noise per seat. The comment period on the NPRM closed on March 31, 1997. The FAA will address the comments received on the NPRM issues in a subsequent rulemaking. However, comments pertaining to the National Canyon Corridor will be addressed in the final rule to this action.

The comments received on all the above mentioned actions, together with the information obtained through continuing discussions with the Native American tribes, form the basis of this action. Specifically, the comments concerning the need for quiet incentive routes and the location of the Blue One Alpha route that would feed into the National Canyon Corridor prompted the FAA to review the airspace structure within the GCNP and to propose the two new routes contained in this NPRM. Comments previously submitted in other actions that pertain to incentive routes and the National Canyon Corridor are addressed in this NPRM. Even though this action is related to other actions, it does not attempt to finalize any proposal made elsewhere. Therefore, the proposals in this NPRM should be viewed in conjunction with other actions and proposals, but should not be viewed as completing any other action.

Environmental Review

The FAA is reevaluating the Final Environmental Assessment dated December 24, 1996, for the Special Flight Rules in the Vicinity of the GCNP to determine whether the proposed changes in this NPRM and the second Notice of Availability of Proposed Routes are substantial so as to warrant preparation of additional environmental documents. This reevaluation is being done in accordance with the National Environmental Policy Act of 1969 and other applicable environmental requirements. Copies of the written reevaluation will be circulated to interested parties and placed in the docket. For those unable to view the document in the docket, the written reevaluation can be obtained from Mr. William J. Marx, Division Manager, ATA–300, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, Telephone: (202) 267–3075. Comments concerning the environmental impacts of adopting this proposal or the written reevaluation should be submitted to the docket before the comment period closes. Before any final rule is issued, based on any comments and the written reevaluation, the FAA will determine whether any further environmental review is warranted.

Economic Summary

Any changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade.

In conducting these analyses, the FAA has determined that this proposed rulemaking, when viewed as a component of and in conjunction with other actions recently published by the FAA, is cost relieving to one-half of the small entities significantly impacted economically. The remaining operators affected by this proposed rulemaking, however, would be significantly impacted by this NPRM in that they would be required to absorb higher average annual variable operating costs imposed by the GCNP final rule (Dec. 31, 1996 at 61 FR 69302).

Because of the continued high public interest surrounding GCNP regulation, the FAA has determined that this NPRM does constitute a ''significant regulatory action'' based on the criteria outlined in E.O. 12866. This NPRM, in accordance with OMB directives, however, would not have a significant affect on international trade. A full regulatory evaluation of the proposal is in the docket.

Costs

The possible quantifiable economic effects for this NPRM are derived from the estimated costs germane to the two affected flight-free zones (FFZ's) as developed in the final rule 61 FR 69302, published December 31, 1996. These initial estimates were adjusted to take

into account the effects of a subsequent final rule (Feb. 26, '97 at 62 FR 8862), which delayed the effective date of the expansion of the FFZ's as stated in 14 CFR § 93.305 to January 31, 1998. With regard to the Bright Angel FFZ, the FAA estimated in final rule 61 FR 69302 that there would be no net operating losses, and hence, no added costs to the GCNP commercial sightseeing operators associated with the northward extension of this FFZ. The FAA assumed in that analysis, that this increase in average annual variable operating costs would be offset by an equal $1.0 million average annual increase in ticket prices. The FAA therefore, concluded in final rule 61 FR 69302, that no net operating losses (operating revenue minus variable operating costs) would be borne by GCNP commercial sightseeing tour operators as a result of the extension of the Bright Angel FFZ. Thus, the full societal cost of a $1.0 million average annual increase in commercial sightseeing prices would be borne by the consumer.

Only one fixed-wing operator, utilizing three 19-seat Vistaliners, which are Category C aircraft, would be able to conduct commercial sightseeing tours along the proposed flight corridor traversing the Bright Angel FFZ. This operator, however, accounted for approximately 4,900 tours, 88,300 passengers, and $5.3 million in total operating revenues in 1995. This operator also accounted for approximately $538,000 of the more than $1.0 million in increased average annual variable operating costs and prices estimated in final rule 61 FR 69302. The FAA assumes the operator of Category C aircraft would continue to conduct commercial sightseeing tours along the Alpha routes as always, and this would eliminate over one-half of the variable operating cost and tour price increases previously estimated in final rule 61 FR 69302. The remaining increase in variable operating costs and tour prices estimated in final rule 61 FR 69302 ($497,000) would continue, and would remain as an on-going cost of final 61 FR 69302. However, these costs would be transferred from a cost to the consumer (increased prices) to a cost to the operators of Category A and Category B aircraft (net operating revenue loss). This is because operators of Category A and Category B aircraft would be required to maintain their current tour prices in order to remain competitive with the Category C operator who would no longer need to raise his tour prices. Thus, the FAA estimates the cost savings of the proposed flight corridor through the Bright Angel FFZ for Category C aircraft only, would be a reduction of $538,000 in average annual variable operating costs for operators of these aircraft; operators of Category A and Category B aircraft would have to absorb the added variable operating cost of the longer route established for them in final rule 61 FR 69302.

With regard to the southward extension of the Toroweap/Shinumo FFZ concurrent with the elimination of commercial sightseeing access to the National Canyon portion of what is referred to as the ''Blue 1, Blue Direct'' commercial sightseeing tour, the FAA estimated a reduction in net operating revenues in final 61 FR 69302. This loss resulted from the expected lowering of commercial sightseeing tour prices due to the elimination of the most scenic aerial portion of the overall commercial sightseeing package offset to some degree, by lower variable operating costs due to the shortening of the tour route. The FAA estimated this loss to be in excess of $2.5 million in reduced average annual net operating revenue and was derived by subtracting the estimated reduction of $2.5 million in average annual variable operating costs from the estimated average annual revenue loss of $5.0 million.

Incorporaitng adjustments to reflect a partial restoration of the National Canyon portion of the ''Blue 1, Blue Direct'' air tour, the FAA estimates that the proposed flight corridor through the Toroweap/Shinumo FFZ would lower the average annual net operating revenue loss as previously estimated in final rule 61 FR 69302 form $2.5 million to just over $1.7 million for the time period 1998–2008. This reduction in average annual net operating revenue losses of $712,000 results from a comparable reduction in average annual revenue losses from a previously estimated $5.0 million to $2.5 million ($2.5 million) which in turn is offset by a lowering of the reduced variable operating costs from a previously estimated $2.5 million to $758,000 ($1.8 million). Thus, the FAA estimates the cost savings of the proposed flight corridor through the Toroweap/Shinumo FFZ for all aircraft would be a reduction of $712,000 in average annual net operating revenue losses as previously estimated in final rule 61 FR 69302.

