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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.

Anchorage, AK

WHEN: May 23, 1997 at 9:00 am to 12:00 noon
WHERE: Federal Building and U.S. Courthouse
222 West 7th Avenue
Executive Dining Room (Inside Cafeteria)
Anchorage, AK 99513
RESERVATIONS: For Long Beach, San Francisco, and Anchorage workshops please call Federal Information Center
1-800-688-9889 x 0

WASHINGTON, DC

WHEN: June 17, 1997 at 9:00 am
WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)
RESERVATIONS: 202–523–4538

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Reader Aids
Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 62, No. 100
Friday, May 23, 1997

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 532, 550, 551, and 610

RIN 3206–AH86

Holidays and Premium Pay

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: In compliance with recent changes in law, the Office of Personnel Management (OPM) is issuing interim regulations on compensatory time off for prevailing rate (wage) employees, ''in lieu of'' holidays for employees on compressed work schedules, and premium pay for nonappropriated fund (NAF) wage employees on flexible or compressed work schedules.

DATES: The amendments made by section 1041 of The Department of Defense Authorization Act of 1996 and the interim regulation in revised § 532.513 of title 5, Code of Federal Regulations, are effective retroactively to February 10, 1996. The amendments made by sections 1610 and 1613 of The National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201) and the interim regulations in new § 532.504 and revised §§ 550.114, 551.531, and 610.202 of title 5, Code of Federal Regulations, are effective retroactively to September 23, 1996. Comments must be received on or before July 22, 1997.

ADDRESSES: Comments may be sent or delivered to Donald J. Winstead, Assistant Director for Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415. (FAX: (202) 606–0824 or Internet email: payleave@opm.gov).

FOR FURTHER INFORMATION CONTACT: James Weddel, (202) 606–2858, FAX: (202) 606–0824, or Internet email: payleave@opm.gov.

SUPPLEMENTARY INFORMATION: The regulatory changes set forth below are necessary to conform with provisions of law as a result of enactment of The Department of Defense Authorization Act for Fiscal Year 1996, Public Law 104–106, February 10, 1996; and The National Defense Authorization Act for Fiscal Year 1997, Public Law 104–201, September 23, 1996.

(1) Premium Pay for NAF Wage Employees Authorized to Work Under Flexible and Compressed Work Schedules

Section 1041 of The National Defense Authorization Act For Fiscal Year 1996 (Pub. L. 104–106) amended the definition of ''employee'' at 5 U.S.C. 6121 to extend the authority to establish flexible and compressed work schedules (subchapter II of chapter 61 of title 5, United States Code) to civilian employees of the Armed Services paid from nonappropriated funds. Consistent with this change in law, an OPM regulation stating that wage employees who are authorized to work flexible or compressed work schedules shall be paid premium pay in accordance with subchapter II of chapter 61 of title 5, United States Code, has been amended to delete superseded language stating that this paragraph does not apply to nonappropriated fund employees of the Armed Services, as defined in 5 U.S.C. 2105(c). See revised § 532.513. The authority granted to agency heads by section 1041 became effective on February 10, 1996.

(2) Compensatory Time Off for Prevailing Rate (Wage) Employees

The new interim regulations on compensatory time off reflect amendments made by section 1610 of The National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201, September 23, 1996). The regulations are intended to be parallel to OPM's current regulations on compensatory time off under title 5, United States Code, and the FLSA to the maximum extent possible. Section 1610 amended 5 U.S.C. 5543 to permit the head of any agency to approve a prevailing rate employee's request for compensatory time off instead of overtime pay under either 5 U.S.C. 5544 or the FLSA for an equal amount of time spent in irregular or occasional overtime work.

The new provision also permits the approval of requests from prevailing rate employees under compressed work schedules for compensatory time off instead of overtime pay in exchange for an equal amount of time spent in irregular or occasional overtime work. The law prohibits mandatory compensatory time off for all wage employees. The authority granted to agency heads by section 1610 became effective on September 23, 1996. This new authority is in addition to authority in section 6123(a)(1) of title 5, United States Code, which authorizes compensatory time off for prevailing rate employees who work under flexible work schedules. Although this previously existing authority has been included in the premium pay regulations at § 550.114(b), it has not previously been included in OPM's regulations in part 532 for prevailing rate systems. Therefore, part 532 has been revised to reflect this previously existing legal authority as well as the newly enacted legal authority for approval of requests from wage employees who are not under flexible work schedules for compensatory time off in lieu of overtime pay for irregular or occasional overtime work.

Part 532 has also been amended to reflect the legal prohibition against requiring that a prevailing rate employee be compensated for overtime work with an equivalent amount of compensatory time off. Finally, on the recommendation of the Federal Prevailing Rate Advisory Committee, part 532 has been amended to provide that prevailing rate employees may not be directly or indirectly intimidated, threatened, or coerced for the purpose of interfering with his or her rights to request or not to request compensatory time off. The regulation also states that the same prohibited actions may not be attempted. See new § 532.504.

The change in law authorizing approval of requests for compensatory time off is applicable to all prevailing rate employees, including those who are covered by the FLSA. We have revised the FLSA regulations to provide that an agency head (or designee) may approve a request from any nonexempt employee for compensatory time off in lieu of overtime pay for irregular or occasional overtime work. This is consistent with

the broad statutory language in 5 U.S.C. 5543, which provides that the head of an agency may grant a request for compensatory time off from an employee's scheduled tour of duty instead of payment under section 5542 or 5544 of title 5, United States Code, or section 7 of the FLSA for an equal amount of time spent in irregular or occasional overtime work. This change will, for example, permit the applicable agency heads to approve requests for compensatory time off for nonexempt members of the United States Secret Service Uniformed Division or nonexempt members of the United States Park Police.

The revised FLSA regulations also provide that no employee covered by the FLSA may be intimidated, threatened, or coerced to request or not to request compensatory time off. The FLSA regulations on compensatory time off already provide that compensatory time off may not be required for nonexempt employees. This is consistent with the new provisions in law on compensatory time off for prevailing rate employees. It is also consistent with 5 U.S.C. 6132(a)(1), which provides that an employee may not threaten, coerce, or intimidate any other employee under a flexible work schedule (or threaten to do so) for the purpose of interfering with such an employee's rights to request or not to request compensatory time off. See revised § 551.531.

Since regulatory requirements on compensatory time off for prevailing rate employees have been added to part 532 and part 551, the current language authorizing compensatory time off for prevailing rate employees under flexible work schedules has been deleted from part 550. Limits on the accumulation and timely use of compensatory time off are set by agency policy or negotiation with appropriate employee representatives, as permitted by new § 532.504(d).

(3) Designation of ''In lieu of'' Holidays for Employees on Compressed Work Schedules

The interim regulations on ''in lieu of'' holidays reflect amendments made by section 1613 of The National Defense Authorization Act for Fiscal Year 1997 (Pub. L. 104–201, September 23, 1996). Section 1613 adds a new subsection (d) to 5 U.S.C. 6103 that allows an agency head to designate a different ''in lieu of'' holiday than would be required under 5 U.S.C. 6103(b) in certain circumstances—namely, for full-time employees on compressed work schedules when the head of the agency determines that a different ''in lieu of'' holiday is necessary to prevent an ''adverse agency impact.'' The phrase ''adverse agency impact'' is defined in 5 U.S.C. 6131(b) as ''(1) a reduction of the productivity of the agency; (2) a diminished level of services furnished to the public by the agency; or (3) an increase in the cost of agency operations (other than a reasonable administrative cost relating to the process of establishing a flexible or compressed work schedule).''

This new flexibility is applicable to all agencies covered by subchapters I and II of chapter 61 of title 5, United States Code, and is granted to an agency head notwithstanding any other provision of law or the terms of any collective bargaining agreement. However, a new paragraph (c) has been added to 5 CFR 610.202 to provide that the ''in lieu of'' holiday selected by the agency for an employee under a compressed work schedule must be a workday in the same biweekly pay period as the date of the actual holiday established by 5 U.S.C. 6103(a) or must be a workday in the pay period immediately preceding or following that pay period. This provision is intended to (1) preclude a long delay in providing an ''in lieu of'' holiday to an employee and (2) prevent accumulation of holiday hours as if they were paid hours of leave. The authority granted to agency heads by section 1613 became effective on September 23, 1996.

(4) Appropriations Limitations on the Payment of Sunday Premium Pay and Night Pay Differential in Certain Agencies

Section 630 of The Treasury, Postal Service, and General Government Appropriations Act, 1997, as contained in section 101(f) of Public Law 104–208, The Omnibus Consolidated Appropriations Act, 1997, prohibits the use of funds appropriated under the Act for the payment of Sunday premium pay and night pay differential pay to employees who do not actually perform work during the time corresponding to such Sunday premium or night pay differential. This prohibition applies only to agencies whose appropriations are provided by The Treasury, Postal Service, and General Government Appropriations Act, 1997. Affected agencies should be aware that this change in law restricts their implementation of 5 CFR 532.505, 532.509, 550.122, and 550.171.

Within the covered agencies, this prohibition applies to any employee who is paid from funds appropriated by the Act, including but not limited to General Schedule and prevailing rate employees. This provision has the effect of prohibiting the payment of Sunday premium pay or night pay differential to covered employees during any period when no work is performed, apparently including holidays and periods of paid leave, excused absence with pay, compensatory time off, credit hours when used (taken), or time off as an incentive or performance award. Paid leave includes all types of paid leave, including paid leave for jury or witness service under 5 U.S.C. 6322 and military leave under 5 U.S.C. 6323.

This prohibition also appears to preclude a covered agency from paying Sunday premium pay or night pay differential during a period of continuation of pay under the authority of the Federal Employees' Compensation Act (FECA) when the employee did not actually work on Sunday or at night. Similarly, this prohibition appears to preclude a covered agency from reimbursing the Department of Labor for FECA benefits paid to its employees to the extent that the employees have received FECA benefits that are based on Sunday premium pay or night pay differential that the employees would have earned had they worked, but did not earn because they did not actually work on Sunday or at night. The Department of Labor may be able to waive overpayments that occurred. OPM believes that is an issue to be worked out between affected agencies and the Department of Labor. Section 630 became effective on September 30, 1996.

A similar ban on the payment of Sunday premium pay was also in effect for employees of the Federal Aviation Administration (FAA) under The Transportation and Related Agencies Appropriations Acts for FY 1995, 1996, and 1997. This was included in the 1997 Transportation and Related Agencies Appropriation Act even though Congress has authorized FAA to implement its own personnel system. Since the application of these appropriations restrictions is limited and the restrictions may expire, we have not amended OPM regulations on payment of Sunday premium pay and night pay differential. Nevertheless, affected agencies must comply with these appropriations restrictions.

Waiver of Notice of Proposed Rule Making and Delay in Effective Date

The authority for agencies to authorize flexible and compressed work schedules for NAF employees of the Armed Services, provided by section 1041 of The Department of Defense Authorization Act for Fiscal Year 1996 (Public Law 104–106), became effective on February 10, 1996. Authority for

employer-employee agreements providing that commuting by use of a Government vehicle shall not create hours of work for the purpose of providing overtime pay under the FLSA is provided by The Employee Commuting Flexibility Act of 1996, as contained in sections 2101 through 2103 of The Small Business Job Protection Act of 1996 (Pub. L. 104–188), and became effective on August 20, 1996.

The authority granted to agency heads under section 1610 of The National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201) to approve requests from prevailing rate employees for compensatory time off in lieu of overtime pay for irregular or occasional overtime work became effective on September 23, 1996. Section 1613 of the same Act, which allows an agency head to designate a different ''in lieu of'' holiday than would be required under 5 U.S.C. 6103(b) for full-time employees on compressed work schedules, also became effective on September 23, 1996.

In order to implement these changes on the effective dates established for them by law, I find good cause to waive the general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b)(3)(B). Also, I find that good cause exists for making this rule effective retroactively. The retroactive effective dates are necessary in order to implement the changes in law on their statutory effective dates.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects in 5 CFR Parts 532, 550, 551, and 610

Administrative practice and procedure, Claims, Freedom of information, Government employees, Holidays, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM is amending parts 532, 550, 551, and 610 of title 5 of the Code of Federal Regulations as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Subpart E—Premium Pay and Differentials

2. Section 532.504 is added to read as follows:

§ 532.504 Compensatory time off.

(a) At the request of an employee, the head of an agency may grant compensatory time off from an employee's tour of duty instead of payment under § 532.503 or the Fair Labor Standards Act of 1938, as amended, for an equal amount of irregular or occasional overtime work.

(b) At the request of an employee, the head of an agency may grant compensatory time off from an employee's basic work requirement under a flexible work schedule under 5 U.S.C. 6122 instead of payment under § 532.503 or the Fair Labor Standards Act of 1938, as amended, for an equal amount of overtime work, whether or not irregular or occasional in nature.

(c) An agency may not require that an employee be compensated for overtime work with an equal amount of compensatory time off from the employee's tour of duty. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with such employee's rights to request or not to request compensatory time off in lieu of payment for overtime hours.

(d) The head of a department may fix a time limit for an employee to request or take compensatory time off and may provide that an employee who fails to take compensatory time earned under paragraph (a) or (b) of this section before the time limit fixed shall lose the right to compensatory time off and to overtime pay unless the failure is due to an exigency of the service beyond the employee's control.

3. Section 532.513 is revised to read as follows:

§ 532.513 Flexible and compressed work schedules.

Federal Wage System employees who are authorized to work flexible and compressed work schedules under sections 6122 and 6127 of title 5, United States Code, shall be paid premium pay in accordance with subchapter II of chapter 61 of title 5, United States Code. Subpart D of part 610 of this chapter supplements subchapter II and must be read together with it.

PART 550—PAY ADMINISTRATION (GENERAL)

Subpart A—Premium Pay

4. The authority citation for subpart A of part 550 continues to read as follows:

Authority: 5 U.S.C. 5304 note, 5305 note, 5541(2)(iv), 5548, and 6101(c); E.O. 12748, 3 CFR, 1991 Comp., p. 316.

5. In § 550.114, paragraphs (a) and (b) are revised to read as follows:

§ 550.114 Compensatory time off.

(a) At the request of an employee, the head of an agency (or designee) may grant compensatory time off from an employee's tour of duty instead of payment under § 550.113 for an equal amount of irregular or occasional overtime work.

(b) At the request of an employee, as defined in 5 U.S.C. 2105, the head of an agency (or designee) may grant compensatory time off from an employee's basic work requirement under a flexible work schedule under 5 U.S.C. 6122 instead of payment under § 550.113 for an equal amount of overtime work, whether or not irregular or occasional in nature.

* * * * *

PART 551—PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

6. The authority citation for part 551 continues to read as follows:

Authority: 5 U.S.C. 5542(c); Sec. 4(f) of the Fair Labor Standards Act of 1938, as amended by Pub. L. 93–259, 88 Stat. 55 (29 U.S.C. 204f).

Subpart E—Overtime Pay Provisions

7. In § 551.531, paragraphs (a) and (c) are revised to read as follows:

§ 551.531 Compensatory time off.

(a) At the request of an employee who is not exempt under subpart B of this part, the head of an agency (or designee) may grant compensatory time off from an employee's tour of duty instead of payment under § 551.501 for an equal amount of irregular or occasional overtime work.

* * * * *

(c) An agency may not require that an employee be compensated for overtime work under this subpart with an equivalent amount of compensatory time off from the employee's tour of duty. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with such employee's rights to request or not to

request compensatory time off in lieu of payment for overtime hours.

* * * * *

PART 610—HOURS OF DUTY

Subpart B—Holidays

8. The authority citation for subpart B of part 610 continues to read as follows:

Authority: 5 U.S.C. 6101; sec. 1(1) of E.O. 11228, 3 CFR, 1964–1965 Comp., p. 317.

9. In § 610.202, paragraph (b) is revised, and paragraph (c) is added, to read as follows:

§ 610.202 Determining the holiday.

* * * * *

(b) When a holiday falls on a nonworkday outside an employee's basic workweek, the day to be treated as his or her holiday is determined in accordance with sections 6103 (b) and (d) of title 5, United States Code, and Executive Order 11582.

(c) When an agency determines the holiday in accordance with section 6103(d) of title 5, United States Code, for an employee under a compressed work schedule, the agency shall select a workday for the holiday that is in the same biweekly pay period as the date of the actual holiday designated under 5 U.S.C. 6103(a) or in the biweekly pay period immediately preceding or following that pay period.

[FR Doc. 97–13492 Filed 5–22–97; 8:45 am]

BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401 and 457

General Crop Insurance Regulations, Rice Endorsement; and Common Crop Insurance Regulations, Rice Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

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

EFFECTIVE DATE: June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Linda Williams, Insurance Management Specialist, Research and Development, Product Development Division, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be exempt for the purposes of Executive Order 12866, and therefore, this rule has not been reviewed by OMB.

Paperwork Reduction Act of 1995

Following publication of the proposed rule, the public was afforded 60 days to submit written comments on information collection requirements previously approved by OMB under OMB control number 0563–003 through September 30, 1998. No public comments were received.

Unfunded Mandates Reform Act of 1995

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

Executive Order 12612

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

Regulatory Flexibility Act

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

The insured must also annually certify to the previous years production 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 12372

This program is not subject to the provisions of Executive Order 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 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt state and local laws to the extent such state and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before any action for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

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

Background

On Wednesday, January 29, 1997, FCIC published a proposed rule in the **Federal Register** at 62 FR 4194–4200 to add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.141, Rice Crop Insurance Provisions. The new provisions will be effective for the 1998 and succeeding crop years. These provisions will replace and supercede the current provisions for insuring rice found at 7 CFR 401.120 (Rice Endorsement). FCIC also amends 7 CFR part 401.120 to limit its effect to the 1997 and prior crop years.

Following publication of the proposed rule, the public was afforded 60 days to submit written comments and opinions. A total of 14 comments were received from the crop insurance industry. The comments received and FCIC's responses, are as follows:

Comment: One comment from the crop insurance industry recommended adding the words ''and quality'' after the word ''quantity'' in the definition of ''Irrigated practice.''

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

Comment: One comment received from the crop insurance industry recommended combining the definitions of ''irrigated practice'' and ''flood irrigation.'' The only crop provision reference to ''irrigated practice'' is in the definition of ''flood irrigated.'' The commenter suggested as an alternative, add ''An irrigated practice commonly used* * *'' to the definition of ''flood irrigation.''

Response: FCIC agrees with the comment and has revised the definition of flood irrigation to reference the term irrigated practice.

Comment: One comment received from the crop insurance industry recommended changing the definition of ''production guarantee'' by referring to ''your approved APH yield.'' The commenter stated the current provision implies there is only one APH yield.

Response: There is only one APH yield for each unit. Therefore, no change will be made.

Comment: Two comments from the crop insurance industry stated that the definition of ''replanting'' is confusing and awkward. One of the commenters recommended revising the definition to specify ''* * *growing a successful rice crop.''