Adding commercial sightseeing flights per aircraft between Las Vegas and Tusayan along the proposed flight corridor through the Toroweap/Shinumo FFZ is not a viable option for these GCNP commercial sightseeing operators. As was future in final 61 FR 69302, the reduction in total commercial sightseeing tour aircraft flying time does not provide sufficient savings in aggregate daily flying time to allow operators to expand their number of daily commercial sightseeing flights per aircraft.

The cost of the proposed rule would be any adverse impact of the two proposed flight corridors on the restoration of natural quiet in the canyon. The potential adverse impact cannot be quantified in this NPRM. The FAA solicits comments on ways to quantify the effects on the restoration of the natural quiet in this proposed rule. The more detailed those comments, the better able the FAA will be to assess those benefits in a final rule. The Bright Angel FFZ corridor would create an additional incentive for air tour operators to use Category C aircraft. The Toroweap/Shinumo FFZ corridor would permit the continued operation of an air tour in that area, tours which were seriously affected by final rule 61 FR 69302. Taken together, both of these proposed corridors would benefit the GCNP commercial sightseeing operators.

Benefits

The benefits associated with this NPRM include (1) A more rapid conversion to quieter aircraft in response to an inceptive route for operators of noise efficient Category C aircraft; (2) the shifting away of a commercial sightseeing tour route away from cultural and historic sites of the Havasupai Tribe that would enhance the sacredness and preservation of these sites; and (3) the restoration of an air tour route between Las Vegas and Grand Canyon Airport that reduces average annual net operating revenue losses. The particular groups that would benefit most from this rulemaking action are the Havasupai Tribe and some of the operators and consumers of GCNP commercial sightseeing tours, particularly those able to use or convert to quieter aircraft.

The establishment of the proposed corridor for noise efficient Category C aircraft through the Bright Angel FFZ along the ''Alpha'' routes would reduce increased aircraft noise created by the consolidation of aircraft overflight noise at the northern edge of the expanded FFZ as described in final rule 61 FR 69302. Furthermore, to the extend the consumer perceives the current shorter, more established commercial sightseeing tour through the proposed flight corridor as having a greater value, then demand for these tours conducted in the more noise efficient Category C aircraft would increase. Concurrently, demand for the longer sightseeing tours conducted in Category A and Category

B aircraft would decrease. As stated earlier, the operators of these aircraft have to absorb the remaining $497,000 increase in average annual variable operating costs re-estimated in final rule 61 FR 69302. In addition, they might also face a decline in revenues as patronage shifts to air tours offered in Category C aircraft. In combination, these two potential outcomes of this proposed rulemaking could create a significant incentive for operators of Category A and Category B aircraft to convert to Category C aircraft sooner than was proposed in 61 FR 69334, leading to a more rapid mitigation of noise in GCNP.

Comments received on Notice No. 96–11 state that the use of noise efficient aircraft will, in the long run, provide the most benefit toward restoring natural quiet. There is an outstanding NPRM on the issue of noise limitations for certain aircraft operated in GCNP (Notice No. 96–15). Without prejudging Notice No. 96–15, but as an incentive to the operators to convert to more noise efficient aircraft as rapidly as possible, this proposed rule would allow operators using quieter Category C aircraft to continue using the Bright Angel Corridor for the Zuni-Dragon air tour on the east end of the Grand Canyon, and on the west end, would allow operators using quieter Category C aircraft to continue using the National Canyon air tour route on return trips from the Grand Canyon to Las Vegas after the year 2001.

In consideration of Havasupai concerns regarding commercial sightseeing overflights of their ancestral lands, the FAA is proposing an abridged ''Blue 1A'' route in conjunction with the proposed Toroweap/Shinumo FFZ. The proposed abridged ''Blue 1A'' route effectively avoids 90 percent of Havasupai cultural and historic lands. The economic benefit of this facet of the NPRM to this Native American Tribe, however, is inherent and non-quantifiable, but nevertheless, very real.

Economic Evaluation Summary

The FAA has determined that the average annual cost savings of this NPRM from the years 1998–2008, would be about $1.25 million. That portion of the average annual cost savings attributable to the proposed flight corridor through the Bright Angel FFZ is accounted for by a reduction of $538,000 in the previously estimated increase in average annual variable operating costs. That portion of the total average annual cost savings attributable to the proposed flight corridor through the Toroweap/Shinumo FFZ is accounted for by a reduction of $712,000 in the previously estimated average annual loss in net operating revenue. Except for potential adverse noise effects, the FAA therefore concludes that this NPRM would be cost relieving.

Initial Regulatory Flexibility Analysis

By both law and executive order, Federal regulatory agencies are required to consider the impact of proposed regulations on small entities. Executive Order 12866 ''Regulatory Planning and Review'', dated September 30, 1993, states that:

> Each agency shall tailor its regulations to impose the least burden on society, including individuals, businesses of different sizes, and other entities (including small communities and governmental entities), consistent with obtaining the regulatory objectives, taking into account, among other things, and to the extent practicable, the cost of cumulative regulations.

The 1980 ''Regulatory Flexibility Act'' (RFA) requires Federal agencies to prepare an initial regulatory flexibility analysis of any notice of proposed rulemaking that will have a significant economic impact on a substantial number of small entities. The definition of small entities and guidance material for making determinations required by the RFA are contained in the **Federal Register** [47 FR 32825, July 29, 1982]. Federal Aviation Administration (FAA) order 2100.14A outlines the agency's procedures and criteria for implementing the RFA.

With respect to this proposed rule, a ''small entity'' is a commercial sightseeing operator that owns or operates nine or fewer aircraft. A significant economic impact on a small entity is defined as an annualized net compliance cost to such a small commercial sightseeing operator. In the case of scheduled operators of aircraft for hire having less than 60 passenger seats, a ''significant economic impact'' or cost threshold, is defined as an annualized net compliance cost level that exceeds $69,800; for unscheduled operators the threshold is $4,900. A substantial number of small entities is defined as a number that is more than one-third of the small commercial sightseeing operators (but not less than eleven operators) subject to the proposed rule. The Federal Aviation Administration has determined that this proposal could have a significant economic impact on most of the small commercial sightseeing operators conducting flights within Grand Canyon National Park and therefore, has prepared this initial regulatory flexibility analysis.

The proposed rulemaking could affect a substantial number of the commercial sightseeing operators conducting tour flights in Grand Canyon National Park under 14 CFR part 135. The commercial sightseeing operators affected are those providing commercial sightseeing tours currently operating along the ''Blue 1'', ''Black 1'', and ''Green 1'' tour routes who would be permitted to conduct commercial sightseeing tours along the flight corridors proposed by this NPRM. FAA data indicate that in 1995, of the 31 identified GCNP commercial sightseeing operators, 25 conducted air tours along the affected routes, and of these, 20 were potentially affected small commercial sightseeing operators, each owning, but not necessarily operating 9 or fewer aircraft. These operators owned a total of 61 aircraft and the average fleet consisted of about 3 airplanes. The FAA therefore, estimates that 20 operators, which are also small entities, could be impacted by the proposed rule. This impact is as discussed in the preceding analysis of the full regulatory evaluation.

The Federal Aviation Administration, however, has determined that this proposal, when viewed as a component of and in conjunction with other actions (the FAA published three actions on December 31, 1996, and one action on February 26, 1997, that related to the airspace management of the GCNP) is cost relieving to one-half of these small entities. The remaining operators affected by this proposed rulemaking would be required to absorb higher average annual variable operating costs imposed by final rule 61 FR 69302.

International Trade Impact Assessment

The FAA has determined that the proposed rulemaking would have no affect on non-U.S. operators of foreign aircraft operating outside the United States nor would it have an affect on U.S. trade or trade relations. However, because the proposed rulemaking has been determined to be cost beneficial to commercial sightseeing operators and a large proportion of GCNP commercial sightseeing passengers are foreign, it could have a positive affect on foreign tourism in the U.S. The FAA cannot put a dollar value on the potential gain in commercial air tour sightseeing revenue associated with possible increases in foreign tour dollars.

Federalism Implications

The regulations herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various

levels of government. Therefore, in accordance with Executive Order 12866, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), there are no requirements for information collection associated with the proposed regulation.

Conclusion

For the reasons set forth above, the FAA has determined that this proposed rule is a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that this proposal would have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposed rule is considered significant under DOT Regulatory Policies and Procedures.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (Air), Reporting and recordkeeping requirements.

The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

2. Section 93.305 is amended by adding a new sentence to the end of paragraph (b) and by adding a new sentence to the end of paragraph (c) to read as follows:

§ 93.305 Flight-free zones and flight corridors.

* * * * *

(b) * * * The Bright Angel Flight-free Zone does not include the following airspace designated as the Bright Angel Corridor: that airspace one-half nautical mile on either side of a line extending from Lat. 36°14′21.24″ N., Long. 112°08′57.54″ W. and Lat. 36°14′15.32″ N., 111°55′07.32″ W.

(c) * * * The airspace designated as the ''National Canyon Corridor'': at or above 7,500 feet MSL within 2 nautical miles either side of a line extending east, southeast from Lat. 36°14′01″, Long. 112°53′38″ to Lat. 36°14′24″, Long. 112°52′30″ to Lat. 36°15′01″, Long. 112°50′37″ to Lat. 36°14′53″, Long. 112°49′10″ to Lat. 36°14′05″, Long. 112°48′39″ to Lat. 36°06′58″, Long. 112°44′21″.

3. Section 91.306 is added to read as follows:

§ 93.306 Operation of GCNP Category C Aircraft in National Canyon Corridor and Bright Angel Corridor.

No person may operate an aircraft westbound within the National Canyon Corridor after December 31, 2001, or in the Bright Angel Corridor within the Special Flight Rules Area unless the aircraft is a commercial sightseeing operation aircraft that meets the GCNP Category C aircraft standard, as defined in § 93.319.

4. Section 93.307 is amended by adding paragraphs (b)(3) and (b)(4) as follows:

§ 93.307 Minimum flight altitudes.

* * * * *

(b) * * *

(3) *National Canyon Corridor.* 7,500 feet MSL.

(4) *Bright Angel Corridor.* GCNP Category C helicopters, 9,500 feet MSL; GCNP Category C airplanes, 10,000 feet MSL.

Issued in Washington, DC on May 12, 1997.

Dated: May 12, 1997.

W. Michael Sacrey,

Acting Director, Flight Standards Service.

[FR Doc. 97–12745 Filed 5–12–97; 4:35 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Tour Routes for the Grand Canyon National Park

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of commercial air tour routes for the Grand Canyon National Park and disposition of comments.

SUMMARY: This notice announces the availability of commercial air tour routes for the Grand Canyon National Park (GCNP) and disposes of comments received in response to a previous notice of availability and request for comments that was published on Dec. 31, 1996. The commercial air tour routes are not being published in today's **Federal Register** because they are depicted on large and very detailed charts that would be difficult to publish in the **Federal Register**. The new routes, or modifications of existing commercial air tour routes, are related to airspace changes contained in a final rule affecting the special flight rules in the vicinity of GCNP (GCNP final rule) that were published on December 31, 1996. The commercial air tour routes are also related to a Notice of Proposed Rulemaking (NPRM) proposing the phase out of noisy aircraft operating in the vicinity of GCNP (noise NPRM), also published on December 31, 1996.

DATES: Comments on the routes must be received on or before May 27, 1997.

FOR FURTHER INFORMATION CONTACT: Daniel V. Meier, Jr., Air Carrier Operations Branch, AFS–220, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–3749, or Dave Metzbower, Air Carrier Operations Branch, AFS–220, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 267–3724.

SUPPLEMENTARY INFORMATION: The commercial air tour routes are not being published in today's **Federal Register** because they are on very large and very detailed charts that would not publish well in the **Federal Register**. A copy of the air tour routes may be obtained by contacting Denise Cashmere at (202) 267–3717, by faxing a request to (202) 267–5229, or by sending a request in writing to the Federal Aviation Administration, Air Transportation Division, AFS–200, 800 Independence Avenue, SW., Washington, DC 20591.

Discussion

The Federal Aviation Administration (FAA), in consultation with the National Park Service (NPS), has proposed new air tour routes and has proposed to modify existing air tour routes to accommodate airspace changes included in the final rule concerning GCNP. Certain parts of the final rule become effective May 1, 1997. The GCNP final rule, in part, modifies the dimensions of the GCNP Special Flight Rules Area (SFRA); establishes new and modifies existing flight-free zones (FFZ); establishes new and modifies existing flight corridors; and establishes reporting requirements for commercial sightseeing companies operating in the SFRA. The noise NPRM proposed to phase out noisier aircraft operating in the vicinity of GCNP.

The proposed new and modified routes were developed on the basis of airspace configurations, safety considerations, the goal of substantial restoration of natural quiet in the GCNP, economic considerations, consultation with Native American tribes, and comments received in response to the previous notice of availability.