Response: FCIC agrees that the definition was confusing and has amended the definition of replanting for clarification.

Comment: The crop insurance industry recommended that FCIC provide the statements contained in the Special Provisions at the time the crop provisions are published as proposed rule. The commenter suggested that it would be helpful to review the Special Provisions statement regarding the rotation requirements referred to in section 7.

Response: The Special Provisions contain those policy terms which are specific to a county. These are not included in FCIC's regulatory process because publication of each county and each crop would be voluminous. Further, the information contained in the Special Provisions is not developed until after the Crop Provisions become a final rule. The statements are released with the filing of actuarial documents for the insured crop. Therefore, no change will be made.

Comment: One comment received from the crop insurance industry recommended revising the cause of loss in section 9(a)(1) to state ''adverse weather conditions (except drought).'' This change would conform FCIC's crop provisions to the current NCIS–716 provisions.

Response: FCIC agrees and will amend the provision accordingly.

Comment: One comment received from the crop insurance industry stated that the crop provisions should not allow the insured to defer settlement of a claim for indemnity as provided in section 12(c)(1)(iv). The commenter stated deferring settlement and waiting for a later appraisal usually results in a lower amount of appraised production.

Response: A later appraisal will only be necessary if the insurance provider agrees that such an appraisal would result in a more accurate determination and if the producer continues to care for the crop. If the producer does not care for the crop, the original appraisal will be used. Therefore, no change will be made to these provisions.

Comment: The crop insurance industry recommended that the provisions contained in section 13(d)(1)(iii)(B) regarding prevented planting coverage for a substitute crop be eliminated.

Response: FCIC intends to address this issue for all crops with prevented planting coverage and is currently working on a regulation that will propose substantive changes in this coverage. Therefore, no changes will be made to these rice crop provisions.

Comment: One comment from the crop insurance industry questioned if the provisions contained in section 13(d)(5)(iii)(D) were intended to be less restrictive by changing the double-cropping requirement to state ''* * *in each of the last 4 years in which the insured crop was grown on the acreage.'' The commenter suggested this change should be included in the summary of changes so that agents and producers were aware of the change.

Response: The proposed language allows additional acreage to be considered ''double-cropped.'' The previous provisions require eight crops to have been produced on the same acreage in the previous four years to qualify for double-cropped acreage. The intent of this change is to recognize rotation practices used for double-cropped acreage.

Comment: One comment from the crop insurance industry suggested combining the provisions in section 14(c) with the provisions in 14(a).

Response: Approval of written agreements requested after the sales closing date is the exception, not the rule. Therefore, these provisions should be kept separate and no changes have been made.

Comment: Three comments from the crop insurance industry recommended the requirement for a written agreement to be renewed each year be removed. Terms of the agreement should be continuous if no substantive changes occur from one year to the next. One commenter stated that limiting written agreements to one year only increases administrative cost and allows the opportunity for misunderstanding and error.

Response: Written agreements are intended to permit insurance coverage in unusual or previously unknown situations. If the situation continues year to year, it should be incorporated into the policy or Special Provisions. It is important to minimize exceptions to assure that the insured is well aware of the specific terms of the policy. Therefore, no change will be made.

List of Subjects in 7 CFR Parts 401 and 457

Crop insurance, Rice endorsement, Rice.

Final Rule

Accordingly, for the reasons set forth in the preamble, the Federal Crop Insurance Corporation hereby amends 7 CFR parts 401 and 457 effective for the 1998 and succeeding crop years to read as follows:

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

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

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

2. The introductory text of § 401.120 is revised to read as follows:

§ 401.120 Rice endorsement.

The provisions of the Rice Crop Insurance Endorsement for the 1988 through the 1997 crop years are as follows:

* * * * *

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

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

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

Section 457.141 is added to read as follows:

§ 457.141 Rice crop insurance provisions.

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

FCIC policies:

United States Department of Agriculture

Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

Rice 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

Days. Calendar days.

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.

Flood irrigation. An irrigated practice commonly used for rice production whereby the planted acreage is intentionally covered with water that is maintained at a uniform and shallow depth throughout the growing season.

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 or threshing the rice for grain. A crop that is swathed prior to combining is not considered harvested.

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

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

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

Local market price. The cash price per pound for the U.S. No. 3 grade of rough rice offered by buyers in the area in which you normally market the rice. Factors not associated with grading under the United States Standards for Rice including, but not limited to, protein and oil content or milling quality will not be considered.

Planted. The uniform placement of an adequate amount of rice seed into a prepared seedbed by one of the following methods:

(a) Drill seeding—Using a grain drill to incorporate the seed to a proper soil depth;

(b) Broadcast seeding—Distributing seed evenly onto the surface of an un-flooded seedbed followed by either timely mechanical incorporation of the seed to a proper soil depth in the seedbed or flushing the seedbed with water; or

(c) Broadcast seeding into a controlled flood—Distributing the rice seed onto a prepared seedbed that has been intentionally covered to a proper depth by water. The water must be free of movement and be completely contained on the acreage by properly constructed levees and gates.

Acreage seeded 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, marketing windows, condition of the field, and time to crop maturity, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

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

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

Replanting. Performing the cultural practices necessary to replace the rice seed and then replacing the rice seed in the insured acreage with the expectation of growing a rice crop that will at least produce the approved APH yield.

Saline water. Water that contains a concentration of salt sufficient to cause damage to the insured crop.

Second crop rice. The regrowth of a stand of rice following harvest of the initially insured rice crop that can be harvested in the same crop year.

Swathed. Severance of the stem and grain head from the ground without removal of the rice kernels from the plant and placing in a windrow.

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

Total milling yield. Rice production consisting of heads, second heads, screenings, and brewer's rice as defined by the official United States Standards for Rice.

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

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

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional

unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must be 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 unless otherwise specified by a written agreement.

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 for all the rice in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each rice type designated in the Special Provisions. The price elections you choose for each type must have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one type, you must also choose 100 percent of the maximum price election for all other types.

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:

State and county	Cancellation and termination date
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, and Dimmit Counties, Texas; and all Texas counties south thereof.	January 15.
Florida	February 15.
All other Texas counties and all other states.	February 28.

6. Insured Crop

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

(a) In which you have a share;

(b) That is planted for harvest as grain;

(c) That is flood irrigated; and

(d) That is not wild rice.

7. 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 planted to rice:

(1) The preceding crop year unless allowed by the Special Provisions; or

(2) That does not meet the rotation requirements shown in the Special Provisions; and

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that 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.

8. Insurance Period

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is October 31 immediately following planting.

9. Causes of Loss

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

(1) Adverse weather conditions (except drought);

(2) Fire;

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

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

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

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

(b) In addition to the causes of loss not insured against in section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), we will not insure against any loss of production due to the application of saline water.

10. Replanting Payment

(a) A replanting payment for rice is allowed as follows:

(1) You must comply with all requirements regarding replanting payments contained under section 13 (Replanting Payment) of the Basic Provisions (§ 457.8);

(2) The rice must be damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage; and

(3) The replanted rice must be seeded at a rate that is normal for initially planted rice (if new seed is planted at a reduced seeding rate into a partially damaged stand of rice, the acreage will not be eligible for a replanting payment).

(b) In accordance with the provisions of section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), the maximum amount of the replanting payment per acre will be the lesser of 20 percent of the production guarantee or 400 pounds, multiplied by your price election, multiplied by your insured share.

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

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 units.

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

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

(2) Multiplying each result in section 12(b)(1) by the respective price election by type, if applicable;

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

(4) Multiplying the total production to be counted by type, if applicable, (see section 12(c) through (e)) by the respective price election;

(5) Totaling the results of section 12(b)(4);

(6) Subtracting the result of section 12(b)(5) from the result of section 12(b)(3); and

(7) Multiplying the result of section 12(b)(6) by your share.

(c) The total 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 for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

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

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

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production may be adjusted for quality deficiencies and excess moisture in accordance with section 12(d));

(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 you 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, including any production from a second rice crop harvested in the same crop year.

(d) Mature rough rice may be adjusted for excess moisture and quality deficiencies. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 12 percent. We may obtain samples of the production to determine the moisture content.

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

(i) Deficiencies in quality, in accordance with the Official United States Standards for Rice, result in rice not meeting the grade requirements for U.S. No. 3 (grades U.S. No. 4 or worse) because of red rice, chalky kernels or damaged kernels;

(ii) The rice has a total milling yield of less than 68 pounds per hundredweight;

(iii) The whole kernel weight is less than 55 pounds per hundredweight of milled rice for medium and short grain varieties;

(iv) The whole kernel weight is less than 48 pounds per hundredweight of milled rice for long grain varieties; or

(v) 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.

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

(i) The deficiencies, substances, or conditions specified in section 12(d)(2) 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 specified in section 12(d)(2) 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 specified in section 12(d)(2) 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 rice under the authority of the United States Agriculture 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. Notwithstanding the preceding sentence, test weight for quality adjustment purposes may be determined by our loss adjuster.

(4) Rice production that is eligible for quality adjustment, as specified in sections 12(d)(2) and (3), will be reduced as follows:

(i) In accordance with quality adjustment factors contained in the Special Provisions; or

(ii) If quality adjustment factors are not contained in the Special Provisions, as follows:

(A) The market price of the qualifying damaged production and the local market price will be determined on the earlier of the date such quality adjusted production is sold or the date of final inspection for the unit. The price for the qualifying damaged production will be the market price for the local area to the extent feasible. Discounts used to establish the net price of the damaged production will be limited to those that are usual, customary, and reasonable. The price will not be reduced for:

(*1*) Moisture content;

(*2*) Damage due to uninsured causes; or

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

(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 rice to those buyers.);

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

(C) The number of pounds remaining after any reduction due to excessive moisture (the moisture-adjusted gross pounds (if appropriate)) of the damaged or conditioned production will then be multiplied by the quality adjustment factor to determine the net production to count.

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

13. Late Planting and Prevented Planting

(a) In lieu of provisions contained in the Basic Provisions (§ 457.8) regarding acreage initially planted after the final planting date and the applicability of a Late Planting Agreement Option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 13(c)), and acreage you were prevented from planting (see section 13(d)). These coverages provide reduced production guarantees. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted acreage. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided, no premium will be due, and no indemnity will be paid for such acreage.

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

(c) Late Planting

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

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

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

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

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

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

(ii) Five (5) days after the end of the late planting period.

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

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

(i) To plant rice during the late planting period. The production guarantee for such acreage will be determined in accordance with section 13(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the production guarantee for such acreage will be thirty-five percent (35%) of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 2,000 pounds per acre, your prevented planting production guarantee would be 700 pounds per acre (2,000 pounds multiplied by 0.35). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with sections 12 (c) through (e); or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting production guarantee will be provided for such acreage if the substitute crop is planted on or before the 10th day following the final planting date for the insured crop; or

(B) A production guarantee equal to 17.5 percent of the production guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the 10th day following the final planting date for the insured crop. If you elected the Catastrophic Risk Protection Endorsement or excluded this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your production guarantee for timely planted acreage is 2,000 pounds per acre, your prevented planting production guarantee would be 350 pounds

per acre (2,000 pounds multiplied by 0.175). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Production guarantees for timely, late, and prevented planting acreage within a unit will be combined to determine the production guarantee for the unit. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres were not planted but are eligible for a prevented planting production guarantee. The production guarantee for the unit will be computed as follows:

(i) For the timely planted acreage, multiply the per acre production guarantee for timely planted acreage by the 50 acres planted timely;

(ii) For the late planted acreage, multiply the per acre production guarantee for timely planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(iii) For prevented planting acreage, multiply the per acre production guarantee for timely planted acreage by:

(A) Thirty-five percent (35%) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(B) Seventeen and five tenths percent (17.5%) and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop. (This paragraph (B) is not applicable, and prevented planting coverage is not available under these crop provisions, if you elected the Catastrophic Risk Protection Endorsement or you elected to exclude prevented planting coverage when a substitute crop is planted (see section 13 (d)(1)(iii))).

Your premium will be based on the result of multiplying the per acre production guarantee for timely planted acreage by the 150 acres in the unit.

(3) You must have the inputs available to plant and produce the intended crop with the expectation of at least producing the production guarantee. Proof that these inputs were available may be required.

(4) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example, if you make application and purchase insurance for rice for the 1998 crop year, prevented planting coverage will begin on the 1998 sales closing date for rice in the county. If the rice coverage remains in effect for the 1999 crop year (is not terminated or canceled during or after the 1998 crop year), prevented planting coverage for the 1999 crop year began on the 1998 sales closing date. Cancellation for the purpose of transferring the policy to a different insurance provider when there is no lapse in coverage will not be considered terminated or canceled coverage for the purpose of the preceding sentence.

(5) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date, eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to rice on the FSA Farm Serial Number during the previous crop year; or

(C) One-hundred percent of the simple average of the number of acres planted to rice during the crop years that you certified to determine your yield.

(iii) A prevented planting production guarantee will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the actuarial table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed, or grazed on the same acreage in the same crop year (other than a cover crop as specified in section 13(d)(2)(iii)(A) or a substitute crop allowed in section 13(d)(2)(iii)(B)) unless you provide adequate records of acreage and production showing that the acreage was double-cropped in each of the last 4 years in which the insured crop was grown on the acreage;

(F) When coverage is provided under the Catastrophic Risk Protection Endorsement if you plant another crop for harvest on any acreage you were prevented from planting in the same crop year, even if you have a history of double-cropping. If you have a Catastrophic Risk Protection Endorsement and receive a prevented planting indemnity, guarantee, or amount of insurance for a crop and are prevented from planting another crop on the same acreage, you may only receive the prevented planting indemnity, guarantee, or amount of insurance for the crop on which the prevented planting indemnity, guarantee, or amount of insurance is received; or

(G) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(iv) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of rice acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of rice on one optional unit and 40 acres rice on the second optional unit, your prevented planting eligible acreage would be reduced to zero (i.e., 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(6) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a prevented planting production guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

14. Written Agreements

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 14(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 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 19, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–13656 Filed 5–22–97; 8:45 am]

BILLING CODE 3401–08–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[INS No. 1825–97]

RIN 1115–AE25

Adjustment of Status for Certain Polish and Hungarian Parolees

AGENCY: Immigration and Naturalization Service. Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule amends the Immigration and Naturalization Service (Service) regulations by providing for the adjustment to lawful permanent resident status of certain alien parolees from Polish and Hungary. This is necessary to ensure that these individuals, paroled into the United States between November 1, 1989, and December 31, 1991, will have the opportunity to apply for resident alien status.

DATES: *Effective Date:* This interim rule is effective May 23, 1997.

Comment Date: Written comments must be submitted on or before July 22, 1997.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling please reference INS number (1825–97) on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Gerard Casale, Senior Adjudications Officer, Immigration and Naturalization Service, Adjudications and Nationality Division, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–5014.

SUPPLEMENTARY INFORMATION: Section 646 of Public Law 104–208, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), provides for the adjustment of status to lawful permanent resident of certain nationals of Polish and Hungary who were inspected and granted parole into the United States during the period beginning on November 1, 1989, and ending on December 31, 1991, after having been denied refugee status. In order to apply for the benefits of section 646 of IIRIRA, eligible aliens must have been physically present in the United States for at least 1 year and be physically present in the United States on the date their application for such adjustment is filed. Applicants are also required to establish that they are admissible to the United States as immigrants under the Immigration and Nationality Act, except as provided in section 646(c) of IIRIRA. The law sets no time limit for making an application for adjustment under this provision.

Section 646(c) of IIRIRA exempts eligible applicants from the restrictions on admissibility set forth in paragraphs (4), (5), and (7)(A) of section 212(a) of the Immigration and Naturalization Act (the Act) and authorizes the Attorney General to waive any provision of section 212(a) of the Act, other than paragraph (2)(C) and paragraphs (3)(A), (B), (C), or (E), provided that the Attorney General determines that the applicant's adjustment to permanent resident status would be justified ''for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.''

This rule adds a new section, § 245.12, to Title 8 of the Code of Federal Regulations, which provides that each person seeking the benefits of section 646(b) of Pub. L. 104–208 (IIRIRA) must apply to the district director having jurisdiction over his or her place of residence, by filing a completed Form I–485, Application to Register Permanent Residence or Adjust Status, accompanied by the appropriate filing fee. Each application must be accompanied by specific evidence that the applicant meets the eligibility requirements of IIRIRA section 646, as well as the medical examination, security checks, and other supporting documentation set forth in § 245.12.

There is no statutory provision to make application for the benefits of section 646 of IIRIRA outside the United States. For that reason, aliens whose applications for adjustment of status are still pending should not depart from the United States without first applying for advance parole authorization.

Good Cause Exception

The Service's implementation of this rule as an interim rule, with a provision for post-promulgation public comment, is based upon the ''good cause'' exception found at 5 U.S.C. 553(b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: These changes have been mandated by the passage of Pub. L. 104–208, and early implementation will be advantageous to the intended beneficiaries who have been in parolee status without the opportunity to apply for permanent resident status and are now eligible for adjustment of status in the United States.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities, because of the following factor: this regulation affects individuals, not small entities and the number of individuals affected are minimal.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

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

Executive Order 12612

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 rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988

This interim rule meets the applicable standards set forth in section 3(a) and 3(b)(2) of E.O. 12988.

Paperwork Reduction Act

This interim rule does not impose any new reporting or recordkeeping requirements. The information collection requirements contained in this rule have previously been approved for use by the Office of Management and Budget under the paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5, Display of control numbers.

Lists of Subjects in 8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 245 of chapter I of title 8, the Code of Federal Regulations is amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

1. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; 8 CFR part 2.

2. Section 245.12 is added to read as follows:

§ 245.12 Adjustment of status of certain Polish and Hungarian parolees under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

(a) *Application.* Each person applying for adjustment of status under section 646(b) of Pub. L. 104–208 must file a completed Form I–485, Application to Register Permanent Residence or Adjustment Status, accompanied by the appropriate filing fee, with the district director having jurisdiction over the applicant's place of residence. Each application shall be accompanied by specific evidence that the applicant meets the requirements for eligibility under section 646 of Pub. L. 104–208; a Form I–643, Health and Human Services Statistical Data; the results of the medical examination made in accordance with § 245.5; Form G–325A, Biographic Information, and, unless the applicant is under the age of 14 years or over the age of 79 years, a properly executed Form FD–258, Fingerprint Card.

(b) *Effect of departure.* Departure from the United States by an applicant for benefits under this provision shall be deemed an abandonment of the application as provided in § 245.2(a)(4)(ii).