In developing the proposed new and modified air tour routes for GCNP, the FAA has been consulting with Native American tribes on a government-to-government basis. This consultation is required under the Presidential Memorandum on Government-to-Government Consultation with Native American Tribal Governments to assess potential effects on tribal trust resources and to assure that tribal government rights and concerns are considered in decisionmaking. The FAA has also been consulting with these tribes pursuant to the American Indian Religious Freedom Act and the Religious Freedom Restoration Act concerning potential effects of the proposed routes on sacred sites. In addition, the FAA has been consulting with these tribes, the Arizona State Historic Preservation Office, the Advisory Council on Historic Preservation, and other interested parties under Sec. 106 of the National Historic Preservation Act concerning potential effects on historic sites, including traditional cultural places and Native American sacred sites.

Discussion of Comments

The FAA received more than 100 comments in response to the previous notice of availability. Comments were received from industry associations (e.g., Grand Canyon Air Tour Council, United States Air Tour Association, Helicopter Association International); environmental groups (e.g., Sierra Club, National Parks and Conservation Association); air tour operators; and government officials. The overwhelming majority of commentaries recommended changes to the proposed routes.

General Safety Concerns

Many commenters state that the proposed routes will reduce aviation safety by increasing the density of aircraft in the corridors, where radar traffic control is not available. This increase in complexity and density of air tour routes will alter the ''see and avoid'' air traffic environment over the canyon in a manner that could adversely affect and compromise air safety. Commenters also state that the expansion of FFZs concentrates more traffic on fewer routes thus increasing the potential collision hazard.

One commenter is concerned about the congestion at the Grand Canyon Airport for aircraft heading for airspace northwest of the airport. The most critical issue is the large number of aircraft in different categories that will occupy this airspace. The commenter states that the preferred runway at the Grand Canyon Airport is runway 21 and estimates that 90 percent of the time runway 21 is in use. The result is several single engine Cessnas and Twin Otters climbing northwest bound to 10,000 MSL on Black 1 route, while the head-on traffic off of the Blue 1, and Blue Direct routes are heading for the right downwind for runway 21. In addition, helicopters are also climbing northwest bound to 9500 MSL to join the Green 1.

FAA Response

The redesign of routes to allow air traffic to flow counterclock wise around the Bright Angel FFZ and clockwise around the Desert View FFZ is expected to reduce the complexity of air traffic control. Maintaining the high level of safety for traffic control at the Grand Canyon Airport is critical. The FAA believes that proper compliance with Letters of Agreement (LOA) and air traffic sequencing procedures will maintain this level of safety. The FAA has, given the requirements concerning noise mitigation and intrusion over Native American historical or cultural sites and the needs of the air tour industry, structured routes and procedures to provide a safe aviation environment.

The FAA realizes that changes to a structured environment, such as those made in the GCNP, will cause concerns among aviation users of the park; nevertheless, the governing principles for air operations in the GCNP are based upon visual flight rules. Under these rules the pilot-in-command has the responsibility for the safe operation of his/her aircraft. The FAA recognizes

that under VFR an increase in the number of operations in a limited amount of airspace may alter the balance of safety; however, the FAA cannot presently determine, quantitatively, when that balance reaches a critical level of safety. To preclude the development of an unacceptable level of safety, the FAA has included certain reporting requirements in the final rule of December 31, 1996, that are intended to provide additional data which will be used to aid in future safety analysis.

Sanup FFZ

General: One commenter points out that the proposed routes in the vicinity of the Sanup FFZ will eliminate important safety features of the current routes. Such safety features, which are not provided by the FAA's proposed routes, are (1) both lateral and vertical separation between routes, and (2) prominent landmarks and visual checkpoints along the routes to provide course guidance. By relocating Green 4 northbound, Blue 2 southbound, and Blue 2 northbound, these three major routes exist with only altitude separation. Similar problems occur with the portions of Blue 2 and Green 4 routes between Quartermaster Canyon and Spender Canyon.

Blue 1/Blue Direct: One commenter requests that on an emergency basis and until further discussion and planning can take place, the old Blue 1 route should remain open to prevent traffic compression and a significant safety hazard.

Some commenters state that, with the changes to the Blue 1 route, operators may not be able to sell it as an air tour, which would result in spillover to other routes, increasing congestion and possible accidents.

One commenter argues that if Blue 1 were to be eliminated they would be forced to engage in air tours based on the Black routes, thus contributing to a potentially serious and unintended impact on eastern Grand Canyon airspace and environment.

Several commenters have suggested that the Las Vegas to Tusayan flights should be routed to north of Mount Dellenbaugh, thus eliminating the Blue 1 route with its traffic rerouted to the Blue Direct route. Furthermore, one commenter states that, where possible, the FAA should use two-way return routes, which affect a much smaller area than loop routes.

An airline commenter states that, as proposed, Blue 1 is not an air tour. Blue 1 should be able to go to the southern tip of the Toroweap/Shinumo FFZ encompassing National Canyon, then to Yumathiska Point, Little Coyote Canyon, Mt. Sinyala, Towago Pt, Topocoba Hilltop, Havatagvitch, then the 20 mile fix. Noise efficient aircraft could descend to 6500 MSL. If, under the proposed routes, Blue 1 traffic were rerouted onto Blue 2, then Blue 2 would become a hazardous condition (with only vertical separation). This commenter believes that the route structure should keep Blue 2 as it currently exists for safety reasons.

Blue 2: Several commenters argue that the Blue 2 route is inherently dangerous because it uses staking of aircraft as the only means to separate traffic. Both the eastbound and westbound portions are located south of the Colorado River, eliminating the convenient landmark which served as a horizontal separation between the two routes. These commenters believe that aircraft operating at different speeds need both horizontal and vertical separation due to the extreme up and down drafts that are present in the Grand Canyon.

Blue 3: Several commenters state that combining Blue 2A and Blue 2B into the proposed Blue 3 eliminates the use of the Colorado River as a defined landmark to allow horizontal separation. Therefore the risk of collision increases greatly. One commenter suggests redividing Blue 3 into Blue 2A and Blue 2B. Another commenter states that the present minimum altitude of Blue 3 route should be maintained.

Green 4: One air tour company which uses the present Green 4 argues that the new changes will dump so much traffic into this airspace that passenger and flight crew safety will be seriously compromised. This commenter's helicopters use Green 4 which shares this airspace with Blue 2 airplane traffic. These two routes are separated by altitude (500 feet) and horizontally by as little as 1 mile in some areas and zero horizontal separation in places where the routes cross each other. This system has worked in the past partly because there is not much usage. The existing traffic is able to hear each other's radio transmission and easily able to see and avoid the other users.

FAA Response

On the western end of the Sanup, the Blue 2 (B2) and Green 4 (G4) remain essentially unchanged from the current chart until Separation Canyon. From Separation Canyon to Diamond Creek, these routes have been moved to the south side of the river for noise mitigation purposes. The FAA believes that adequate vertical and horizontal separation has been maintained. The FAA eliminated the Blue 2A (B2A) based on its best information that this route, although previously considered a weather route, is seldom used for that purpose. To allow for weather related emergencies, the FAA included language in the final GCNP rule that permits pilots to take any appropriate action to preserve the safety of flight.

In the central portion of the canyon, the FAA has altered the previously proposed B1A and Blue 1 (B1). To provide an optimum route which offers the best alternatives between noise mitigation, overflights over Native American cultural sites, and a viable air tour route, the FAA is proposing that the B1A remain unchanged until it crosses the northern part of national canyon, as shown on the map of April 1997, then turn southeast to avoid Supai Point and continue until it rejoins B1.

The Blue 3 (B3) will allow air tour transit between the routes in the central part of the canyon. The B1 route segment north of the Sanup FFZ has been moved north of Mount Dellenbaugh to within one-half mile of the SFRA to reduce aircraft noise at the Shivwits fire camp. Blue Direct (BD) was not relocated north of Mount Dellenbaugh. Such a relocation would not have placed the BD far enough away from Mount Dellenbaugh to mitigate appreciably air traffic noise and would have exposed air traffic on this route and B1 to an unnecessary level of safety risk. The FAA will continue to consider if route changes should be made in the area north of Mount Dellenbaugh.

Toroweap/Shinumo FFZ

General: Some commenters have raised concerns that by extending the Toroweap Flight Free Zone south of the Colorado River most of Las Vegas airplane traffic will be forced into Blue 2 and 3. Commenters believe that this compression of traffic will result in a mid air accident sooner or later.

Blue 1A: Several commenters request the deletion of the proposed Blue 1A route through Toroweap-Shinumo FFZ. No air tour routes should be permitted through this FFZ, even for less noisy (''Class C'') aircraft. The river corridor from National Canyon to Havasu Creek should receive maximum protection from air tour noise. The addition of the National Canyon to the Toroweap-Shinumo FFZ was critically needed for the SFAR and its operating procedures. Furthermore, this route is non-essential since most of the Las Vegas-Tusayan flights are shuttles to the Canyon and are not solely air tours.

Brown 2: Brown 2 should allow descent to 6500 off the Shivwits Plateau.

Brown 3: Brown 3 departure on the map is unrealistic. Route must be able

to exit by flying south of Paws Pocket and Northbound through expanded FFZ. Brown 3 arrival is not necessary.

Brown 4: Brown 4 should be called Brown 1 reverse.

FAA Response

The best information that the FAA has indicates that if the B1A is not maintained as a viable air tour route, approximately 40 percent of the Las Vegas air tour operations will shift to the B2. The FAA believes that this occurrence would increase the air traffic density on the western Sanup and increase the risk to safety above the current level. By locating the B1A as shown on the map of April 1997, the FAA has attempted to meet its responsibility to restore substantially the natural quiet and at the same time maintain a viable air tour industry in the Park with minimum intrusion over Native American historical and cultural sites.

The Brown routes are used by commercial operations in support of the river rafting industry. Some of these commercial operators may also have air tour operating authority; nevertheless, the authority given to operate on the brown routes is entirely separate from that given to operate air tours. Operations on the brown routes are conducted in accordance with an approved procedures manual or, as is the case with more flexible helicopter operations, with a form 7711 issued by the Las Vegas FSDO.

Bright Angel and Desert View FFZ

General: One commenter states that the northbound route around Bright Angel FFZ should turn east to Saddle Mountain at a point 5 miles further south. GCNP should be willing to absorb some of the effects of enlarging quieter areas within the park instead of exporting effects.

Other commenters state that the entire area of Saddle Mountain Wilderness should be designated as a ''Noise Sensitive Area'' per FAA regulations.

One commenter states that there is the potential for a mid-air collision just south of Saddle Mountain. Another commenter is concerned about the letdown areas between Bear's Ridge and Saddle Mountain, and between Saddle Mountain and Gunthers Castle.

In both of these letdown areas, the fixed wing and rotary wing aircraft are only 500 feet apart. Commenters state that this is awfully close for mixed categories and classes of aircraft, especially with added distractions of aircraft merging from Black 5, Black 3, Black 2 and Green 2 routes. There needs to be some lateral separation between the airplanes and helicopters.

Different routes proposed: One commenter proposed the following alternative routes through Dragon corridor:

Alternative 1: Dragon Corridor should be designed like an upside down funnel-shaped TCA, horizontally sliced into three altitude segments: the lowest portion (7,500 MSL) to be reserved for the quietest or category C airplanes and helicopters performing an out and back short tour (Green 1R). The next or center segment (8,500 MSL) would be reserved for category B helicopters. Only the 7,500 segment and the 8,500 segment would permit out and back Dragon Corridor tours. The full loop tour (Black 1 and Green 1) should be counter clockwise and restricted to airplanes only with the noise efficient aircraft utilizing the route and altitudes of the proposed Green 1 helicopter route and the other less noise efficient aircraft using Black 1.

Alternative 2: Routes in the Dragon Corridor should be restricted to one way Southbound traffic. Helicopter Route Green 1R should be eliminated. The corridor should be horizontally sliced as in Alternative 1. The lowest portion (7,500 MSL) should be reserved for the quietest or category C airplanes and helicopters. The next or center segment 8,500 MSL should be reserved for Category B helicopters, and the third and highest segment (10,000 MSL) reserved for the category A airplanes. The Zuni Corridor should remain open in both directions as it is today for short airplane and helicopter tours, but structured so noise efficient aircraft use the lower sectors.

Counter Clockwise Rotation: Many commenters questioned the prudence of reversing east end of the Canyon local tour routes from counter clockwise to clockwise. Such change would negatively impact safety from weather and congestion standpoints. Another commenter provides a detailed description of suggested route changes for Bright Angel and Marble Canyon areas. These commenters note that proposed route changes are less safe and less effective in mitigating sound impact in the Grand Canyon and that it is much safer to approach the North Rim from the east because you have lower terrain, should weather be a problem. When approaching from the west, you are surrounded by high terrain and are forced even farther north, or forced to reverse course and fly into oncoming traffic.