Dated: May 6, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 97–13594 Filed 5–22–97; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–133; Special Conditions No. 25–ANM–127]

Special Conditions: Jetstream Aircraft Limited, Jetstream Model 4100 Series Airplanes, Passenger Airbag Installation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are to be issued to Jetstream Aircraft Limited of Prestwick, Scotland (formerly British Aerospace Public Limited Company (BAe)) for the Jetstream Model 4100 series airplanes. This airplane series has a novel or unusual design feature associated with the installation of passenger airbags. Since the applicable airworthiness regulations do not contain adequate or appropriate safety standards for this particular design feature, these special conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established by the airworthiness standards for transport category airplanes.

EFFECTIVE DATE: June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Jeff Gardlin, Regulations Branch, ANM–114, Transport Airplane Directorate, Aircraft Certification Service, FAA, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (206) 227–2136.

SUPPLEMENTARY INFORMATION:

Background

On May 24, 1989, BAe Public Limited Company (currently Jetstream Aircraft Ltd.) applied for a type certificate for the BAe Model 4100 (currently Jetstream Model 4101) airplane in the transport airplane category. The Model 4100 is a derivative of the Model 3100, which is a small airplane as defined by 14 CFR part 1, and is certificated under the provisions of 14 CFR part 23. Like the Model 3100, the Model 4100 was a low wing, twin engine turbo-prop design. The FAA issued Type Certificate (TC) A41NM for the Jetstream Model 4101 airplane on April 9, 1993. The TC includes Exemption 5587 from compliance with the head injury criteria (HIC) requirements in 14 CFR § 25.562 for the front row of passenger seats.

Section 25.562 specifies that dynamic tests must be conducted for each seat type installed in the airplane. The pass/fail criteria for these seats include structural as well as human tolerance criteria. In particular the regulations require that persons not suffer serious head injury under the conditions specified in the tests, and that a HIC measurement of not more than 1000 units be recorded, should contact with the cabin interior occur. The HIC is based on physiological data, and was first introduced in the automotive industry. At the time the rule was written, compliance with the HIC requirement was expected to involve using energy absorbing pads, upper torso restraints, or increasing spacing between seats and interior features. In

the years following publication of the rule, the requirement has proven difficult to comply with using ''conventional'' means, and there has been commercial resistance to installation of upper torso restraint for passengers. Because of the technical problems, BAe and other manufacturers were granted temporary exemptions to allow certification of their airplanes while design solutions were developed.

One design solution that appeared to be impractical early in its adaptation to aircraft was airbags, even though airbags are widely used in automobiles as a supplemental restraint system. While the service history in automobiles is quite good, the operating environment and conditions of use in aircraft are quite different from automobiles. The FAA will not enumerate the differences here, but they include exposure to electromagnetic fields, wear and tear considerations, crash sensing systems etc., and did serve to help frame the content of the special conditions. In any case, airbags were not envisioned as a means of compliance with the FAR, and the rules are not adequate to define the necessary criteria. Therefore, special conditions are necessary.

Airbags have two potential advantages over other means of head impact protection. They essentially provide equivalent protection for all sizes of occupants and they can provide significantly greater protection than would be expected with energy absorbing pads, for example. These are significant advantages from a safety standpoint, since airbags will likely provide a level of safety that exceeds the minimum standards of the Federal Aviation Regulations (FAR). Conversely, airbags are an active system, and must be relied upon to activate properly when needed, as opposed to an energy absorbing pad or upper torso restraint that is always available. These potential advantages must be balanced against the potential problems in order to develop standards that will provide an equivalent level of safety to that intended by the regulations.

The FAA has considered the installation of airbags to have two primary safety concerns: first, that they perform properly under foreseeable operating conditions and second, that they do not perform in a manner or at such times as would constitute a hazard to the airplane or occupants. This latter point has the potential to be the more rigorous of the requirements, owing to the active nature of the system. With this philosophy in mind, the FAA has considered the following as a basis for the special conditions.

The airbag will rely on electronic sensors for signaling, and pyrotechnic charges for activation so that it is available when needed. These same devices could be susceptible to inadvertent activation, causing deployment in a potentially unsafe manner. The consequences of such deployment must be considered in establishing the reliability of the system. For example, there is subjective evidence that there may be transient overpressure (shock) caused by deployment of the airbag. Jetstream must substantiate that the effects of an inadvertent deployment in flight are either not a hazard to the airplane, or that such deployment is an extremely improbable occurrence (less than 10^{-9} per flight hour). The effect of an inadvertent deployment on a passenger that might be positioned close to the airbag should also be considered. The person could be either standing or sitting. A minimum reliability level will have to be established for this case, depending upon the consequences, even if the effect on the airplane is negligible.

The potential for an inadvertent deployment could be increased as a result of conditions in service. For example, an airbag installed in a galley wall or windscreen will be subjected to wear and tear associated with loading the galley and rough contact from baggage during aircraft boarding, etc. Whether or not these conditions are more severe than in the automotive world, the installation must take into account wear and tear so that the likelihood of an inadvertent deployment is not increased to an unacceptable level. In this context, an appropriate inspection interval and self-test capability are considered necessary. Other outside influences are high intensity electromagnetic fields and lightning. Since the sensors that trigger deployment are electronic, they must be protected from the effects of these threats. Existing Special Conditions No. 25–ANM–48 are therefore incorporated by reference. For the purposes of compliance with those special conditions, if inadvertent deployment could cause a hazard to the airplane, the airbag is considered a critical system; to the extent that injuries to persons could result from inadvertent deployment, the airbag should be considered an essential system. Finally, the airbag installation should be protected from the effects of fire, so that an additional hazard is not created by, for example, a rupture of the pyrotechnic squib.

In order to be an effective safety system, the airbag must function properly and must not introduce any additional hazards to occupants as a result of its functioning. There are several areas where the airbag differs from traditional occupant protection systems, and requires special conditions to ensure adequate performance.

Because the airbag is essentially a single use device, there is the potential that it could deploy under crash conditions that are not sufficiently severe as to require head injury protection from the airbag. Since an actual crash is frequently composed of a series of impacts, this could render the airbag useless if a larger impact follows the initial impact. This situation does not exist with energy absorbing pads or upper torso restraints, which tend to provide protection proportional to the severity of the impact. Therefore, the airbag installation should be such that the airbag will provide protection when it is required, and will not expend its protection when it is not needed. There is no requirement for the airbag to provide protection for multiple impacts, where more than one impact would require protection.

The airbag will also potentially serve more than one occupant although, since seats could be unoccupied, this may not always be the case. It will be necessary to show that the required protection is provided for each occupant regardless of the number of occupied seats.

Since a seat could be occupied by a wide range of occupants, the airbag should be effective for a wide range of occupants. The FAA has historically considered the range from the 5th percentile female to the 95th percentile male as the range of occupants that must be taken into account. In a similar vein, these persons could have assumed the brace position, for those accidents where an impact is anticipated. Test data indicate that occupants in the brace position do not require supplemental protection, and so it would not be necessary to show that the airbag will enhance the brace position. However, the airbag must not introduce a hazard in that case by deploying into the seated, braced occupant.

Since the airbag will be electrically powered, there is the possibility that the system could fail due to a separation in the fuselage. Since this system is intended as crash/post-crash protection means, failure due to fuselage separation is not acceptable. As with emergency lighting, the system should function properly if such a separation occurs, at any point in the fuselage. A separation that occurs at the location of the airbag would not have to be considered.

Since the airbag is likely to have a large volume displacement, the inflated bag could potentially impede egress of

passengers. Since the bag deflates to absorb energy, it is likely that an airbag would be deflated at the time that persons would be trying to leave their seats. Nonetheless, it is considered appropriate to specify a time interval after which the airbag may not impede rapid egress. Ten seconds has been chosen as a reasonable time since this corresponds to the maximum time allowed for an exit to be openable. In actuality, it is unlikely that an exit would be prepared this quickly in an accident severe enough to warrant deployment of the airbag, and the airbag will likely deflate much quicker than ten seconds. Since the Jetstream 4101 does not have an airbag installed at an exit passageway, the case where the seats are unoccupied is not critical.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Jetstream must show that airbag-equipped 4100 series airplanes comply with the regulations in the U.S. type certification basis established for the Jetstream Model 4101 airplane. The U.S. type certification basis for the Model 4101 is established in accordance with 14 CFR 21.29 and 21.17 and the type certification application date. The U.S. type certification basis is as follows:

—14 CFR part 25 dated February 1, 1965, as amended by Amendments 25–1 through 25–66 (based on the BAe application date to CAA–UK for TC), and

—14 CFR part 25, Amendments 25–67, 25–68, 25–69, 25–70, and 25–71, and

—14 CFR part 25, §§ 25.361, 25.729, 25.571(e)(2), 25.773(b)(2) and 25.905(d), all as amended by Amendment 25–72, and

—14 CFR part 25, § 25.1419 as amended by Amendments 25–1 through 25–66 (BAe elected to comply with this requirement), and

—Special Conditions No. 25–ANM–48 issued August 29, 1991, Lightning and High Intensity Radiated Fields (HIRF), and

—Other special conditions

—FAA Exemptions as follows: Exemption No. 5587 issued January 13, 1993, head impact criteria (25.562(c)(5)) for the three most forward passenger seats in the passenger cabin (Note: Exemption number 5587 is a time limited exemption that expires at the date specified therein unless extended by the FAA Transport Airplane Directorate.), and

—FAA Equivalent Safety Findings

—14 CFR part 34 effective September 10, 1990, and

—14 CFR part 36 effective December 1, 1969 as amended by Amendments 36–1 through 36–18 including Appendices A, B and C.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25 as amended) do not contain adequate or appropriate safety standards for Jetstream 4100 series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of 14 CFR 21.16 to establish a level of safety equivalent to that established in the regulations.

In addition to the applicable airworthiness regulations and special conditions, the Jetstream Model 4100 must comply with the fire and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with 14 CFR 11.49 after public notice, as required by 14 CFR 11.28 and 11.29(b), and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

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

Novel or Unusual Design Features

The Jetstream Model 4100 series airplanes will incorporate the following novel or unusual features:

The Jetstream Model 4100 series airplanes will utilize airbags to provide head injury protection for occupants seated behind interior walls and furnishings. The airbags will be activated by acceleration sensors that integrate the acceleration time history to determine whether the bag should be deployed. Inflation of the bag is accomplished by firing of a small pyrotechnic device.

The FAR state the performance criteria for head injury protection in objective terms, and contain more specific criteria for systems and equipment. None of these criteria are adequate, however, to address the specific issues raised by airbags. The FAA has therefore determined that, in addition to the requirements of 14 CFR part 25, special conditions are needed to address requirements particular to an airbag installation.

From the standpoint of a passenger safety system, the airbag is unique in that it is both an active and entirely autonomous device. While the automotive industry has good experience with airbags, the conditions of use and reliance on the airbag as the sole means of injury protection are quite different. In automobile installations, the airbag is a supplemental system and works in conjunction with an upper torso restraint. In addition, the crash event is more definable and of typically shorter duration, which can simplify the activation logic. The airplane operating environment is also quite different from automobiles and includes the potential for greater wear and tear, and unanticipated abuse conditions (due to galley loading, passenger baggage, etc.); airplanes also operate where exposure to high intensity electromagnetic fields could affect the activation system.

The following proposed special conditions can be characterized as addressing either the safety performance of the system, or the system's integrity against inadvertent activation. Because a crash requiring use of the airbags is a relatively rare event, and because the consequences of an inadvertent activation are potentially quite severe, these latter requirements are probably the more rigorous from a design standpoint.

Accordingly, in addition to the requirements of 14 CFR 25.562 and 25.785, these special conditions are issued for the Jetstream 4101 airplane with a passenger airbag installation. Other conditions may be developed as needed based on further FAA review and discussions with the manufacturer and the Civil Aviation Authority (CAA).

Discussion of Comments

Notice of Proposed Special Conditions No. SC–91–4–NM for the Jetstream Aircraft Ltd. Model 4101 airplane was published in the **Federal Register** on October 15, 1996 (61 FR 53680). Comments were received from two labor organizations and Jetstream Aircraft Ltd. Both labor organizations support the issuance of the special conditions, but request that the FAA consider the use of upper torso restraint system in conjunction with the airbag. One of the commenters contends that upper torso restraints are not impractical, as implied in the Notice. While the use of upper torso restraints for passenger seats is not a trivial design problem, the FAA agrees that it can be practical, and is, in fact, in use for one manufacturer. Nonetheless, the standards in the regulation are objective, and compliance with these special conditions will neither mandate nor

preclude the use of upper torso restraints. The FAA cannot insist on a particular means of compliance. In this case, Jetstream has elected to show compliance with the requirements through the use of airbags, and these special conditions are promulgated to establish the appropriate certification criteria for airbags. Thus, the issue of whether upper torso restraints should be required is outside the scope of these special conditions.

Jetstream has commented that the requirement to accommodate occupants seated in the brace position should only apply to designs that have no deactivation feature. They contend that, in the case where a passenger would assume the brace position, there will be time to disable the airbag (since it wouldn't be needed for a person in the brace position), and therefore the requirement is not necessary for the Jetstream Model 4100. The FAA disagrees that the need to address the brace position is mitigated if the system has a deactivation capability. The possibility that a passenger will or will not be in the brace position cannot be disregarded, since the accident scenarios are unknown. The potential for a person to assume the brace position unnecessarily, as well as the potential for a person to fail to assume the brace position when necessary, must be considered. Therefore, the fact that the Jetstream system has a means to deactivate the system has no bearing on the proposed requirement. The requirement is adopted as proposed.

Applicability

As discussed above, these special conditions are applicable to the Jetstream Model 4100. Should Jetstream apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A41NM to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of 14 CFR 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model of airplanes. It is not a rule of general applicability, and it affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegates to be by the Administrator, the following special conditions are issued as part of the type certification basis for the Jetstream Aircraft Limited, Jetstream Model 4100 Series Airplanes:

1. It must be shown that inadvertent deployment of the airbag, during the most critical part of the flight, will either not cause a hazard to the airplane or is extremely improbable.

2. It must be shown that an inadvertent deployment that could cause injury to a standing or sitting person, is improbable.

3. For the purposes of complying with Special Conditions No. 25–ANM–48, high intensity radiated fields (HIRF), the airbag system is considered a ''critical system'' if its deployment could have a hazardous effect on the airplane; otherwise it is considered an ''essential'' system.

4. It must be shown that the airbag system is not susceptible to inadvertent deployment as a result of wear and tear or inertial loads resulting from inflight or ground maneuvers (including gusts and hard landings) likely to be experienced in service.

5. It must be shown that the airbag will deploy and provide protection under crash conditions where its use is necessary to prevent serious head injury.

6. It must be shown that the airbag will not be a hazard to occupants that are in the brace position when it deploys.

7. The airbag must provide adequate protection for each occupant regardless of the number of occupants of the seat assembly.

8. It must be shown that the airbag will not impede rapid egress of occupants after 10 seconds following its deployment.

9. It must be shown that the airbag will not release hazardous quantities of gas or particulate matter into the cabin.

10. The airbag must function properly after loss of normal electrical power, and after a transverse separation of the fuselage at the most critical location.

11. The airbag installation must be protected from the effects of fire such that no hazard to occupants will result.

12. There must be a means, that is operable by a crewmember, to verify the integrity of the airbag activation system.

Issued in Renton, Washington, on May 14, 1997.

Stewart R. Miller,

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

[FR Doc. 97–13588 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–CE–44–AD; Amendment 39–10017; AD 97–10–05]

Airworthiness Directives; Jetstream Aircraft Limited HP137 Mk1, Jetstream Series 200, and Jetstream Models 3101 and 3201 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Jetstream Aircraft Limited (JAL) HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes. This AD requires repetitively inspecting the main landing gear (MLG) pintle to cylinder interface area for cracks, and replacing any MLG cylinder where a crack of any length is found in the MLG pintle to cylinder interface area. This AD results from reports of MLG cracks in the area of the pintle to cylinder interface on three of the affected airplanes. The actions specified by this AD are intended to prevent failure of the MLG caused by cracks in the pintle to cylinder interface area, which could result in loss of control of the airplane during landing operations.

DATES: Effective July 11, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 11, 1997.

ADDRESSES: Service information that applies to this AD may be obtained from Jetstream Aircraft Limited, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, telephone (44–292) 79888; facsimile (44–292) 79703; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, D.C. 20041–6029; telephone (703) 406–1161; facsimile (703) 406–1469. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95–

CE–44–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. Tom Rodriguez, Program Manager, Brussels Aircraft Certification Division, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, B–1000 Brussels, Belgium; telephone (32 2) 508.2715; facsimile (32 2) 230.6899; or Mr. S.M. Nagarajan, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain JAL HP137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on September 19, 1995 (60 FR 48429). The NPRM proposed to require repetitively inspecting the MLG pintle to cylinder interface area for cracks, and replacing any MLG cylinder where a crack is found in the MLG pintle to cylinder interface area that exceeds certain limits.

Interested persons were afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule and no comments were received regarding the FAA's determination of the cost to the public.

As written, the original NPRM would have allowed continued flight if cracks are found in the MLG pintle to cylinder interface area when the cracks do not exceed certain limits. Since issuing that NPRM, the FAA established a policy to disallow airplane operation when known cracks exist in primary structure, unless the ability to sustain ultimate load with these cracks is proven. This policy was established based on the FAA's extensive analysis of the consequences of flying with cracks in primary structure. The MLG pintle to cylinder interface area is considered primary structure, and the FAA has not received any analysis to prove that ultimate load can be sustained with cracks in this area.

For this reason, the FAA determined that the crack limits specified in the NPRM should be eliminated and that the NPRM should be revised to propose immediate replacement of the MLG cylinder if any cracks are found in the MLG pintle to cylinder interface area. Since revising the proposed AD to require immediate replacement of the MLG cylinder when cracks are found in the MLG pintle to cylinder interface area went beyond the scope of what was presented in the original NPRM, the FAA published a supplemental NPRM in the **Federal Register** on March 19, 1996 (61 FR 12051, March 25, 1996).

After publication of this supplemental NPRM, the FAA re-examined all information related to this subject and determined that the actions proposed were still a valid safety issue, but that more stringent repetitive inspection intervals needed to be established. Specifically, the MLG pintle to cylinder interface area would need to be inspected initially ''upon accumulating 8,000 landings on an affected MLG.'' (instead of 8,500 landings), ''* * * and, thereafter at intervals not to exceed 1,200 landings * * *'' (instead of 4,000 landings). The more stringent inspection intervals were based on an analysis done by JAL and subsequently evaluated and approved by the FAA. The FAA issued another supplemental NPRM that was published in the **Federal Register** on December 17, 1996 (61 FR 66238) to incorporate the more stringent inspection intervals.

Interested persons were again afforded an opportunity to participate in the making of this amendment. No comments were received regarding the substance of the second supplemental NPRM or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the AD as proposed in the second supplemental NPRM, 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.