One commenter requests that should the route change back to counter clockwise on Black 1 and 2, the new altitude should be 9,500 MSL from the Zuni Alpha to just north of Saddleback Mountain, then climb to 10,000 MSL. The effect of this change would be to reduce the noise level within the GCNP by not carrying a higher power setting on fully loaded aircraft within this area of the Canyon. Since the area from just north of Saddleback Mountain to crossing the North Rim is not within the GCNP, the aircraft would not be climbing within the park. The main concern of this commenter is the elderly and physically handicapped customers they carry who would be more comfortable below 10,000 feet. Also by having a slow descent at the north end of Dragon Canyon to the Colorado River from 10,000 feet MSL down to 9,500 feet MSL, aircraft could reduce engine power and lower noise levels.

Another commenter states that, in addition to Dragon Corridor flowing counter clockwise, it should also accept traffic from the North entering from Kanab. Traffic could either maintain 10,000 MSL, overfly the airport and return to Kanab via Zuni on Black 2, or descend to land at Grand Canyon Airport.

A helicopter air tour operator comments that the assigned helicopter altitude in Dragon Corridor for proposed Green route should be 7,500. If helicopters must be at 9,500 for a significant portion of proposed Green 1 route, then have helicopters leave the airport eastbound, climb to 9,500 through Zuni Corridor and over North Rim. Upon entering the Dragon Corridor, traffic should merge, as it does now, when the terrain permits at 7,500.

Name Change of Routes: Several commenters have requested that the FAA keep the same naming conventions as are currently used under SFAR 50–2. This will avoid confusion among experienced Canyon pilots and make training easier.

Green 1 and Black 1: Same commenters request that all tour routes through the Dragon Corridor be deleted.

Green 2 and Black 2: One commenter recommends deleting the proposed Black/Green 2. This commenter argues that the route is too long (80 miles), with far too small a fraction over the Canyon (23%), to be economically viable. If it were used, it would impact a larger proposed rim wilderness in the park (east of the Palisades), a section of the Navajo Reservation that is currently free of air tour noise, and sacred Hopi sites near the Little Colorado Confluence.

Another commenter, who supports counterclockwise traffic flow, states that it would be helpful if the lowest possible altitudes could be allowed for

Black 2. This is a bad weather return route from Black 1. Helicopters could return to the little Colorado River at 7,000 MSL and aircraft at 7,500 MSL or if the ceiling is below 8,500 MSL on Black 2, could descend to 7,500 MSL for aircraft and 7,000 MSL for helicopters on Black 3, exit the SFAR to the east, and return to the airport outside the SFAR.

Green 1R: One commenter states that Green 1 return route should be deleted, and helicopter routes should not be more than 500 feet lower than fixed wing routes. This commenters argues that helicopter operators are able to match, or even undercut, the price of a fixed wing tour. In addition, this route allows them to fly 2,500 feet below fixed wing aircraft, providing them a clear marketing advantage. Since the NPRM commenters considered helicopters to be the most obnoxious aircraft, there is no justification for giving them such an advantage over less invasive aircraft.

One commenter made the following recommendations for routes around the Bright Angel FFZ:

Single and twin engine piston driven propeller aircraft should enter the Zuni Point Corridor at 10,000 ft as to not require a noisy climbout to clear the terrain at Saddle Mountain and Bears Ridge. These aircraft should descend to 8,500 ft. when entering Dragon Corridor.

Reverse course would avoid airplanes and helicopters flying at 9,500 and 10,000 in the Dragon Corridor.

A route should be designed to exit Green 2 in vicinity of Little Colorado flag. (Commenter attached a revised map.)

The commenter also requests to exit from Northern portion of Green route in vicinity of Dragon B flag to the North, and request to enter Green 1R at the Dragon A flag to include the Dragon Corridor on the Havasupai flight. (Commenter attached revised maps.)

FAA Response

In response to the comments and additional information received by the FAA, the flow of traffic around the Bright Angel and Desert View FFZ's has been reversed to allow traffic to move counterclock wise around the Bright Angel FFZ and clockwise around the Desert View FFZ. The G1 and Black 1 (BK1) have been moved farther east to reduce noise impacts around Saddle Mountain and the effects of turbulence during high wind conditions in that location. This relocation also eliminates a convergence point where each converging aircraft would have had to make turns to the west that would have reduced visual contact between these aircraft. The FAA also plans to propose a route through the northern part of the Bright Angel FFZ in the same location as the present GIA and Black 1A (BK1A). This route will be for Category C aircraft.

The FAA agrees that reversing the air traffic flow round Bright Angel and Desert View FFZ's will offer a weather escape route to the east as well as allow for entry into B2 and G3. The FAA established the altitudes as shown on the April 1997 map to allow for safe vertical and horizontal terrain clearance and to mitigate for noise where current noise modeling indicates that terrain shielding would be preferable to higher altitudes. In cases where terrain shielding does not offer protection from noise, the FAA established the highest altitude possible. The difference in altitudes also reflect the differences in the performance requirements between fixed wing and helicopters and is not the result of favorable treatment for any operator.

The FAA determined that closing the Dragon Corridor would be economically harmful to air tour operators in the east end of the canyon and would not be in compliance with the intention of Pub. L. 100–91.

Marble Canyon FFZ

Black 4 & Black 5: Several commenters argue that Black 4 and 5 are redundant. It is not necessary to have aircraft on both sides of the Canyon, thus spreading the noise over a wider area. Either Black 4 or 5 should be deleted, making the remaining route two-way. Two commenters suggest that Black 5 should be eliminated and Black 4 should be two-way. One commenter states that the tour routes in the Marble Canyon should be moved as far as possible from rims of Marble Canyon, either to the outer edges of the SFRA or outside the SFRA boundary.

FAA Response

In the development of air tour routes in the Marble Canyon, Black 4 and 5 emerged as viable scenic routes, since different perspectives of view are obtained from the two flight paths. Noise modeling in the Canyon, based on these two separate routes, demonstrated that there would be no adverse impacts. Although a two-way route for Black 4 was not modeled, the FAA acknowledges that such considerations may be made in the future.

Legal Authority

Some commenters state that the uncertainty around the final rule makes consideration of new routes premature.

Others question the legality/procedure of notice of proposed routes, saying that they should be part of Notice No. 96–15. One person comments that the rulemaking violates § 11.65 of the FAR, and contradicts FAA's procedures to employ negotiated rulemaking or the Aviation Rulemaking Advisory Committee. Several commenters state that the 3 actions should be combined into one, that rules shouldn't be adopted in piecemeal fashion, and that other comments should be incorporated by reference since all matters are related. Another states that these rules could have a significant impact on small businesses and could be contrary to law.