Relevant Service Information

Accomplishment of the inspections required by this AD are required in accordance with Jetstream Alert Service Bulletin 32–JA 960142, dated March 15, 1996; AP Precision Hydraulics Ltd. Service Bulletin 32–56, Revision 3, dated February 1995; and Jetstream Alert Service Bulletin 32–A–JA 941245, Revision 3, dated March 15, 1996, which incorporates the following pages:

Pages	Revision level	Date
1 through 4	Revision 3	March 15, 1996.
5 through 11	Revision 2	March 28, 1995.

Cost Impact

The FAA estimates that 250 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 6 workhours per airplane to accomplish this AD, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the required inspection on U.S. operators is estimated to be $90,000. This figure does not take into account the cost of repetitive inspections or the cost of replacement MLG cylinders if any crack is found in the MLG pintle to cylinder interface area. The FAA has no way of determining the number of repetitive inspections each owner/operator would incur over the life of the airplane or the number of MLG cylinders that may be found cracked during the inspections required by this AD.

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:

97–10–05 Jetstream Aircraft Limited: Amendment 39–10017; Docket No. 95–CE–44–AD.

Applicability: HP 137 Mk1, Jetstream series 200, and Jetstream Models 3101 and 3201 airplanes (all serial numbers), certificated in any category, that are equipped with a main landing gear (MLG) incorporating one of the following part numbers (or FAA-approved equivalent):

1863	1863/4A	1863/4B
1863/4C	1864	1864/4A
1864/4B	1864/4C	BOOA702850A
BOOA702851A	BOOA702925A	BO1A702925A
BOOA703065A	BO1A703065A	BOOA703030A
BOOA702926A	BO1A702926A	BOOA703066A
BO1A703066A	BOOA703031A	

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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required initially upon accumulating 8,000 landings on an affected MLG or within the next 100 landings after the effective date of this AD, whichever occurs later, unless already accomplished, and thereafter at intervals not to exceed 1,200 landings accumulated on an affected MLG.

Note 2: If the number of landings is unknown, hours time-in-service (TIS) may be used by multiplying the number of hours TIS by 0.75. If hours TIS are utilized to calculate the number of landings, this would make the AD effective ''initially upon accumulating 10,667 hours TIS on an affected MLG or within the next 133 hours TIS after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed to 1,600 hours TIS accumulated on an affected MLG.''

To prevent failure of the MLG caused by cracks in the pintle to cylinder interface area, which could result in loss of control of the airplane during landing operations, accomplish the following:

(a) Inspect the MLG pintle to cylinder interface area for cracks in accordance with one of the following:

(1) Using non-destructive testing (NDT) eddy current methods, in accordance with AP Precision Hydraulics Ltd. Service Bulletin 32–56, Revision 3, dated February 1995; or

(2) Using fluorescent penetrant methods, in accordance with Appendix 1 in Jetstream Service Bulletin 32–JA 960142, dated March 15, 1996; or Appendix 2 in Jetstream Alert Service Bulletin 32–A–JA 941245, Revision 3, dated March 15, 1996, which incorporates the following pages:

Pages	Revision level	Date
1 through 4	Revision 3	March 15, 1996.
5 through 11	Revision 2	March 28, 1995.

(b) If any crack is found during any inspection required by this AD, prior to further flight, replace the MLG cylinder with a serviceable part in accordance with the applicable maintenance manual. Replacing the MLG cylinder does not eliminate the repetitive inspection requirement of this AD.

Note 3: The ''prior to further flight'' replacement compliance time required by this AD if a MLG cylinder is cracked is different from the compliance times referenced in Jetstream Service Bulletin 32–JA 960142, dated March 15, 1996; Precision Hydraulics Ltd. Service Bulletin 32–56, Revision 3, dated February 1995, or Jetstream Alert Service Bulletin 32–A–JA 941245, Revision 3, dated March 15, 1996. This AD takes precedence over any service information.

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

(d) An alternative method of compliance or adjustment of the initial and repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Brussels Aircraft Certification Division, Europe, Africa, Middle East office, FAA, c/o American Embassy, B–1000 Brussels, Belgium. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Brussels Aircraft Certification Division.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Brussels Aircraft Certification Division.

(e) The inspections required by this AD shall be done in accordance with either Jetstream Service Bulletin 32–JA 960142, dated March 15, 1996; Precision Hydraulics Ltd. Service Bulletin 32–56, Revision 3, dated February 1995; or Jetstream Alert Service Bulletin 32–A–JA 941245, Revision 3, dated March 15, 1996, which incorporates the following pages:

Pages	Revision level	Date
1 through 4	Revision 3	March 15, 1996.
5 through 11	Revision 2	March 28, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft Limited, Manager Product Support, Prestwick Airport, Ayrshire, KA9 2RW Scotland; or Jetstream Aircraft Inc., Librarian, P.O. Box 16029, Dulles International Airport, Washington, DC, 20041–6029. 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.

(f) This amendment (39–10017) becomes effective on July 11, 1997.

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

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–12023 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–SW–34–AD; Amendment 39–10028; AD 97–10–15]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft-Manufactured Model S–64F Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to Sikorsky Aircraft-manufactured Model S–64F helicopters, that requires inspections, and replacement, if necessary, of the main gearbox second stage lower planetary plate (plate). This amendment is prompted by two incidents in which the plate was found cracked. The actions specified by this AD are intended to prevent failure of the plate due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter.

DATES: Effective June 27, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Erickson Air-Crane Co., 3100 Willow Springs Rd., P.O. Box 3247, Central Point, Oregon 97502. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Uday Garadi, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5114, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to Sikorsky Aircraft-manufactured Model S–64F helicopters was published in the **Federal Register** on October 11, 1996 (61 FR 53337). That action proposed to require an inspection, prior to the first flight of each day, of the main oil filter for the main gearboxes containing a plate with more than 2,000 hours time-in-service (TIS) for magnesium contamination and, if magnesium contamination is present, replacement of the main gearbox assembly. For main gearbox assemblies containing a plate with more than 2,000 hours TIS, that action also proposed to require an inspection of the plate within the next 100 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 500 hours TIS; and replacement of the plate if necessary. Finally, that action proposed to require, at the next overhaul of the main gearbox assembly, inspection and rework of plates that are not cracked.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed with minor editorial changes, and a correction to the estimated cost impact to include the number of work hours to inspect the main gearbox oil filter pack and the number of work hours to rework the plate. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 6 helicopters of U.S. registry will be affected by this proposed AD, that it will take approximately 8 work hours per helicopter to accomplish the borescope inspection, 1 work hour to inspect the main gearbox oil filter pack, 140 work hours to remove and replace the main gearbox assembly, if necessary, and 20 work hours to rework the plate; and that the average labor rate is $60 per work hour. Required parts will cost $8,000 per helicopter. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $108,480; $2,880 to accomplish the borescope inspections, and $105,600 to replace the plate in the main gearbox assembly in all 6 helicopters, if necessary. Daily preflight inspections of the main gearbox oil filter pack will cost $60 per helicopter for each day flight is conducted.

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 97–10–15 Erickson Air-Crane Co: Amendment 39–10028. Docket No. 95–SW–34–AD.

Applicability: Sikorsky Aircraft-manufactured Model S–64F helicopters, with main gearbox second stage lower planetary plate, part number (P/N) 6435–20516–101, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (c) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main gearbox second stage lower planetary plate (plate) due to fatigue cracking, which could lead to failure of the main gearbox and subsequent loss of control of the helicopter, accomplish the following:

(a) For main gearbox assemblies containing plate, P/N 6435–20516–101, with 2,000 hours time-in-service (TIS) or more:

(1) Prior to the first flight of each day, inspect the main oil filter for magnesium contamination. If magnesium contamination is discovered, replace the main gearbox assembly.

(2) Within the next 100 hours TIS after the effective date of this AD, and thereafter at intervals not to exceed 500 hours TIS, inspect, and, if necessary, replace the main gearbox assembly in accordance with the Accomplishment Instructions of Section 2, Paragraph B, of Erickson Service Bulletin No. 64F35–2A dated November 8, 1995.

(b) At the next overhaul of the main gearbox assembly, inspect and rework the plate, P/N 6435–20516–101, in accordance with Section 2, Paragraphs C(1) and (3) through (11) of Erickson Service Bulletin No. 64F35–2A, dated November 8, 1995.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

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

(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 helicopter to a location where the requirements of this AD can be accomplished.

(e) The inspection and rework shall be done in accordance with Erickson Air-Crane Co. Service Bulletin No. 64F35–2A, dated November 8, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Erickson Air-Crane Co., 3100 Willow Springs Rd., P.O. Box 3247, Central Point, Oregon 97502. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

Issued in Fort Worth, Texas, on May 9, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–12855 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–06–AD; Amendment 39–10029; AD 97–10–16]

RIN 2120–AA64

Airworthiness Directives; Hiller Aircraft Corporation Model UH–12, UH–12A, UH–12B, UH–12C, UH–12D, UH–12E, CH–112, H–23A, H–23B, H–23C, H–23D, H–23F, HTE–1, HTE–2, and OH–23G Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Hiller Aircraft Corporation Model UH–12, UH–12A, UH–12B, UH–12C, UH–12D, UH–12E, CH–112, H–23A, H–23B, H–23C, H–23D, H–23F, HTE–1, HTE–2, and OH–23G helicopters, and UH–12D and UH–12E helicopters converted to turbine engine power in accordance with Supplemental Type Certificate (STC) Nos. SH177WE and SH178WE, having a certain control rotor blade spar tube (blade spar tube) or cuff installed, that currently requires inspections of the blade spar tube and cuff for cracks, and repair or replacement as necessary. This amendment requires inspections of the blade spar tube and cuff for corrosion or cracks, or elongation, corrosion, burrs, pitting or fretting of the bolt holes, and repair as necessary, and defines specific intervals in which the inspections must be performed. This amendment is prompted by analyses that show that the amount of calendar time that elapses between the current repetitive inspections may allow corrosion to develop. The actions specified by this AD are intended to prevent separation of the control rotor blade assembly and subsequent loss of control of the helicopter.

DATES: Effective June 27, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Hiller Aircraft Corporation, 3200 Imjin Road, Marina, California 93933–5101. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Matheis, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, 3960 Paramount Blvd., Lakewood, California 90712–4137, telephone (562) 627–5235, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 77–07–05, Amendment 39–2862 (42 FR 17868, April 4, 1977) and Amendment 39–2917 (42 FR 30604, June 16, 1977), which is applicable to Hiller Aircraft Corporation Model UH–12, UH–12A, UH–12B, UH–12C, UH–12D, UH–12E, CH–112, H–23A, H–23B, H–23C, H–23D, H–23F, HTE–1, HTE–2, and OH–23G helicopters, and UH–12D and UH–12E helicopters converted to turbine engine power in accordance with STC Nos. SH177WE and SH178WE, was published in the **Federal Register** on September 13, 1996 (61 FR 48441). That action proposed to require, within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless accomplished within the last 100 hours TIS, and thereafter at intervals not to exceed 100 hours TIS from the date of the last inspection, or at the next annual inspection, whichever occurs first, an inspection of the blade spar tube and

cuff for corrosion or cracks, or elongation, corrosion, burrs, pitting or fretting of the bolt holes, and repair, as necessary, in accordance with Hiller Aviation Service Bulletin No. 36–1, Revision 3, dated October 24, 1979.

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

The commenter suggests several changes to the Hiller Aircraft Corporation service bulletin and the proposed rule. These include changes in the disassembly/reassembly techniques, such as warming of the cuff to facilitate blade removal, and replacement of certain lubrication and corrosion prevention materials. The manufacturer and the FAA have evaluated the suggestions to facilitate disassembly/reassembly, and the FAA has determined that while helpful, the changes are not necessary to accomplish the inspections of the AD. Further, the manufacturer reports no service experience that would indicate a needed change in lubrication or corrosion protection materials or techniques as suggested by the commenter. The suggested changes are not adopted.

The commenter also suggests two type design changes that are outside the scope of the proposal. The FAA will consider these suggested changes for future rulemaking action.

Finally, the commenter also cites a conflict between the mandatory replacement times (total service life) in the Hiller Inspection Guide and those proposed in the proposal. The conflict results because cuff mandatory replacement time, as specified in the Inspection Guide, depends on certain combinations of cuff, control blades, and main rotor blades. This dependency was not adequately considered in the proposal. Since the FAA did not intend to change these mandatory replacement times by the proposal, and since it is unnecessary to repeat Inspection Guide information in the AD, paragraphs (d)(1) and (d)(2) are removed from this final rule and paragraph (d)(3) becomes paragraph (d).

The FAA has determined that several blade spar tube and cuff part numbers were omitted from the proposal. The proposed rule's Applicability has been changed to specify that only helicopters having a blade spar tube, part numbers (P/N) 36003, 36006, 36129, 36129–25, 36203, 36203–15, 36203–21, or 36209–3, or cuff, P/N 36101–1, 36101–4, 36108, 36115–1, 36115–4, 36115–6, 36115–8, or 36124, installed, are affected.

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

The FAA estimates that 673 helicopters of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per helicopter to accomplish the inspection, 1 work hour to accomplish the repair, and 8 work hours to accomplish the replacement, if necessary, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,000 per cuff, if replacement is necessary. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $121,140, assuming after inspection that repairs are necessary on all of the fleet, or $246,772, assuming inspection of all the fleet and replacement of a cuff in one-sixth of the fleet is necessary.

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–2862 (42 FR 17868, April 4, 1977), and Amendment 39–2917 (42 FR 30604, June 16, 1977), and by adding a new airworthiness directive (AD), Amendment 39–10029, to read as follows:

AD 97–10–16 Hiller Aircraft Corporation: Amendment 39–10029. Docket No. 96–SW–06–AD. Supersedes AD 77–07–05, Amendment 39–2862 and Amendment 39–2917.

Applicability: Model UH–12, UH–12A, UH–12B, UH–12C, UH–12D, UH–12E, CH–112, H–23A, H–23B, H–23C, H–23D, H–23F, HTE–1, HTE–2, and OH–23G helicopters, and UH–12D and UH–12E helicopters converted to turbine engine power in accordance with Supplemental Type Certificate (STC) No.'s SH177WE and SH178WE, having a control rotor blade spar tube (blade spar tube), part numbers (P/N) 36003, 36006, 36129, 36129–25, 36203, 36203–15, 36203–21, or 36209–3, or cuff, P/N 36101–1, 36101–4, 36108, 36115–1, 36115–4, 36115–6, 36115–8, or 36124, installed, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (e) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the control rotor blade assembly and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS) after the effective date of this AD, unless previously accomplished within the last 100 hours TIS, and thereafter at intervals not to exceed 100 hours TIS from the date of the last inspection, or at the next annual inspection, whichever occurs first, inspect the blade spar tube and cuff for corrosion or cracks, or elongation, corrosion, burrs, pitting or fretting of the bolt holes, and repair, as necessary, in accordance with the Accomplishment Instructions of Hiller

Aviation Service Bulletin No. 36–1, Revision 3, dated October 24, 1979.

(b) After any reaming procedure is accomplished in accordance with Hiller Aviation Service Bulletin No. 36–1, Revision 3, dated October 24, 1979, the blade spar tube (faired and unfaired) and cuff must be retired at or before accumulating an additional 2,500 hours TIS after repair or when the current approved total service life (total service life before repair plus service life after repair) is reached, whichever comes first.

(c) Fabric covered, metal covered, faired and unfaired control rotor blades are not interchangeable and must not be intermixed.

(d) For cuffs, P/N 36124, without a complete prior service history, within the next 25 hours TIS, unless already accomplished within the last 25 hours TIS prior to the effective date of this AD, and at intervals not to exceed 50 hours TIS, perform a dye penetrant inspection of the cuff in accordance with paragraph G of the Accomplishment Instructions of Hiller Aviation Service Bulletin, No. 36–1, Revision 3, dated October 24, 1979. If a crack is discovered, remove the cracked cuff from service prior to further flight. A cuff for which the prior service history cannot be documented cannot be used as a replacement part. Remove from service all cuffs prior to the accumulation of 225 hours total TIS since April 7, 1977.

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

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

(g) The inspections and repair, if necessary, shall be done in accordance with Hiller Aviation Service Bulletin No. 36–1, Revision 3, dated October 24, 1979. 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 Hiller Aircraft Corporation, 3200 Imjin Road, Marina, California 93933–5101. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the **Federal Register,** 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on June 27, 1997.

Issued in Fort Worth, Texas, on May 9, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–12856 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–106–AD; Amendment 39–10030; AD 97–11–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires an initial inspection of fastener holes on certain outer frames of the fuselage to detect fatigue cracking, and modification of this area by cold expanding these holes and installing oversized fasteners. This amendment is prompted by a report from the manufacturer indicating that, during full-scale fatigue testing of the test article, fatigue cracking was detected in the area where the center fuselage joins the wing. The actions specified by this AD are intended to prevent fatigue cracking and consequent reduced structural integrity of this area, which could lead to rapid depressurization of the fuselage.

DATES: Effective June 27, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 1997.

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

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A320 series airplanes was published in the **Federal Register** on February 20, 1997 (62 FR 7727). That action proposed to require an initial eddy current rotation probe inspection to detect fatigue cracking in certain fastener holes in the area where the center fuselage joins the wing, and a modification to improve the resistance of this area to fatigue cracking.

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

Both commenters support the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 24 Airbus Model A320 series airplanes of U.S. registry will be affected by this AD.

It will take approximately 25 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts will cost approximately $557 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $49,368, or $2,057 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a

''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–11–01 Airbus Industrie: Amendment 39–10030. Docket 96–NM–106–AD.

Applicability: Model A320 series airplanes as listed in Airbus Service Bulletin A320–53–1026, dated August 5, 1994; on which modifications 21281P1495 and 21680P1818 have not been installed; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 as indicated, unless accomplished previously.

To prevent fatigue cracking in the area where the center fuselage joins the wing, which could reduce the structural integrity of this area and consequently result in rapid decompression of the fuselage, accomplish the following:

(a) Prior to the accumulation of 16,000 total landings, or within 6 months after the effective date of this AD, whichever occurs later, perform an eddy current rotating probe inspection to detect fatigue cracking in the fastener holes of the outer frame flanges of left and right fuselage frames 37 through 41, adjacent to Stringer 23, in accordance with Airbus Service Bulletin A320–53–1026, dated August 5, 1994.

Note 2: Prior to the effective date of this AD, accomplishment of any modification in accordance with Airbus Service Bulletin A320–53–1025, dated August 5, 1994, is considered acceptable for compliance with the modification requirements of paragraphs (b), (c)(1)(i), (c)(2) and (d) of this AD.

(b) If the inspection required by paragraph (a) of this AD detects no cracking in any hole: Prior to the accumulation of 6,000 landings after this inspection, modify each hole in accordance with Paragraph 2.B.(5) of Airbus Service Bulletin A320–53–1025, Revision 1, dated November 24, 1994. Thereafter, no further action is required by this AD.

(c) If the inspection required by paragraph (a) of this AD detects any cracking in no more than one hole per frame cap, accomplish the requirements of paragraphs (c)(1) and (c)(2) of this AD:

(1) Prior to further flight, repair this cracked hole and conduct another rotating probe inspection of this hole to detect cracking, in accordance with Paragraph 2.B.(6) of Airbus Service Bulletin A320–53–1025, Revision 1, dated November 24, 1994.

(i) If no cracking of this repaired hole is detected: Prior to further flight, modify this hole in accordance with Paragraph 2.B.(6)(c) of this service bulletin. Thereafter, no further action with regard to this hole is required by this AD.

(ii) If any cracking of this repaired hole is detected: Prior to further flight, repair this hole in a manner approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Thereafter, no further action with regard to this hole is required by this AD.

(2) Prior to the accumulation of 6,000 landings after the inspection required by paragraph (a) of this AD; modify all other holes in accordance with Paragraph 2.B.(5) of Airbus Service Bulletin A320–53–1025, Revision 1, dated November 24, 1994. Thereafter, no further action is required by this AD with respect to these holes.

(d) If the inspection required by paragraph (a) of this AD detects any cracking in more than one hole per frame cap, or if this inspection detects any cracking in any frame: Prior to further flight, repair the discrepant area in a manner approved by the Manager, Standardization Branch, ANM–113; and modify all other holes in accordance with Paragraph 2.B.(5) of Airbus Service Bulletin A320–53–1025, Revision 1, dated November 24, 1994. Thereafter, no further action is required by this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(f) 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.

(g) The actions shall be done in accordance with Airbus Service Bulletin A320–53–1026, dated August 5, 1994; and Airbus Service Bulletin A320–53–1025, Revision 1, dated November 24, 1994. Airbus Service Bulletin A320–53–1025, Revision 1, dated November 24, 1994, contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1–12, 17	1	November 24, 1994.
13–16, 18, 19	Original ..	August 5, 1994.

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

(h) This amendment becomes effective on June 27, 1997.

Issued in Renton, Washington, on May 12, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–12857 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–43–AD; Amendment 39–10032; AD 97–11–03]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Airbus Model A300 series airplanes, that requires inspections of the lower door surrounding structure to detect cracks and corrosion, and repair, if necessary. This amendment also requires inspections to detect cracking of the holes of the corner doublers, the fail-safe ring, and the door frames of the door structures; and repair, if necessary. In addition, this amendment will also require modification of the passenger/crew door frames, which, when accomplished, terminates certain inspections. This amendment is prompted by reports indicating that corrosion was found behind the scuff plates at exit and cargo doors, and fatigue cracks originated from certain fastener holes located in adjacent structure. The actions specified by this AD are intended to detect and correct such corrosion and fatigue cracking, which could result in reduced structural integrity of the door surroundings.

DATES: Effective June 27, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 27, 1997.

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

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2589; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Airbus Model A300 series airplanes was published in the **Federal Register** on January 29, 1997 (62 FR 4213). That action proposed to require inspections of the lower door surrounding structure to detect cracks and corrosion, and repair, if necessary. That action also proposed to require inspections to detect cracking of the holes of the corner doublers, the fail-safe ring, and the door frames of the door structures; and repair, if necessary. In addition, that action proposed to require modification of the passenger/crew door frames, which, when accomplished, constitutes terminating action for certain inspections.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 4 Airbus Model A300 series airplanes of U.S. registry will be affected by this AD.

It will take approximately 700 work hours per airplane to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspections on U.S. operators is estimated to be $168,000, or $42,000 per airplane.

The FAA estimates that it will take approximately 330 work hours per airplane to accomplish the required modification, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,055 per airplane. Based on these figures, the cost impact of the required modification on U.S. operators is estimated to be $83,420, or $20,855 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–11–03 Airbus: Amendment 39–10032. Docket 96–NM–43–AD.

Applicability: All Model A300 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct corrosion behind the scuff plates at exit and cargo doors, and fatigue cracking in certain fastener holes located in adjacent structure, which could result in reduced structural integrity of the door surroundings, accomplish the following:

(a) Perform an initial inspection of the areas behind the scuff plates below the passenger/crew doors and bulk cargo door to detect cracks and corrosion, in accordance with Airbus Service Bulletin A300–53–204, Revision 6, dated October 11, 1993; at the applicable time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD. If any crack or corrosion is found during this inspection, prior to further flight, repair in accordance

with the service bulletin. Accomplishment of this inspection is not required for the mid and aft passenger/crew doors if a steel doubler that covers the entire inspection area is installed.

(1) For airplanes on which Modifications 5382S6526 (for forward doors), 3690S4613 (for forward doors), and 5382D4741 (for all other doors) have been accomplished prior to delivery of the airplane: Perform the initial inspection within 9 years since manufacture, or within 1 year after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the procedures described in Airbus Service Information Letter (SIL) A300–53–033, Revision 2 (for all doors), dated November 23, 1984; or Airbus Service Bulletin A300–53–169 (for forward doors), Revision 2, dated May 14, 1985; have been accomplished: Perform the initial inspection within 5 years after accomplishment of the SIL or the service bulletin, or within 1 year after the effective date of this AD, whichever occurs later.

(3) For airplanes on which the procedures described in Airbus Service Bulletin A300–53–116 (for all doors), Revision 4, dated June 30, 1983, have been accomplished: Perform the initial inspection within 2 years after accomplishment of the procedures in accordance with that service bulletin, or within 1 year after the effective date of this AD, whichever occurs later.

(4) For airplanes on which Modifications 5382S6526 (for forward doors), 3690S4613 (for forward doors), and 5382D4741 (for all other doors); and the procedures described in Airbus Service Bulletin A300–53–116, Revision 4, dated June 30, 1983; or Service Information Letter (SIL) A300–53–033, Revision 2, dated November 23, 1984; have not been accomplished: Perform the initial inspection within 1 year after the effective date of this AD.

(b) Perform repetitive inspections of the areas behind the scuff plates below the passenger/crew doors and bulk cargo door to detect cracks and corrosion, in accordance with Airbus Service Bulletin A300–53–233, Revision 1, dated April 18, 1991, at the applicable times specified in paragraphs (b)(1) and (b)(2) of this AD. Accomplishment of these inspection is not required for the mid and aft passenger/crew doors if a steel doubler that covers the entire inspection area is installed.

(1) For the forward and mid passenger/crew doors, the bulk cargo doors, the emergency exits, and the aft passenger/crew doors, except for the upper and lower edges of the fail-safe ring and the upper edges of the corner doubler: Perform the first inspection within 5 years after accomplishing the inspection required by paragraph (a) of this AD; and repeat the inspection thereafter at intervals not to exceed 5 years following the immediately preceding inspection.

(2) For the upper and lower edges of the fail-safe ring and the upper edges of the corner doubler of the aft passenger/crew doors: Perform the first inspection within 5 years or 10,000 landings after accomplishing the inspection required by paragraph (a) of this AD, whichever occurs first; and repeat the inspection thereafter at intervals not to exceed 5 years or 10,000 landings, whichever occurs first.

(c) If any crack is found during any inspection required by paragraph (b) of this AD, prior to further flight, repair in accordance with Airbus Service Bulletin A300–53–233, Revision 1, dated April 18, 1991. Thereafter, perform the repetitive inspections required by paragraph (b) of this AD at the applicable times specified in paragraphs (b)(1) and (b)(2) of this AD.

(d) If any corrosion is found during any inspection required by paragraph (b) of this AD, prior to further flight, repair in accordance with Airbus Service Bulletin A300–53–233, Revision 1, dated April 18, 1991. Thereafter, perform the repetitive inspections required by paragraph (b) of this AD at the applicable times specified in paragraphs (d)(1) and (d)(2) of this AD.

(1) For the upper and lower edges of the fail-safe ring and the upper edges of the corner doubler of the aft passenger/crew doors, and for the mid passenger/crew doors: Inspect at intervals not to exceed 5 years or 8,000 landings, whichever occurs first.

(2) For the forward passenger/crew doors, bulk cargo door, and emergency exits: Inspect at intervals not to exceed 5 years.

(e) Perform inspections to detect cracking of the holes of the corner doublers, the fail-safe ring, and the door frames of the left- and right-hand forward, mid, and aft passenger/crew door structures, in accordance with Airbus Service Bulletin A300–53–227, Revision 1, dated April 29, 1992. Perform the inspections at the times specified in paragraphs (e)(1), (e)(2), and (e)(3) of this AD, as applicable. If any cracking is found, prior to further flight, repair in accordance with the service bulletin; or, if cracks cannot be eliminated in accordance with the service bulletin, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(1) Except as provided by paragraph (e)(2) of this AD, for the left- and right-hand forward and mid passenger/crew door structures of all airplanes: Inspect at the time specified in paragraph (e)(1)(i), (e)(1)(ii), (e)(1)(iii), or (e)(1)(iv) of this AD, as applicable.

(i) For airplanes that have accumulated less than 20,000 total landings as of the effective date of this AD: Inspect prior to the accumulation of 20,000 total landings, or within 1,250 landings after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 20,000 total landings or more, but less than 21,000 landings as of the effective date of this AD: Inspect prior to the accumulation of 21,000 total landings, or within 1,000 landings after the effective date of this AD, whichever occurs later.

(iii) For airplanes that have accumulated 21,000 total landings or more, but less than 22,000 landings as of the effective date of this AD: Inspect prior to the accumulation of 22,000 total landings, or within 500 landings after the effective date of this AD, whichever occurs later.

(iv) For airplanes that have accumulated 22,000 total landings or more as of the effective date of this AD: Inspect within 250 landings after the effective date of this AD.

(2) For the left-hand mid passenger/crew door structures of Model A300 C4 and F4 series airplanes: Inspect at the time specified in paragraph (e)(2)(i), (e)(2)(ii), (e)(2)(iii), or (e)(2)(iv) of this AD, as applicable.

(i) For airplanes that have accumulated less than 12,000 total landings as of the effective date of this AD: Inspect prior to the accumulation of 12,000 total landings, or within 1,250 landings after the effective date of this AD, whichever occurs later.

(ii) For airplanes that have accumulated 12,000 total landings or more, but less than 13,000 landings as of the effective date of this AD: Inspect prior to the accumulation of 13,000 total landings, or within 1,000 landings after the effective date of this AD, whichever occurs later.

(iii) For airplanes that have accumulated 13,000 total landings or more, but less than 14,000 landings as of the effective date of this AD: Inspect prior to the accumulation of 14,000 total landings, or within 500 landings after the effective date of this AD, whichever occurs later.

(iv) For airplanes that have accumulated 14,000 total landings or more as of the effective date of this AD: Inspect within 250 landings after the effective date of this AD.

(3) For the left-and right-hand aft passenger/crew door structures of all airplanes: Inspect prior to the accumulation of 24,000 total landings, or within 250 landings after the effective date of this AD, whichever occurs later.

(f) Repeat the inspections required by paragraph (e) of this AD at the times specified in paragraphs (f)(1), (f)(2), (f)(3), (f)(4), (f)(5), (f)(6), (f)(7), (f)(8), (f)(9), and (f)(10), as applicable, until the modification required by paragraph (g) of this AD is accomplished.

(1) For the forward passenger/crew door structure of airplanes on which Airbus Modification No. 1282/S1862 has not been accomplished: Inspect at the intervals specified in paragraphs (f)(1)(i) and (f)(1)(ii), as applicable.

(i) For the upper corners of the door structure: At intervals not to exceed 4,000 landings.

(ii) For the lower corners of the door structure: At intervals not to exceed 7,500 landings.

(2) For the forward passenger/crew door structure of airplanes on which Airbus Modification No. 1282/S1862 has been accomplished: Inspect at the intervals specified in paragraphs (f)(2)(i) and (f)(2)(ii), as applicable.

(i) For the upper corners of the door structure: At intervals not to exceed 6,000 landings.

(ii) For the lower corners of the door structure: At intervals not to exceed 10,000 landings.

(3) For the forward passenger/crew door structure of the airplane having manufacturer's serial number 063, on which Airbus Modification No. 1282/S1862 has been accomplished partially: Inspect at the intervals specified in paragraph (f)(3)(i) or (f)(3)(ii), as applicable.

(i) For the upper corners of the door structure: At intervals not to exceed 4,000 landings.

(ii) For the lower corners of the door structure: At intervals not to exceed 7,500 landings.

(4) For the left-and right-hand mid passenger/crew door structure on Model A300 B1, B2, and B4 series airplanes; and for the right-hand mid passenger/crew door structure on Model A300 C4 and F4 series airplanes; on which an inspection required by paragraph (e) of this AD was accomplished using a Roto test technique: Inspect at intervals not to exceed 8,000 landings.

(5) For the left-and right-hand mid passenger/crew door structure on Model A300 B1, B2, and B4 series airplanes; and for the right-hand mid passenger/crew door structure on Model A300 C4 and F4 series airplanes; on which an inspection required by paragraph (e) of this AD was accomplished using an X-ray technique: Inspect at intervals not to exceed 3,500 landings.

(6) For the left-hand mid passenger/crew door structure on Model A300 C4 and F4 series airplanes on which an inspection required by paragraph (e) of this AD was accomplished using a Roto test technique: Inspect at intervals not to exceed 5,200 landings.

(7) For the left-hand mid passenger/crew door structure on Model A300 C4 and F4 series airplanes on which an inspection required by paragraph (e) of this AD was accomplished using an X-ray technique: Inspect at intervals not to exceed 2,300 landings.

(8) For the aft passenger/crew door structure on which an inspection required by paragraph (e) of this AD was accomplished using a Roto test technique: Inspect at intervals not to exceed 8,000 landings.

(9) For the aft passenger/crew door structure on which an inspection required by paragraph (e) of this AD was accomplished using an X-ray technique: Inspect at intervals not to exceed 3,500 landings.

(10) For the areas around the fasteners in the vicinity of stringer 12 on the aft passenger/crew door structure on which an inspection required by paragraph (e) of this AD was accomplished using a visual technique: Inspect at intervals not to exceed 6,900 landings.

(g) Prior to the accumulation of 20,000 total landings, or within 1 year after the effective date of this AD, whichever occurs later: Modify the passenger/crew door structures in accordance with Airbus Service Bulletin A300–53–192, Revision 7, dated July 13, 1992. Accomplishment of this modification constitutes terminating action for the repetitive inspections required by paragraph (f) of this AD.

(h) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(i) 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.

(j) The inspections and repairs shall be done in accordance with the following Airbus service bulletins, which contain the specified list of effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
A300–53–204, Revision 6, October 11, 1993	1, 2, 11, 12	6	October 11, 1993.
	3–5, 7–10, 13–17	3	September 25, 1990.
	6	4	April 18, 1991.
A300–53–233, Revision 1, April 18, 1991	1, 6	1	April 18, 1991.
	2–5, 7–17	Original	December 5, 1990.
A300–53–227, Revision 1, April 29, 1992	1–4, 6, 7, 11, 12, 16–18, 37–50, 57, 58, 62, 64, 67, 68, 91, 92, 97, 98, 110, 116.	1	April 29, 1992.
	5, 8–10, 13–15, 19–36, 51–56, 59–61, 63, 65, 66, 69–90, 92A–96, 99–109, 111–115.	Original	December 3, 1990.

The modification shall be done in accordance with Airbus Service Bulletin A300–53–192, Revision 7, dated July 13, 1992, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 2, 107, 122	7	July 13, 1992.
3, 4, 21, 22, 41–54	5	April 11, 1991.
5, 59	4	September 25, 1990.
6, 6A, 7, 8, 11–17, 23, 27, 29, 30, 55–58, 60–92, 94–106, 108	1	July 24, 1989.
9, 10, 18–20, 24–26, 28, 93, 31–40, 110–114, 116–121	3	February 5, 1990.
109, 115	6	February 25, 1992.

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

(k) This amendment becomes effective on June 27, 1997.

Issued in Renton, Washington, on May 12, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–12859 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AEA–09]

Revocation of Class D Airspace and Class E4 Airspace; Plattsburgh, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class D airspace designated as a surface area for Plattsburgh, NY. The rule also revokes the Class E4 surface areas designated as an extension to Class D airspace at Plattsburgh, NY.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On February 27, 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revoking Class D airspace designated as a surface area for Plattsburgh, NY. The proposal also included the revocation of the Class E4 surface areas designated as an extension to the Class D airspace (61 FR 7227). As a result of the Base Realignment and Closure program, Plattsburgh Air Force Base has been closed and all flight operations eliminated.

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

Class D airspace area designations are published in paragraph 5000 of FAA Order 7400.9D, dated September 4, 1996 and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. Class E4 airspace area designations are published in paragraph 6004 of FAA Order 7400.9D, dated September 4, 1996 and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation and the Class E4 airspace designation listed in this document will be revoked and removed from the Order.

The Rule

The amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revokes the Class D airspace area and Class E4 airspace area at Plattsburgh, NY.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace areas designated as a surface area for an airport.

* * * * *

AEA NY D Plattsburgh, NY [Removed]

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D area.

* * * * *

AEA NY E4 Plattsburgh, NY [Removed]

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13582 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARMENT OF TRANSPORTATION

Federal Aviation Administration

CFR Part 71

[Airspace Docket No. 95–AEA–11]

Revocation of Class D Airspace and Class E5 Airspace; Calverton, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class D airspace and Class E5 airspace at Calverton Naval Weapons Reserve Plant (Peconic), Calverton, NY. All standard instrument approaches (SIAPs) have been canceled and the airport closed. Controlled airspace will no longer be needed to contain Instrument Flight Rules (IFR) operations within these areas.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On February 27, 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revoking Class D airspace designated as a surface area for Calverton Naval Weapons Industrial Reserve Plant (Peconic), NY. The proposal also included the revocation of the Class E5 airspace extending upward from 700 feet above the surface of the airport (61 FR 7228).

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

Class D airspace area designations are published in paragraph 5000 of FAA Order 7400.9D, dated September 4, 1996 and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. Class E5 airspace area 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 D airspace designation and the Class E5 airspace designation listed in this document will be revoked and removed from the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) revokes the Class D airspace area and Class E5 airspace area at Calverton, NY. The cancellation of IFR procedures and the closure of the Calverton Naval Weapons Industrial Reserve Plant (Peconic Field) airport has nullified the requirement for the associated Class D and Class E airspace areas.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

Paragraph 5000 Class D airspace.

* * * * *

AEA NY D Calverton, NY [Removed]

* * * * *

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

* * * * *

AEA NY E5 Calverton, NY [Removed]

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13578 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 95–AEA–13]

Amendment to Class E Airspace; Plattsburgh, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E5 airspace at Plattsburgh, NY, to accommodate Standard Instrument Approach Procedures (SIAP) to Clinton County Airport. This amendment also deletes Plattsburgh Air Force Base and Valcour TACAN from the description and adds Clinton County Airport to the description. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the airport.