Several commenters point out that the FAA training of pilots will require delaying implementation of new routes until check rides can be completed. Another urges that implementation be delayed until the end of the tour season for safety reasons. Major modifications to existing routes should be implemented November–February for adequate retraining time. Commenters note that the new routes could not be flown in a training/check environment without shutting down existing flight companies, and operators will be forced to train pilots twice—once on old routes and again on new routes. This places a financial burden on operators. These operators urge that implementation be delayed until December 1, 1997, or January 1998.

Another commenter urges the FAA to consider concerns of tribal governments.

FAA Response

The FAA currently maintains a degree of flexibility and control over air tour routes by authorizing use of the routes in the operations specifications of individual air tour operators. The authorizations include descriptions of the routes to be flown and are tailored to individual operators, taking into account several factors including the route to be used, the type of equipment to be used, frequency of operations, and qualifications of pilots. This method of establishing air tour routes provides the FAA with flexibility to modify the routes as necessary in order to provide a safe and efficient operating environment, and to aid the NPS in its efforts to substantially restore the natural quiet of the GCNP. The FAA believes that it will maintain the necessary flexibility by authorizing the use of routes through operations specifications.

The FAA intends that the proposed air tour routes and the GCNP final rule become effective simultaneously. The FAA originally published the GCNP final rule with an effective date of May 1, 1997. However, the FAA subsequently revised the effective date

of several provisions of the rule to January 31, 1998, in part to provide sufficient off-peak time for air tour operators to conduct necessary route training, and in part to give the FAA adequate time to consider and accommodate several concerns raised in consultations with the NPS and the Native American tribes and in comments to the previous notice of availability by air tour operators and the general public.

Economic Impact

Commenters state that proposed air tour routes would cause significant and irreparable harm to the economic viability of air tour operators and other dependent businesses, as well as the local economy.

The Havasupai voiced concerns about potential effects on their tribal tourist enterprise which is a major source of income to the tribe. The recreational activities are constrained by both statute and the geography of the reservation, including the relative isolation of the reservation such that the primary type of recreation is primitive or semiprimitive hiking, camping, hunting, and pack trips which could be affected by the present Blue 1A.

Several commenters state that the proposed routes deprive Las Vegas-based tour operators of the most important air tour route in the Grand Canyon (Blue 1), which will result in economic injuries to the Las Vegas Community. FAA should make proposed Blue 1A route available to tour operators until the effective date of the noise efficient aircraft NPRM.

Consumer protection laws, strictly enforced in Europe and Japan, allow passengers to receive part or all of their money back if a tour is not offered precisely as advertised. Any major changes in a tour route (such as elimination of National Canyon Segment in Blue 1 route) could have disastrous economic and legal impacts.

Another commenter states that the majority of air tour operators have pre-sold their 1997 season based on existing tour routes. Proposed routes are longer and would take additional time and fuel to complete. This would also require operators to reschedule tours that have been pre-sold.

One commenter suggests that during the winter months from October to May, when the North Rim is closed to the public each year, operators be allowed to fly old SFAR 50–2, or slightly modified routes, to recoup lost revenues resulting from the new curfews and caps.

FAA Response

As discussed above, the FAA delayed the effective date for certain sections of 14 CFR part 93 that were affected by the Grand Canyon final rule. Delaying implementation of section 93.305, which deals with the reconfiguration of flight-free zones and flight corridors, will permit commercial air tour operators to continue using the current air tour routes over GCNP through January 30, 1998. Thus, the FAA has addressed GCNP operator concerns with regard to route changes that could impact the commercial sightseeing offerings for the 1997 season.

The FAA continues to review the actions impacting the Blue 1 and the Blue 1A tour routes from Las Vegas to Tusayan and seeks comments on this route and route segment as indicated on the map made available by this notice.

In response to the Havasupai's concerns about the potential effects on their tourist trade, the FAA, for this reason and reasons related to historic sites and culture resources found in the northern part of the reservation, has rerouted Blue 1A of the south of the trailhead at Hualapai Hilltop.

Noise

Commenters state that proposed routes offer no reduction of aircraft sound in Eastern and most sensitive sector of GCNP.

Higher flight altitudes will not necessarily reduce aircraft noise. Commenters also state that, as proposed, Black and Green routes will unnecessarily create more noise. Others state that there should be route incentives for noise efficient airplanes.

FAA Response

The FAA agrees that redesigning routes in the GCNP will not, as a single action, reach the stated goal of substantially restoring the natural quiet within the park. To reach this goal, the FAA and NPS established, in the final rule of December 31, 1996, the first step which set operational curfews and caps on the number of aircraft employed in air tours. Additionally, the FAA has issued an NPRM proposing a planned phase out of ''noisy'' aircraft used in commercial air tour operations by the year 2008. Along with the Notice of Availability or Routes, the FAA is planning to propose an NPRM to establish a corridor through the northern part of the Bright Angel FFZ to be used only by aircraft equipped with quiet technology.

The FAA also agrees that higher flying aircraft are not necessarily quieter. As a result, the FAA has placed some of the routes at lower altitudes to take advantage of terrain shielding where ever possible.

The FAA and NPS are working together to develop a long-term Comprehensive Noise Management Plan for the GCNP that will achieve substantial restoration of natural quiet in the park as mandated under Pub. L. 100–91 while considering the best available technology, provision of appropriate incentives for investing in quieter aircraft, and appropriate treatment for operators that have already made such investments.

Route changes: Scenic Airlines recommends the following route changes: Counter-clockwise rotation around the Bright Angel FFZ.

Green 1: Enter Zuni corridor northbound at 7,500 MSL. From Gunthers Castle to Petes Corner, move the route to pass just east of Saddle mountain, enough that helicopters can maintain 7,500 feet MSL until north of the national park boundary. North of Saddle mountain outside of the Grand Canyon National Park, climb to 9,500 MSL. Maintain 300 feet agl over the Kaibab plateau until reaching the Little Dragon. Fly southbound through the Dragon corridor and when able, descend on the east side of the corridor to 7,500 MSL.

Green 2: Maintain 7,500 MSL. Exit from route should be the same as the Black 2 exits

Black 1: If transitioning to the Black 2 route, enter the Zuni corridor northbound at 8,000 MSL. Enter at 9,500 MSL if remaining on Black 1. From Gunthers Castle, the route should continue directly over the Green 1 route with a climb from 9,500 MSL to 10,000 MSL beginning northeast of Saddle Mountain and outside of the park. When possible, the climb should be accomplished without increasing propeller speed. Upon passing Tower of Ra in the Dragon corridor, descend to reach an altitude of 8,500 MSL when crossing the South rim.