EFFECTIVE DATE: 0901 UTC, September 11, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On February 27 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at, NY, (61 FR 7229). This action would provide adequate Class E airspace for IFR operations at Clinton County Airport.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies the Class E airspace area at Plattsburgh, NY, to accommodate published SIAPs and for IFR operations at Clinton County Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

AEA NY AEA E5 Plattsburgh, NY [Revised]

Clinton County Airport, Plattsburgh, NY
(Lat. 44°41′15″N, long. 73°31′28″W)

That airspace extending upward from 700 feet above the surface within a 12-mile radius of Clinton County Airport.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13577 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–06]

Revision of Class E Airspace; Ponca City, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action revises the Class E surface airspace at Ponca City, OK. Communication capability and weather observations exist continuously for terminal instrument operations at Ponca City Municipal Airport. Therefore, Class E surface airspace should be continuous rather than designated as part-time Class E surface airspace. This action is intended to revise Class E surface airspace to provide controlled airspace for continuous terminal instrument operations at Ponca City Municipal Airport, Ponca City, OK.

DATES: *Effective:* 0901 UTC, September 11, 1997. *Comment date:* Comments must be received on or before July 7, 1997.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration Southwest Region, Docket No. 97–ASW–06, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E surface airspace, providing controlled airspace for continuous IFR terminal operations at Ponca City Municipal Airport, Ponca City, OK. Communication capability and weather observations exist continuously for terminal instrument operations at Ponca City Municipal Airport. This revision will avoid confusion on the part of the pilots flying near the airport, and promote the safe and efficient handling of air traffic in the area. This action will revise the Class E surface airspace to provide continuous controlled airspace at Ponca City Municipal Airport, Ponca City, OK.

Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ASW–06.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various level 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.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that 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 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

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

§ 71.1 [Amended]

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

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

* * * * *

ASW OK E2 Ponca City, OK [Revised]

Ponca City Municipal Airport, OK
(Lat. 36°43′50″ N, long. 097°05′59″ W)
Chums Waypoint
(Lat. 36°35′19″ N, long. 097°05′59″ W)

Within a 4.1-mile radius of Ponca City Airport and within 2 miles each side of the 360° bearing from Chums Waypoint extending from the 4.1-mile radius to 4.7 miles south of the airport.

* * * * *

Issued in Fort Worth, TX, on May 12, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–13571 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Airspace Docket No. 97–AEA–16]

Amendment to Class E Airspace; Olean, NY

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Olean, NY, to accommodate two Global Positioning System (GPS) Standard Instrument Approach Procedures (SIAP) to Runway (RWY) 22 and RWY 4 at Cattaraugus County-Olean Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 5, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Olean, NY, (62 FR 9995). This action would provide adequate Class E airspace for IFR operations at Cattaraugus County-Olean Airport.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies Class E airspace area at Olean, NY, to accommodate a GPS RWY 22 SIAP and GPS RWY 4 SIAP and for IFR operations at Cattaraugus County-Olean Airport. The modification includes the airspace extending upward from 700 feet above the surface within a 10.3-mile radius of the airport and along a corridor running 10 miles northeast of the OLEAN non-directional radio beacon (NDB).

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

AEA NY AEA E5 Olean, NY [Revised]

Cattaraugus County-Olean Airport, NY
(lat. 42°14′24″N, long. 78°22′18″W)
OLEAN NDB
(lat. 42°17′01″N, long. 78°20′06″W)

That airspace extending upward from 700 feet above the surface within a 10.3-mile radius of Cattaraugus County-Olean Airport and within 3.1 miles each side of the OLEAN NDB 032° bearing extending from the 10.3-mile radius to 10 miles northeast of the NDB.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13587 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–001]

Establishment of Class E Airspace; South New Castle, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at South New Castle, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS),

serving Jameson Memorial Hospital Heliport, and St. Francis Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliports.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at South New Castle, PA (62 FR 11121). This action would provide adequate Class E airspace for IFR operations to Jameson Memorial Hospital Heliport, and St. Francis Hospital Heliport.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at South New Castle, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Jameson Memorial Hospital Heliport, and St. Francis Hospital Heliport.

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 ''significantly rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 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 Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, is amended as follows:

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

* * * * *

AEA PA E5 South New Castle, PA [New]

Jameson Memorial Hospital Heliport/St. Francis Hospital Heliport, PA Point In Space Coordinates
(Lat. 40°59′54″ N., long. 80°21′17″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Jameson Memorial Hospital Heliport and St. Francis Hospital Heliport, excluding that portion that coincides with the New Castle, PA Class E airspace area and the Grove City, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13576 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–002]

Establishment of Class E Airspace; East Butler, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at East Butler, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), serving Butler Memorial Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at East Butler, PA (62 FR 11124). This action would provide adequate Class E airspace for IFR operations to Butler Memorial Hospital Heliport.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at East Butler, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Butler Memorial Hospital Heliport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

AEA PA E5 East Butler, PA [New]

Butler Memorial Hospital Heliport, PA
Point In Space Coordinates
(Lat 40°51′19″N., long. 79°51′52″W.)
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Butler Memorial Hospital Heliport, excluding that portion that coincides with the Latrobe, PA Class E airspace area and the Connellsville, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13585 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–005]

Establishment of Class E Airspace; Uniontown, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Uniontown, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving Uniontown Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Uniontown, PA (62 FR 11122). This action would provide adequate Class E airspace for IFR operations to Uniontown Hospital Heliport.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Uniontown, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Uniontown Hospital Heliport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 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 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.

* * * * *

AEA PA E5 Uniontown, PA [New]

Uniontown Hospital Heliport, PA
Point In Space Coordinates
(Lat. 39°54′10″ N., long. 79°45′38″ W.)
That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Uniontown Hospital Heliport, excluding that portion that coincides with the Connellsville, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13584 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–006]

Establishment of Class E Airspace; Thiel, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Thiel, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving Greenville Area Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Thiel, PA (62 FR 11120). This action would provide adequate Class E airspace for IFR operations to Greenville Hospital Heliport.

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

Class E airspace areas designations are published in paragraph 605 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Thiel, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Greenville Hospital Heliport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the forgoing, 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 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.

* * * * *

AEF PA E5 Thiel, PA [New]

Greenville Hospital Heliport, PA
Point In Space Coordinates
(Lat. 41°25′27″N., long. 80°22′34″W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Greenville Hospital Heliport, excluding that portion that coincides with the Greenville, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13583 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–18]

Amendment to Class E Airspace; Marion, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Class E airspace at Marion, VA, to accommodate a Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedures (SIAP) to Runway (RWY) 26 for the Mountain Empire Airport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations at the airport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Marion, VA (62 FR 11124). This action would provide adequate Class E airspace for IFR operations at Mountain Empire Airport extending upward from 700 feet above the surface within a 10-mile radius of the airport and along a corridor out to 16 miles northeast of the airport.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) modifies Class E airspace area

at Marion, VA, to accommodate the NDB RWY 26 SIAP and for IFR operations at Mountain Empire Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA VA AEA E5 Marion, VA [Revised]

Mountain Empire Airport,
Marion/Wytheville, VA
(Lat. 36°53′41″ N., long. 81°22′00″ W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Mountain Empire Airport and within 8 miles north and 4 miles south of the 073° bearing from the airport extending from the 10-mile radius to 16 miles northeast of the airport.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13581 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–010]

Establishment of Class E Airspace; Jeannette, PA

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Jeannette, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving Monsour Medical Center and Jeannette District Hospital Heliports. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Uniontown, PA (62 FR 11125). This action would provide adequate Class E airspace for IFR operations to Monsour Medical Center and Jeannette District Hospital Heliports.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Jeannette, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Monsour Medical Center and Jeannette District Hospital Heliports.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

AEA PA E5 Jeannette, PA [New]

Monsour Medical Center Heliport/Jeannette District Hospital Heliport, PA Point In Space Coordinates
(Lat. 40°19′49″ N., long. 79°37′44″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point In Space serving Monsour Medical Center Heliport and Jeannette District Hospital Heliport, excluding that portion that coincides with the Latrobe, PA Class E airspace area and the Monongahela, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13580 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–007]

Establishment of Class E Airspace; Frostburg, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Frostburg, PA, to accommodate a Standard Instrument Approach Procedure (SIAP), Helicopter Point In Space Approach based on the Global Positioning System (GPS), and serving Punxsutawney Area Hospital Heliport. The intended effect of this action is to provide adequate controlled airspace for instrument flight rules (IFR) operations to the heliport.

EFFECTIVE DATE: 0901 UTC, July 17, 1997.

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

SUPPLEMENTARY INFORMATION:

History

On March 11, 1997, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace at Frostburg, PA (62 FR 9393). This action would provide adequate Class E airspace for IFR operations to Punxsutawney Area Hospital Heliport.

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

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

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class E airspace area at Frostburg, PA, to accommodate a GPS SIAP Point In Space Approach and for IFR operations to Punxsutawney Area Hospital Heliport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

* * * * *

AEA PA E5 Frostburg, PA [New]

Punxsutawney Area Hospital Heliport, PA
Point In Space Coordinates
(Lat. 40°57′04″ N., long. 79°21′24″ W.)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Point IN Space serving Punxsutawney Area Hospital Heliport, excluding that portion that coincides with the Punxsutawney, PA Class E airspace area.

* * * * *

Issued in Jamaica, New York, on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13579 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–09]

Revision of Class E Airspace; Altus, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above the surface at Altus, OK. The development of a Instrument Landing System (ILS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 17R at Altus Air Force Base (AFB) has made this rule necessary. This action is intended to provide adequate Class E airspace for aircraft operating under Instrument Flight Rules (IFR) and executing the ILS SIAP to RWY 17R at Altus AFB, Altus, OK.

DATES: *Effective:* 0901 UTC, September 11, 1997.

Comment date: Comments must be received on or before July 22, 1997.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration Southwest Region, Docket No. 97–ASW–09, Fort Worth, TX 76193–0520.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace, providing controlled airspace for IFR operations at Altus AFB, Altus, OK. The development of a ILS SIAP to RWY 17R requires revision of the Class E airspace for aircraft operating in the vicinity of the airport. This revision will avoid confusion on the part of the pilots flying near the airport, and promote the safe and efficient handling of air traffic in the area. This action will revise the Class E airspace at Altus, OK.

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 designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rules that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing data for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ASW–09.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various level 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.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that 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 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

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

§ 71.1 [Amended]

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

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

* * * * *

ASW OK E5 Altus, OK [Revised]

Altus AFB, OK
(Lat. 34°39′30″ N, long. 99°16′00″ W)
Altus VORTAC
(Lat. 34°39′46″ N, long. 99°16′16″ W)
Altus Municipal Airport, OK
(Lat. 34°41′53″ N, long. 99°20′18″ W)
Tipton Municipal Airport, OK
(Lat. 34°27′37″ N, long. 99°10′19″ W)
Frederick Municipal Airport, OK
(Lat. 34°21′08″ N, long. 98°59′05″ W)
Altus AFB ILS Localizer
(Lat. 34°38′32″ N, long. 99°16′26″ W)

The airspace extending upward from 700 feet above the surface within a 9.1-mile radius of Altus AFB and within 1.6 miles each side of the 185° radial of the Altus VORTAC extending from the 9.1-mile radius to 11.9 miles south of the airport and within 3 miles west and two miles east of the Altus AFB Localizer north course extending from the 9.1 mile radius to 15 miles north of the airport and within a 6.5-mile radius of Altus Municipal Airport and within a 5.4-mile radius of Tipton Municipal Airport and within a 7.2-mile radius of Frederick Municipal Airport.

* * * * *

Issued in Forth Worth, TX, on May 12, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–13568 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–03]

Revision of Class E Airspace; Carlisle, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action revises the Class E airspace at Carlisle, AR. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 09 at Carlisle Municipal Airport and a Nondirectional Radio Beacon (NDB) SIAP to RWY 18 at Stuttgart Municipal Airport has made this rule necessary. This action is intended to provide adequate Class E airspace for aircraft operating under Instrument Flight Rules (IFR) and executing the GPS SIAP at Carlisle Municipal Airport and the NDB SIAP at Stuttgart Municipal Airport, and both airports are identified within Carlisle, AR, Class E airspace.

DATES: *Effective:* 0901 UTC, September 11, 1997.

Comment date: Comments must be received on or before July 22, 1997.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration Southwest Region, Docket No. 97–ASW–03, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace, providing controlled airspace for IFR operations at Carlisle, AR. The development of a GPS SIAP to RWY 09 at Carlisle Municipal Airport and the development of a NDB SIAP to RWY 18 at Stuttgart Municipal Airport require revision of the Class E airspace for aircraft operating in the vicinity of the two airports. Both airports are included in the Class E airspace for Carlisle, AR. This revision will avoid confusion on the part of the pilots flying near the airports, and promote the safe and efficient handling of air traffic in the area. This action will revise the Class E airspace at Carlisle, AR.

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 designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore, is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action, and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA public contact concerned with the substance of this action will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ASW–03.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that 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 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

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

§ 71.1 [Amended]

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

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

* * * * *

ASW AR E5 Carlisle, AR [Revised]

Carlisle Municipal Airport, AR
(Lat. 34°48′30″ N, long. 91°42′43″ W)
Stuttgart Municipal Airport
(Lat. 34°36′02″ N, long. 91°34′28″ W)
Stuttgart NDB
(Lat. 34°39′52″ N, long. 91°35′31″ W)
Almyra Municipal, AR
(Lat. 34°24′44″ N, long. 91°27′52″ W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Carlisle Municipal Airport and within a 6.7-mile radius of Stuttgart Municipal Airport and within 3.1 miles each side of the 350° bearing from the Stuttgart NDB extending from the 6.7-mile radius to 14.4-miles north of the airport, and within a 6.4-mile radius of Almyra Municipal Airport excluding that airspace within the Little Rock, AR, Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on May 12, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–13569 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–05]

Revocation of Class E Airspace; Alice, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action revokes the Class E surface airspace at Alice, TX. Communication capability with aircraft operating within the surface area no longer exists; therefore, Class E surface airspace designated to provide controlled airspace for terminal instrument operations is no longer required. This action is intended to revoke Class E surface airspace for aircraft operating under Instrument Flight Rules (IFR) for terminal operations at Alice International Airport, Alice, TX.

DATES: *Effective:* 0901 UTC, September 11, 1997. *Comment date:* Comments must be received on or before July 22, 1996.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration Southwest Region, Docket No. 97–ASW–05, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revokes the Class E surface airspace, providing controlled airspace for IFR terminal operations at Alice International Airport, Alice, TX. The air traffic control facility no longer has the capability to communicate with aircraft operating on the ground surface of the airport. Without communication capability to the surface, there is no requirement for controlled airspace for terminal instrument operations. This revocation will avoid confusion on the part of the pilots flying near the airport, and promote the safe and efficient handling of air traffic in the area. This action will revoke the Class E surface airspace at Alice International Airport, Alice, TX.

Class E airspace designations are published in Paragraph 6002 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the

commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ASW–05.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various level 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.

Further, the FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that 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 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

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 17 continues to read as follows:

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

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E2 Alice, TX [Revoked]

* * * * *

Issued in Fort Worth, TX, on May 12, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–13570 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASW–07]

Revision of Class E Airspace; Athens, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action revises the Class E airspace at Athens, TX. The development of a Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 17 at Lockridge Ranch Airport has made this rule necessary. This action is intended to provide adequate Class E airspace for aircraft operating under Instrument Flight Rules (IFR) and executing the NDB SIAP at Lochridge Ranch Airport, Athens, TX.

DATES: *Effective:* 0901 UTC, September 11, 1997.

Comment date: Comments must be received on or before July 22, 1997.

ADDRESSES: Send comments on the rule in triplicate to Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration Southwest Region, Docket No. 97–ASW–07, Fort Worth, TX 76193–0520. The official docket may be examined in the Office of the Assistant Chief Counsel, Southwest Region, 2601 Meacham Boulevard, Room 663, Fort Worth, TX, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Airspace Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0520, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION: This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace, providing controlled airspace for IFR operations at Lockridge Ranch Airport, Athens, TX. The development of a NDB SIAP to RWY 17 requires revision of the Class E airspace for aircraft operating in the vicinity of the airport. This revision will avoid confusion on the part of the pilots flying near the airport, and promote the safe and efficient handling of air traffic in the area. This action will revise the Class E airspace at Athens, TX.

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 designation listed in this document will be published subsequently in the order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore, is issuing it as a direct final rule. A substantial number of previous opportunities provided to the public to comment on substantially identical actions have resulted in negligible adverse comments or objections. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the data on which the final rule will become effective. If the FAA

does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although the action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action is needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–ASW–07.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the State, 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.

Further, the FAA has determined that this regulation is noncontroversial, and unlikely to result in adverse or negative comments and only involves an established body of technical regulations that require frequent and routine amendments to keep them operationally current. Therefore, I certify that 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 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Since this rule involves routine matters that will only affect air traffic procedures and air navigation, it does not warrant preparation of a Regulatory Flexibility Analysis because the anticipated impact is so minimal.

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. app. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 289; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

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

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

* * * * *

ASW TX E5 Athens, TX [Revised]

Athens Municipal Airport, TX
(lat. 32°09′50″ N, long. 95°49′42″ W)
Athens, Lochridge Ranch Airport, TX
(lat. 31°59′21″ N, long. 95°57′03″ W)
Crossroads NDB
(lat. 32°03′49″ N, long. 95°57′28″ W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Athens Municipal Airport, and within a 6.5-mile radius of Lochridge Ranch Airport and within 4 miles each side of the 356° bearing from the Crossroads NDB extending from the 6.5-mile radius to 11.5 miles north of the NDB excluding that airspace within the Tyler, TX, Class E airspace area.

* * * * *

Issued in Fort Worth, TX, on May 12, 1997.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–13572 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 303

Rules and Regulations Under the Textile Fiber Products Identification Act

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission announces amendments to Rule 7 of the Rules and Regulations Under the Textile Fiber Products Identification Act (''Textile Rules''), which lists generic names and definitions for manufactured fibers. 16 CFR 303.7 (1996). The amendments create a new subsection that designates a new fiber name, ''elastoester,'' and establishes a definition for the fiber. The Commission initiated this proceeding in response to a petition for a new generic fiber name under the Textile Rules filed by Teijin Limited, a fiber manufacturing company based in Osaka, Japan. Teijin manufactures the fiber under the trade name ''REXE.'' The Commission is making the amendments effective today, as permitted by 5 U.S.C. 553(d), because the amendments do not create new obligations under the Rule; rather, they merely create a fiber name and definition that the public may use to comply with the Rule.

EFFECTIVE DATE: May 23, 1997.

FOR FURTHER INFORMATION CONTACT: James G. Mills, Attorney, Division of Enforcement, Room 4616, Federal Trade Commission, Washington, DC, 20580; (202) 326–3035, FAX: (202) 326–3259.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory and Regulatory Framework

Section 4(b)(1) of the Textile Fiber Products Identification Act (''the Act'') declares that a textile product will be misbranded unless it is labeled to show, among other elements, the percentages, by weight, of the constituent fibers (or fiber combinations) in the product, designated by their generic name and in order of predominance by weight. 15 U.S.C. 70b(b)(1). Section 4(c) of the Act provides that the same information

required by section 4(b)(1) (except the percentages) must appear in written advertisements for covered textile products. 15 U.S.C. 70b(c). Section 7(c) empowers the Commission to promulgate such rules, including the establishment of generic names of manufactured fibers, as are necessary to enforce the Act's directives. 15 U.S.C. 70e(c).

Rule 8 of the Textiles rules contains the Commission's procedures for establishing new generic names. 16 CFR 303.8 (1996). Rule 6 requires manufacturers to use the generic names of the fibers contained in their textile fiber products when they disclose fiber content as required by the Act and the Textile Rules. 16 CFR 303.6 (1996). Rule 7 lists the generic names and definitions that the Commission has established for manufactured fibers. 16 CFR 303.7 (1996).

B. Procedural History

Teijin submitted its petition to the Commission in this matter on October 30, 1992, and subsequently submitted additional information. Teijin requested that its new fiber, REXE, be given one of the following generic names, in descending order of its preference: (1) ''Polyetherester,'' (2) ''Elastoester,'' or (3) ''Estelast.'' Teijin also suggested a definition for the new fiber. The application and related materials were placed on the rulemaking record. After an initial analysis, the Commission issued the designation ''TL 0001'' on December 29, 1992, for Teijin's temporary use in identifying REXE until a final determination could be made as to the merits of the application.

The Commission subsequently requested and received additional information from Teijin pertaining to its fiber's chemical and physical properties, as well as information concerning Teijin's plans for marketing the fiber. After analyzing this supplemental information, on July 9, 1996, the Commission published a Notice of Proposed Rulemaking (''NPR'') detailing the technical aspects of Teijin's fiber and requesting public comment on whether to add a new generic fiber name and definition to Rule 7 of the Textile Rules.[1] On September 10, 1996, the comment period created by the NPR closed. No comments were received.

II. Description of Teijin's Fiber and Solicitation of Comments in the NPR

The NPR provided a detailed description, taken from Teijin's application, of REXE's chemical composition and physical and chemical properties.[2] Teijin maintained that its new fiber, which is manufactured from poly tetramethylene ether/poly butylene glycol terephthalate copolymer, has a unique chemical composition and distinctive physical characteristics so it cannot be identified by any of the generic names already established by the Commission in Rule 7 of the Textile Rules. 16 CFR 303.7 (1996). Teijin also stated that it intends to market the fiber commercially, and said in subsequent information that REXE is now being sold and used in the United States.

In the NPR, the Commission solicited comment on Teijin's application generally, but asked especially whether the application met the following criteria, which the Commission has identified in the past as grounds for granting applications for new generic names:

1. The fiber for which a generic name is requested must have a chemical composition radically different from other fibers, and that distinctive chemical composition must result in distinctive physical properties of significance to the general public.
2. The fiber must be in active commercial use or such use must be immediately foreseen.
3. The grant of the generic name must be of importance to the consuming public at large, rather than to a small group of knowledgeable professionals such as purchasing officers for large Government agencies.[3]

The Commission also asked for comment on the names suggested by Teijin for the fiber and proposed the following definition for Teijin's new fiber:

A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polymer composed of at least 50% by weight of aliphatic polyether and at least 35% by weight of polyester, as defined in 16 CFR § 303.7(c).

III. Discussion

A. Distinctive Chemical Composition and Physical Properties of Importance to the Public

The only fiber to which REXE is somewhat similar chemically is polyester, and the Commission considered, therefore, whether to include the fiber under the definition in Rule 7 for polyester, either in its present form or modified to accommodate the characteristics of REXE. After analyzing the evidence, however, the Commission agrees with Teijin that REXE is not ''composed of at least 85% by weight of an ester of a substituted aromatic carboxylic acid,'' as is specified in the definition of polyester in the Textile Rules.[4] Moreover, there is evidence that REXE's physical properties are quite different from those of polyester, as the Commission reported in the NPR. The Commission concludes, therefore, that it would be inappropriate to include REXE under the definition of polyester.

Because one of REXE's physical characteristics is that it has elastic properties, the Commission considered whether it could encompass REXE within any of the current generic fibers with elastic properties that are defined in the Textile Rules, such as rubber, lastrile, spandex (to which Teijin compared, and with which it contrasted, REXE in its application), or anidex. Because REXE is considered an elastomeric polyester, however, and therefore consists of polyester and polyether segments, it has a different chemical composition from the fibers that fall under those four definitions. Thus, the Commission concludes that it would be inappropriate to include REXE under any of the existing definitions for fibers with elastic properties.

Teijin's fiber has several physical properties that are important to the public. As stated above, it has elastic properties; in addition, it is readily washable, and can withstand high temperatures when wet, which is particularly important with respect to dyeing. This tolerance of high temperature also could allow the development of elastic fabrics (for example, a combination of REXE and polyester) that would have many of the properties of polyester, such as excellent washability. Finally, fabrics made of REXE and polyester are less discolored or adversely affected by chlorine than fabrics made of nylon and

[1] 61 FR 35992 (July 9, 1996).

[2] *Id.*, at 35993 (July 9, 1996). For brevity's sake, the Commission is providing a simplified description of the fiber today, and refers those members of the public who wish to see detailed technical information about the fiber to the earlier description in the NPR.

[3] The Commission added:

[W]here appropriate, in considering applications for new generic names for fibers that are of the same general chemical composition as those for which a generic name already has been established, rather than of a chemical composition that is radically different, but that have distinctive properties of importance to the general public as a result of a new method of manufacture or their substantially differentiated physical characteristics, such as their fiber structure, [the Commission] may allow such fiber to be designated in required information disclosures by either its generic name, or alternatively, by its ''subclass'' name. The Commission will consider this disposition when the distinctive feature or features of the subclass fiber make it suitable for uses for which other fibers under the established generic name would not be suited or would be significantly less well suited. *See* 60 FR 62352, 62353 (Dec. 6, 1995) (reaffirming and clarifying criteria first announced at 38 FR 34114 (Nov. 12, 1973)).

[4] 61 FR 35993 (July 9, 1996); *see* 16 CFR 303.7(c) for the definition of polyester.

spandex, which is important in the case of such products as swimming suits.

B. Active Commercial Use

Although the information available when the NPR was published did not establish exactly when REXE was first marketed in the U.S., it is clear that by March 1995 REXE was in use, although not in large quantities, in products covered by the Textile Act.[5] The garments were mostly sportswear, including swim suits, cycling pants and ski pants. Thus, the Commission concludes that the Teijin fiber is in ''active commercial use.''

C. Importance to the Consuming Public

Based on REXE's ability to be used in sportswear for swimming and cycling, the Commission concludes that the fiber may be used by the consuming public in general, and that the granting of this new generic fiber name and definition will not be of interest only to ''a small group of knowledgeable professionals, such as purchasing officers for large Government agencies.''

D. New Generic Fiber Definition

The Commission finds that REXE possesses a distinctive chemical composition not encompassed by any of the Textile Rules' existing generic definitions for manufactured fibers, that its physical properties are important to the public, that the fiber is in active commercial use, and that the granting of a new generic name and definition is important to the consuming public at large. Accordingly, and given that the Commission has received no additional information bearing on this issue beyond that available to it when it published the NPR, the Commission today amends Rule 7 of the Textile Rules by adding the following new definition for Teijin's fiber, which it proposed in the NPR:

> A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polymer composed of at least 50% by weight of aliphatic polyether and at least 35% by weight of polyester, as defined in 16 CFR 303.7(c).

E. New Generic Name

Although each of the three generic names for REXE that Teijin suggested has merit, the Commission believes that the name ''elastoester'' is most likely to communicate to consumers that REXE (and other fibers that would fall within the definition's purview) has the qualities of an elastomer and a polyester, which would tend to make purchasing decisions easier. Therefore, the Commission adopts the generic name ''elastoester'' for Teijin's fiber.

IV. Regulatory Flexibility Act

In the NPR, the Commission tentatively concluded that the provisions of the Regulatory Flexibility Act relating to an initial regulatory analysis, 5 U.S.C. 603–604, did not apply to this proposal because the amendment, if promulgated, would not have a significant economic impact on a substantial number of small entities. The Commission believed that the proposed amendment would impose no additional obligations, penalties, or costs. The amendment simply would allow covered companies to use a new generic name for a new fiber that may not appropriately fit within current generic names and definitions, and would impose no additional labeling requirements. To ensure, however, that no substantial economic impact was overlooked, the Commission solicited public comment in the NPR on the effect of the proposed amendment on costs, profits, competitiveness of, and employment in small entities.

No comments were received on this (or any other) issue in response to the NPR. Accordingly, the Commission hereby certifies, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), that the amendment promulgated today will not have a significant economic impact on a substantial number of small entities.

V. Paperwork Reduction Act

This proposed amendment does not constitute a ''collection of information'' under the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 (as amended), and its implementing regulations, 5 CFR 1320 *et seq.* (1996). The collection of information imposed by the procedures for establishing generic names, 16 CFR 303.8 (1996), has been submitted to OMB and has been assigned Control Number 3084–0101.

List of Subjects in 16 CFR Part 303

Labeling, Textile, Trade practices.

Text of Amendments

For the reasons set forth in the preamble, 16 CFR Part 303 is amended as follows:

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

1. The authority citation for Part 303 continues to read as follows:

Authority: 15 U.S.C. 70 *et seq.*

2. In § 303.7, paragraph (v) is added, to read as follows:

§ 303.7 Generic names and definitions for manufactured fibers.

* * * * *

(v) *Elastoester.* A manufactured fiber in which the fiber-forming substance is a long-chain synthetic polymer composed of at least 50% by weight of aliphatic polyether and at least 35% by weight of polyester, as defined in 16 CFR 303.7(c).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 97–13607 Filed 5–22–97; 8:45 am]

BILLING CODE 6750–01–M

[5] Teijin represented to the Commission that 6,100 yards of REXE were used in the U.S. in 1994, that total production of REXE in 1994 was 67 metric tons, and that estimated 1995 production was 65 metric tons.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX76–1–7330; FRL–5828–3]

Approval and Promulgation of Extension of Temporary Section 182(f) and Section 182(b) Exemption to the Nitrogen Oxides (NO_X) Control Requirements for the Houston/ Galveston and Beaumont/Port Arthur Ozone Nonattainment Areas; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this action, EPA is approving a petition for an extension of the temporary exemption from the NO_X control requirements of sections 182(f) and 182(b) of the Clean Air Act (the Act) for the Houston/Galveston (HGA) and Beaumont/Port Arthur (BPA) ozone nonattainment areas from December 31, 1996, to December 31, 1997. The State of Texas submitted the petition to EPA requesting the extension to permit additional time to complete Urban Airshed Modeling (UAM). A temporary NO_X exemption has been granted by EPA because preliminary photochemical grid modeling showed that reductions in NOx would be detrimental to attaining the National Ambient Air Quality Standards (NAAQS) for ozone in these areas. Approval of this petition will extend the temporary exemption which waives the Federal NOx requirements for Reasonably Available Control Technology (RACT), New Source Review (NSR), Vehicle Inspection/ Maintenance (I/M), and conformity by one year (December 31, 1996, to December 31, 1997) and the

implementation date for NO_X RACT by two years to May 31, 1999.

EFFECTIVE DATE: This action is effective as of May 23, 1997.

ADDRESSES: Copies of the extension request, public comments and EPA's responses are available for inspection at the following addressees:

Environmental Protection Agency, Region 6, Air Planning Section, 445 Ross Ave, Suite 1200, Mailcode 6PD–L, Dallas, TX 75202.

Texas Natural Resource Conservation Commission, 12100 Park 35 Circle, P.O. Box 13087, Austin, Texas 78711–3087.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert R. Sherrow, Jr., Air Planning Section (6PD–L), Multimedia Planning and Permitting Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202. The telephone number is 214–665–7237.

SUPPLEMENTARY INFORMATION:

I. Background

On August 17, 1994, the Texas Natural Resource Conservation Commission (TNRCC) submitted to EPA a petition pursuant to section 182(f) which requested that the HGA and BPA nonattainment areas be temporarily exempted by EPA from the NO_X control requirements of section 182(f) of the Act. The State based its petition on the use of a UAM demonstration showing, pursuant to EPA guidelines, that NO_X reductions would not contribute to attainment in either area because the decrease in ozone concentrations resulting from Volatile Organic Compounds (VOC) reductions alone is equal to or greater than the decrease obtained from NO_X reductions or a combination of VOC and NO_X reductions. The petition for the temporary exemption was approved by EPA and published at 60 FR 19515 (April 19, 1995).

On March 6, 1996, the State of Texas submitted a petition to EPA which requests that the HGA and BPA nonattainment areas be granted an extension to the temporary exemption from NO_X control requirements of sections 182(f) and 182(b) of the Act. The State's petition was transmitted by a letter from George W. Bush, Governor, State of Texas, to Jane Saginaw, Regional Administrator of EPA Region 6. The petition was accompanied by the records of public hearing on the petition to satisfy the requirements of section 110. The petition requests an extension of one year, from December 31, 1996, to December 31, 1997, for the exemption and an extension of the NO_X RACT compliance date from May 31, 1997, to May 31, 1999. The petition was subjected to public notice on September 5, 1995, and hearing on October 2, 1995. Since the petition for extension went through the State's public participation procedures prior to submittal, EPA considers it to be submitted as a revision to the State Implementation Plan (SIP) and, thus meets the requirements of sections 110 and 182(b).

The State based its petition on needing additional time to complete further UAM modeling using data from the Coastal Oxidant Assessment for Southeast Texas (COAST) study. The preliminary modeling showed that NO_X reductions would not contribute to attainment in either area because domain-wide predicted maximum ozone concentrations are lowest when only VOC reductions are modeled. The schedule submitted in the State's original section 182(f) petition was established based on the expected completion of the UAM COAST modeling for attainment demonstration purposes by May 31, 1996. The extension would allow UAM using COAST data to accommodate recent improvements in the modeling process. These improvements will allow the development of better substantiated control programs and minimize the possibility that reliance on earlier preliminary modeling could result in unnecessary or counterproductive control programs, particularly if NO_X controls are still shown to be detrimental. The petition also includes a description of the improvements in data quantity and quality which will result from the additional COAST data modeling information.

Some of the advantages of taking additional time to conduct the modeling are: (1) the use of the UAM, version V, which is an improved model over the UAM, version IV, previously used, particularly in the reduced use of national defaults; (2) the development of more detailed emissions inventory data; (3) the use of additional monitored data; and (4) the use of more refined meteorological data. The current modeling effort is estimated by the State to be an order of magnitude increase over that for the preliminary modeling, with an attendant increase in the quality-assurance effort required. Because of the large economic impact of the future ozone control strategy on the Texas Gulf Coast Region, both the State and EPA believe that it is essential that the modeling be based on the best available science and the most complete, quality-assured data possible.

Also submitted with the petition was a revision to previously-adopted NO_X RACT rules (30 Texas Air Control (TAC) 117) which would extend the compliance dates from May 31, 1997, to May 31, 1999. The State first submitted the NO_X RACT rules to EPA on December 6, 1993.

A revision to the Texas (Nonattainment) New Source Review rule (30 TAC section 116.150), adopted on October 11, 1995, temporarily extends the suspension of the NO_X NSR requirements in HGA and BPA through December 31, 1997. This rule revision was submitted to EPA on November 1, 1995, and was not resubmitted with the petition.

On December 13, 1996, EPA proposed to approve the petition for a one-year extension of the temporary exemption of the 182(f) and 182(b) NO_X requirements for the HGA and BPA areas (61 FR 65504). The proposed rulemaking notice, EPA's Technical Support Document (November 1994) on the proposed action, and supplemental information are contained in the docket and provide a detailed discussion of the TNRCC's submittal, applicable guidance, and EPA's rationale for proposing approval of the State's petition for a one-year extension. Rather than repeating that entire discussion in this document, that discussion is incorporated by reference herein. Thus, the public should review the notice of proposed rulemaking for relevant background on this final rulemaking action.

II. Response to Comments

The following discussion summarizes the comments received regarding the State's petition and/or EPA's proposed rulemaking and presents EPA's responses to these comments. The EPA received 28 letters of support from individuals, industry, local governments, the State Transportation Authority, and the State of Texas. Two adverse comments letters were received from environmental groups. In August 1994, three environmental groups (Natural Resources Defense Council, Sierra Club, and Environmental Defense Fund (NRDC, et al.)) submitted joint adverse comments that addressed EPA's general policy regarding NO_X exemptions. The commenters requested that these comments be included in the docket for all EPA rulemakings on NO_X exemptions. The EPA responded to these comments in its earlier final rulemaking approving a temporary section 182(f) NO_X exemption for the Houston/Galveston and Beaumont/Port Arthur areas. Please refer to 60 FR 19515 (April 19, 1995) for this discussion. The EPA incorporates these responses herein and will not reiterate

our response in this notice. Responses to comments received recently follow.

Comment: One commenter indicated that comments had been submitted previously during the comment period for the temporary exemption and requested that those comments be reconsidered. Those comments generally addressed issues concerning SIP submittals, modeling accuracy, transport, and the legal basis for the approval.

Response: EPA responded to these comments in the response to comments contained in the final approval of the temporary exemption for HGA and BPA and disagreed with the comments. It is EPA's position that the previous responses remain valid. Please refer to 60 FR at 19516–19521 for a complete discussion of all comments and responses to comments relating to the approval of the temporary exemption.

Comment: Both commenters felt that the UAM computer modeling was not sufficiently accurate to allow good predictions of air quality.

Response: The EPA disagrees with the comment that the UAM demonstration was insufficient to allow good predictions of air quality. Since a large number of factors influence ozone formation, the EPA agrees that no models, including the UAM, can predict precisely the exact relationship between VOC, NO_X, and ozone. However, Congress clearly intended that photochemical grid modeling be used for ozone air quality planning purposes in serious and above nonattainment areas. As noted in the EPA's December 1993, guidance, UAM results are acceptable for the purpose of the section 182(f) demonstrations and application of UAM should be consistent with the techniques specified in EPA's ''Guidelines on Air Quality Models (Revised).'' The UAM modeling utilized by Texas met these criteria.

Comment: One commenter stated that since UAM modeling by the TNRCC cannot be replicated as evidence it is inherently flawed.