Black 2: Route begins on the north end of the Zuni corridor at Gunthers Castle and rotates clockwise around the Zuni FFZ at 8,000 MSL. Climb to 8,500 after passing south of the Little Colorado. The first exit from SFRA on the Black 2 is to turn eastbound at 8,000 MSL after crossing the Little Colorado river. The second exit will be to continue southbound at 8,500 MSL leaving the southeast corner of the SFRA at Zuni Charlie.

Black 3: This entry is required to provide an entry point for airplanes inbound from the east and to reduce the volume of traffic entering at the south end of Zuni corridor. The route should

enter at 9,500 MSL directly over the eastbound exit of Black 2. Continue to follow the Black 2 westbound until joining the Black 1 at 9,500 MSL just north of Gunthers Castle.

Black 4: After crossing the East Rim of Grand Canyon on the Black 2, the route begins by turning northbound then descending to 7,500 MSL. Remain east of the Colorado River until crossing the river at Cave Springs rapids. After crossing the Western rim of the canyon, either descend to 5,500 MSL or remain at 7,500 MSL. Continue northbound remaining west of the river until crossing northeast bound at Soap Creek rapids. Must be at 5,500 or 7,500 MSL prior to crossing the River. Exit the SFRA northbound while remaining east of the river. An alternate exit may be accomplished when abeam President Harding rapid by turning northeast bound at 7,500 MSL. A second exit is to continue westbound at 7,500 MSL after passing Cave springs rapid.

Black 5: Enter the north end of the SFRA at 5,000 or 6,500 MSL. Remain west of the river, until crossing the river at Soap Creek rapids. It at 5,000 MSL begin climb to 6,500 MSL after crossing the east rim of the canyon. Stay east of the River until crossing at Cave Springs rapid at 6,500 MSL then begin a climb to 10,000 MSL after crossing the west rim of canyon. Remain west of National Park boundary while at climb power settings. Turn westbound when east-northeast of Petes corner so as to join the Black 1 at 1,000 MSL.

Brown 7: Enter the SFRA at or below 7,000 MSL northbound over highway 89A. Remain over or slightly east of the highway until within 3 miles of destination airport. Departures should climb out west of the highway until leaving the SFRA. Brown routes were developed to allow airplane operations that support river runners. These routes are not for commercial air tour traffic.

Brown 1: Drop the 7,000 MSL option.

Brown 2: This route begins by exiting the Blue 1 route. Allow a descent on the Blue 1 in order to be at 6,500 MSL at Twin Peaks. The Brown 2 then begins at Twin Peaks at 6,500 MSL, the same as SFAR 50–2.

Brown 3: The Brown 3 departure route needs to allow for a safe departure through the newly expanded FFZ. The Brown 3 arrival route could remain outside of the SFRA and therefore may be deleted.

Brown 4: Change to Brown 1 Reverse route. This would be at 7,000 and then 7,500 MSL on a reverse course of the proposed Brown 1. Allow a southbound exit from the SFRA through Mohawk Canyon at 7,000 or 7,500 MSL.

Blue 1: The 9,500 MSL altitude conflicts with the Blue 1 reverse when descending through 8,500 near Hagatagvich. This has not been a problem due to very little traffic using the 9,500 MSL option; however, it is a potential problem area.

Blue Direct: Since this is not an air tour route, 7,500 MSL should not be allowed.

Blue 1A: Route should be identical to today's Blue 1 route using an altitude of 6,500 MSL. Should be allowed to reverse course to the Blue 1 Reverse at 8,500 or to the Blue direct at 10,500 MSL.

Blue 3: From the Blue Direct at 7,500 MSL, allow a transition to the Blue 3 southbound at 6,500 MSL.

Blue 4: Needs a provision to allow joining the Blue 1A as well as the Blue 1.

Black 1: Same as SFAR 50–2.

Black 1A: Same as SFAR 50–2 except climb to Split West must be limited to avoid the new Black 1.

Black 3: Same as SFAR 50–2.

FAA Response

In redesigning the routes in the GCNP the FAA considered all the factors necessary to meet the requirements and intentions of Pub. L. 100–91 while still maintaining safety of flight in the GCNP. The changes represented in the new route structure represent a safe ''see and avoid'' environment for the canyon. With it, the FAA has created flight patterns and altitudes in which air tour operations may be conducted safely. However, as with any VFR operation, the ultimate responsibility for control and safety of flight remains with the pilots. The FAA believes that with proper training, adherence to procedures and compliance with the regulations, air tours can be conducted within the new route structure with an adequate degree of safety.

Environmental Review

The FAA is reevaluating the Final Environmental Assessment dated December 24, 1996, for the Special Flight Rules in the Vicinity of the GCNP to determine whether the proposed changes in this second Notice of Availability of Proposed Routes are substantial so as to warrant preparation of additional environmental documents. This reevaluation is being done in accordance with the National Environmental Policy Act of 1969 and other applicable environmental requirements. Copies of the written reevaluation will be circulated to interested parties and placed in the docket. For those unable to view the document in the docket, the written reevaluation can be obtained from Mr. William J. Marx, Division Manager, ATA–300, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC, 20591, Telephone: (202) 267–3075. Comments concerning the environmental impacts of finalizing these routes or the relevant portions of the written reevaluation should be submitted to the docket before the comment period for this notice closes on May 27, 1997. Based on any comments and the written reevaluation, the FAA will determine whether any further environmental review is warranted.

Issued in Washington, DC on May 12, 1997.

W. Michael Sacrey,

Acting Director, Flight Standards Service.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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- Limitations on premiums; interpretation; published 5-15-97

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- Michigan; published 5-9-97

Regattas and marine parades:
- Fort Myers Beach Offshore Grand Prix; published 5-15-97

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Airworthiness directives:
- Airbus Industrie; published 4-10-97
- Boeing; published 4-10-97
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- Rolls Royce plc; published 4-30-97

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- Texas; comments due by 5-23-97; published 4-23-97

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- Macadamia trees; comments due by 5-19-97; published 4-18-97
- Potatoes; comments due by 5-23-97; published 4-23-97

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  - Temporary loan processing procedures; comments due by 5-22-97; published 2-21-97

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- Outdoor Developed Areas Accessibility Guidelines Regulatory Negotiation Committee—
  - Intent to establish; comments due by 5-19-97; published 4-18-97

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- West Coast States and Western Pacific fisheries—
  - Pacific Coast groundfish; comments due by 5-22-97; published 5-7-97
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  - C.I. Pigment Yellow 191; expanded safe use; comments due by 5-21-97; published 4-21-97

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- Higher education grant program; clarification; comments due by 5-20-97; published 2-19-97

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  - Individual claims by former coal miners and dependents processing

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FEDERAL REGISTER WORKSHOP

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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.

WASHINGTON, DC

WHEN: June 17, 1997 at 9:00 am

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