Response: The EPA disagrees with the comment that TNRCC UAM cannot be replicated. Realizing that the UAM is the most complex model released to the States for regulatory use, EPA requires States to submit sufficient information for EPA and public review to ensure that the modeling is technically correct. To facilitate review of modeling by the EPA and the public, making data accessible to the public and EPA is one of seven components required in EPA's *Guidance on the UAM Reporting Requirements for Attainment Demonstrations.* Although the data files are not required as part of the submittal, the State is still required to make available all UAM files used in the model performance and attainment simulations to EPA and the public at any time. This enables EPA or interested parties to replicate model performance and attainment simulation results if desired. No modeling was conducted by EPA to replicate TNRCC's results since the protocol was consistent with EPA guidance. With the submitted technical documentation summarizing the modeling process, assumptions, and results, and with additional data available from the State, it is EPA's position that TNRCC's UAM modeling can be replicated.

Comment: One commenter stated that model performance was believed partly successful in only one episode.

Response: The EPA disagrees with this comment. The EPA's UAM guidance recommends that three primary episode days should be simulated, and that primary episode days are to be selected from the predominant meteorological regimes (e.g., three meteorological regimes, each containing one primary day, or two meteorological regimes with at least two primary days from one of those regimes). For the purpose of a temporary NO_X exemption, Texas did model three episodes. However, only two episodes had an adequate model performance. Although only two of the three episodes modeled achieved adequate performance, this is consistent with EPA guidance. Thus, two episodes are acceptable for the purposes of a temporary exemption since they comprised five days of ozone exceedances and covered several of the predominant meteorological regimes under which ozone exceedences typically occur in the Gulf Coast.

Comment: One commenter stated that the inventory was uncertain and questioned the magnitude of error in the inventory.

Response: The EPA disagrees with the comment that the emissions inventories are too uncertain to produce acceptable modeling results. In the HGA and BPA modeling exercises, TNRCC followed the EPA procedures for developing episode-specific emission inventories. In addition, the modeling inventories, which were developed for all three episodes, were based on the 1990 base-year emission inventories in accordance with EPA's UAM guidance. The EPA evaluated the State's 1990 base-year emission inventories and a final approval of the inventories was published in the FR on November 8, 1994 (59 FR 55588).

Comment: One commenter stated that the proposed submittal of new modeling was to be conducted with a now-disapproved model.

Response: The EPA disagrees that the State used a now-disapproved model. The modeling for the original exemption was conducted with UAM–IV, which is still the EPA-approved regulatory model. However, the state is planning to use UAM–V to conduct its additional modeling. Under EPA's modeling guidelines EPA can approve the use of UAM–V as an acceptable alternative to UAM–IV if the State requests permission to use it and, among other things, the state demonstrates that it performs better than UAM–IV. If these conditions are met, then EPA will grant permission. In addition, UAM–V has been used in regulatory ozone attainment demonstrations for a number of areas. Thus, a decision by EPA to approve the use of UAM–V is not a determination that UAM–IV is unacceptable or somehow ''disapproved'', nor that conclusions obtained through its use have been invalidated.

Comment: One commenter stated that downwind transport from Houston is responsible for air quality problems in other areas of Texas and that UAM is limited in estimating regional ozone air quality.

Response: The EPA agrees that Texas' UAM analysis is only designed to estimate air quality over an urban airshed area, such as the Houston/Galveston and Beaumont/Port Arthur areas, and 11 neighboring counties. The analysis is not designed to assess regional impacts, and, therefore, cannot verify whether downwind transport from Houston is affecting air quality in other areas. Other commenters have also argued that waiver of NO_X control requirements is unlawful if such a waiver would impede attainment and maintenance of the ozone standard in downwind areas.

As a result of these comments, EPA reevaluated its position on this issue and has revised previously issued guidance. See Memorandum, ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria,'' dated February 8, 1995, from John Seitz. As described in this memorandum, EPA intends to use its authority under section 110(a)(2)(D) to require a State to reduce NO_X emissions from stationary and/or mobile sources where there is evidence, such as photochemical grid modeling, showing that the NO_X emissions would contribute significantly to nonattainment in, or interfere with maintenance by, any other State or in another nonattainment area within the same State. This action would be

independent of any action taken by EPA on a NO_X exemption request under section 182(f). That is, EPA's action to grant or deny a NO_X exemption request under section 182(f) for any area would not shield that area from EPA's action to require NO_X emission reductions, if necessary, under section 110(a)(2)(D).

Modeling analyses are underway or will soon be conducted in many areas for the attainment demonstration SIP revisions required pursuant to section 182(c)(2)(A). Recent modeling data suggest that certain ozone nonattainment areas may benefit from reductions in NO_X emissions upwind of the nonattainment areas. For example, the Northeast Corridor States and the Lake Michigan Ozone Study are considering attainment strategies which may rely, in part, on NO_X emission reductions hundreds of kilometers upwind. The EPA is working with the States and other organizations to design and complete studies which consider upwind sources and quantify their impacts. As the studies progress, EPA will continue to work with the States and other organizations to develop mutually acceptable attainment strategies.

At the same time as the large scale modeling analyses are being conducted, States have requested exemptions from NO_X requirements under section 182(f) for certain nonattainment areas in the modeling domains. Some of these nonattainment areas may impact downwind nonattainment areas. The EPA intends to address the transport issue under section 110(a)(2)(D), based on a regional modeling analysis.

Under section 182(f) of the Act, an exemption from NO_X requirements may be granted for nonattainment areas outside of an ozone transport region if EPA determines that ''additional reductions of (NO_X) would not contribute to attainment of the national ambient air quality standard for ozone in the area.'' [1] As described in section 4.3 of the December 13, 1993, EPA guidance document, ''Guideline for Determining the Applicability of Nitrogen Oxides Requirements Under Section 182(f),'' EPA encourages, but does not require, States/petitioners to consider the impacts on the entire modeling domain since the effects of an attainment strategy may extend beyond a designated nonattainment area. Specifically, the guidance encourages States to consider imposition of the NO_X requirements if needed to avoid adverse impacts in downwind areas, either intra- or interstate. States need to consider such impacts since they are ultimately responsible for achieving attainment in all portions of their State and for ensuring that emissions originating in their State do not contribute significantly to nonattainment in, or interfere with maintenance by, any other State. *See* section 110(a)(2)(D)(i)(I) of the Act.

In contrast, section 4.4 of the December 16, 1993, guidance states that the section 182(f) demonstration would not be approved if there is evidence, such as photochemical grid modeling, showing that the NO_X exemption would interfere with attainment or maintenance in downwind areas. The guidance further explains that section 110(a)(2)(D) (not section 182(f)) prohibits such impacts. Consistent with section 4.3 of the guidance, the EPA believes that the section 110(a)(2)(D) and 182(f) provisions must be considered independently, and hence, has revised section 4.4 of the December 16, 1993, guidance document. Thus, if there is evidence that NO_X emissions in an upwind area would interfere with attainment or maintenance in a downwind area, that problem will be separately addressed by EPA in a section 110(a)(2)(D) action. However, there has been no such determination made with respect to the HGA/BPA areas at issue here.

The State of Texas is being included in one of the new modeling analyses referred to above that is being conducted by EPA, States, and other agencies as part of the Ozone Transport Assessment Group (OTAG). The OTAG process is a consultative process among 37 States and EPA. The OTAG process will evaluate regional and national emission control strategies using improved regional modeling analyses. The goal of the OTAG process is to reach consensus on additional regional and national emission reductions that are needed to support efforts to attain the ozone standard throughout the eastern United States. Some States have committed to submit plans (SIP revisions), upon completion of the OTAG process, that demonstrate attainment of the ozone standard through local, regional, and national emission controls.

As noted in a prior EPA rulemaking dated November 28, 1994 (59 FR 60709), all NO_X waivers are approved on a contingent basis. The waiver applies only so long as air quality analyses, such as from additional ozone modeling, in an exempted area continue to show NO_X reductions are detrimental or would not contribute to attainment of the ozone NAAQS. Therefore, if future air quality analysis shows that NO_X reductions are beneficial in reducing ozone, the State will have to implement necessary NO_X controls.

Comment: One commenter objected to the extension based on concerns for adverse health effects that may be caused by NO_X concentrations in Houston.

Response: There is currently a national health standard for NO_2 and all portions of the Houston/Galveston and Beaumont/Port Arthur areas meet that standard. In addition, the modeling projected growth to 1999 and still demonstrated that NO_2 reductions would not contribute to attaining the ozone NAAQS.

Comment: One commenter stated that there are disproportionate population impacts of ozone air pollution in the Houston area.

Response: The EPA is vitally concerned that good air quality is available to all residents of an area. Air quality standards are set on an area-wide basis to attempt to ensure that no one segment of the population is treated disproportionately. Concerning the specific subject of this rulemaking, NO_X contributions as an ozone precursor, UAM has shown that NO_X controls would not improve (and, in fact, may worsen) the ozone problem in the Houston area and thus, would not be beneficial to the residents of the Houston area. Therefore, the available evidence indicates that approving the extension will benefit the residents of the area.

Comment: One commenter stated that there are parallels between the Louisiana industrial corridor and the Houston/Galveston industrial corridor regarding toxics releases, environmental equity, and NO_X emissions.

Response: The EPA has conducted a study of the toxics impacts in the lower Mississippi River industrial corridor (*Toxics Release Inventory & Emission Reductions 1987–1990 in the Lower Mississippi River Industrial Corridor,* U.S. EPA, May 14, 1993). The conclusions from that study did not identify NO_X as a problem in the lower Mississippi River industrial corridor.

[1] There are three NO_X exemption tests specified in section 182(f). Of these, two are applicable for areas outside of an ozone transport region: the ''contribute to attainment'' test described above, and the ''net air quality benefits'' test. The EPA must determine, under the latter test, that the net benefits to air quality in an area ''are greater in the absence of NO_X reductions'' from relevant sources. Based on the plain language of section 182(f), EPA believes that each test provides an independent basis for receiving a full or limited NO_X exemption. Consequently, as stated in section 1.4 of the December 16, 1993, EPA guidance, ''[w]here any one of the tests is met (even if another test is failed), the section 182(f) NO_X requirements would not apply or, under the excess reductions provision, a portion of these requirements would not apply.''

Moreover, the Act provides in section 182(f) for NO_X to be addressed independently as an ozone precursor pollutant for exemption purposes. Therefore, since section 182(f) does not require toxics impacts analysis, it would be inappropriate to consider the effect of toxics emissions for NO_X exemption purposes.

In addition, the State of Louisiana submitted a petition and a SIP to EPA requesting a section 182(f) and 182(b) NO_X exemption for the Baton Rouge nonattainment area. The requests were based on UAM modeling which satisfied all of EPA's requirements. The results of the modeling indicated that NO_X controls would be a disbenefit to area residents since they would cause an increase in ozone levels. The requests were approved at 61 FR 2438, January 26, 1996, and 61 FR 7218, February 27, 1996.

Since there are no other ozone nonattainment areas in the lower Mississippi River industrial corridor and the Baton Rouge area has received a NO_X exemption, EPA does not agree with the comment comparing Texas' NO_X emissions disfavorably to those in the Lower Mississippi River industrial corridor.

The environmental equity issues were discussed in the previous response to comments.

III. Effective Date

This rulemaking is effective as of May 23, 1997. The Administrative Procedure Act 5 U.S.C. 553(d)(1), permits the effective date of a substantative rule to be less than thirty days after the publication of the rule if the rule ''relieves a restriction.'' Since the approval of the extension to the section 182(f) and 182(b) exemptions for the HGA and BPA areas is a substantative rule that relieves the restrictions associated with the Act title I requirements to control NO_X emissions, the NO_X exemption extension approval may be made effective upon publication in the **Federal Register**.

IV. Final Action

The EPA is taking final action to approve the petition submitted by the State of Texas for an extension of the temporary NO_X exemption for the HGA and BPA ozone nonattainment areas from December 31, 1996, to December 31, 1997. The extension will expire on December 31, 1997, without further notice from EPA. The extension applies to NO_X RACT, NSR, and certain I/M, general and transportation conformity NO_X requirements.

The State previously adopted and submitted to EPA complete NO_X RACT, NSR, I/M, and conformity rules. Along with the exemption extension submittal, NO_X RACT rules providing for extending the current implementation date, were resubmitted. During the extension of the temporary exemption period, EPA will not act upon the State's NO_X RACT rules. The EPA plans to act upon the State's NSR, I/M, and general and transportation conformity NO_X submissions in separate rulemaking actions because those submissions are contained in broader rules that also control VOC emissions.

Upon the expiration of the extension to the temporary exemption on December 31, 1997, the State is required to either: (1) Have received an additional extension to the temporary NO_X exemption or a contingent exemption from EPA prior to that time; or (2) begin implementing the State's NO_X RACT, NSR, I/M, general and transportation conformity requirements, with NO_X RACT compliance required as expeditiously as practicable but no later than May 31, 1999. The EPA will begin rulemaking on the NO_X RACT SIP upon the expiration of the extension to the temporary exemption if the State has not received an additional temporary extension or a contingent exemption by that time.

Since the original temporary exemption and this one-year extension are based on preliminary modeling, and additional time is being granted to allow for conducting modeling with improved data from the COAST study, any future petition for a further NO_X extension or new exemption, to be technically valid, must be accompanied by UAM modeling based on the COAST data and be submitted in time for EPA to take action prior to the expiration of the temporary exemption. Preliminary modeling cannot be used as a basis for any further extensions or a new exemption. In addition, a further two-year extension of the NO_X RACT compliance date based on the preliminary modeling would not be approvable since it would extend the date beyond 1999, the last year included in the preliminary modeling.

Other specific requirements that would reapply upon expiration are: (1) Any NSR permits that had not been deemed complete prior to January 1, 1998, must comply with the NO_X NSR requirements, consistent with the policy set forth in the EPA's NSR Supplemental Guidance memo dated September 3, 1992, from John Seitz, Director, EPA's Office of Air Quality Planning and Standards; (2) any conformity determination (for either a new or revised transportation plan and Transportation Improvement Program) made after January 1, 1998, must comply with the NO_X conformity requirements; and (3) any I/M vehicle inspection made after January 1, 1998, must comply with the I/M NO_X requirements.

V. Regulatory Action

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

VI Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table 1 action for signature by the 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 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. *See* 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.

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

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995, 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.

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 22, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: May 14, 1997.

Carol M. Browner,

Administrator.

40 CFR part 52 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 SS—Texas

2. Section 52.2308 is amended by adding paragraph (e) to read as follows:

§ 52.2308 Area-wide nitrogen oxides (NO_X) exemptions.

* * * * *

(e) The TNRCC submitted to EPA on March 6, 1996, a petition requesting that the Houston/Galveston and Beaumont/Port Arthur ozone nonattainment areas be granted an extension to a previously-granted temporary exemption from the NO_X control requirements of sections 182(f) and 182(b) of the Clean Air Act. The temporary exemption was granted on April 19, 1995. The current petition is based on the need for more time to complete UAM to confirm the need for, and the extent of, NO_X controls required. On May 23, 1997, EPA approved the State's request for an extension to the temporary exemption. The temporary extension automatically expires on December 31, 1997, without further notice from EPA. Upon expiration of the extension, the requirements pertaining to NO_X RACT, NSR, I/M, general and transportation conformity will become applicable, except that the NO_X RACT compliance date shall be implemented as expeditiously as practicable, but no later than May 31, 1999, unless the State has received a contingent NO_X exemption from the EPA prior to that time.

[FR Doc. 97–13655 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[IN53–2; FRL–5829–5]

40 CFR Part 52

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; withdrawal.

SUMMARY: On April 3, 1997 (62 FR 15844), the EPA approved Indiana's June 26, 1995, submittal of a Rate-Of-Progress (ROP) plan to reduce Volatile Organic Compounds (VOC) emissions in Lake and Porter Counties by 15 percent (%) by November 15, 1996, a contingency plan to reduce VOC emissions by an additional 3% beyond the ROP plan, and an Indiana Agreed Order requiring VOC emission controls on Keil Chemical Division, Ferro Corporation, as revisions to the Indiana State Implementation Plan (SIP). The EPA is withdrawing this final rule due to adverse comments received on May 5, 1997, from Ferro Corporation. In a subsequent final rule EPA will summarize and respond to the comments received and announce final rulemaking action on this requested Indiana SIP revision.

EFFECTIVE DATE: May 23, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 5, Air Programs Branch, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Mark J. Palermo, Environmental Protection Specialist, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Telephone: (312) 886–6082.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Incorporation by reference, Ozone.

Dated: May 8, 1997.

David A. Ullrich,

Acting Regional Administrator.

Therefore the amendments to 40 CFR part 52 which added §§ I0452.770(c)(112) 52. 777(k) and 52.777(l) are withdrawn.

[FR Doc. 97–13651 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300496; FRL–5719–8]

RIN 2070–AB78

Cyclanilide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the plant growth regulator, cyclanilide, in or on the food commodities cottonseed, cotton gin byproducts, milk, fat, meat, meat by-products, and kidney of cattle, goats, horses, hogs and sheep. Rhone-Poulenc Ag Company submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of 1996 (Pub. L. 104-170) requesting the tolerances.

DATES: This regulation becomes effective May 23, 1997. Written objections and requests for hearings must be received on or before July 22, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300496], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Information and Records Integrity Branch, Information Resources and Services (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP–300496]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Team Leader (22), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number and e-mail address: Room 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–305–7740). e-mail: giles-parker.cynthia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 23, 1996 (61 FR 67544)(FRL–5577–1), EPA issued a notice pursuant to section 408(d)of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), announcing the filing of a pesticide tolerance petition (PP 6F4643) by Rhone-Poulenc AG Company, P.O. Box 12014, Research Triangle Park, NC 27709 to EPA requesting that the Administrator amend 40 CFR part 180 by establishing tolerances for residues of the plant growth regulator, cyclanilide [1-(2,4-dichlorophenylaminocarbonyl)-cyclopropane carboxylic acid] determined as 2,4-dichloroaniline (calculated as cyclanilide) in or on the food commodities cottonseed at 0.60 parts per million (ppm); cotton gin byproducts at 25.0 ppm; milk at 0.04 ppm; fat of cattle, goats, horses, hogs and sheep at 0.10 ppm; meat of cattle, goats, horses, hogs and sheep at 0.02 ppm; meat by-products (except kidney) of cattle, goats, horses, hogs and sheep at 0.20 ppm; and kidney of cattle, goats, horses, hogs and sheep at 2.0 ppm. There were no comments received in response to the notice of filing.

I. Statutory Background

Section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq*., as amended by the Food Quality Protection Act of 1996, Pub. L. 104-170) authorizes the establishment of tolerances (maximum residue levels), exemptions from the requirement of a tolerance, modifications in tolerances, and revocation of tolerances for residues of pesticide chemicals in or on food commodities and processed foods. Without a tolerance or exemption, food containing pesticide residues is considered to be unsafe and therefore ''adulterated'' under section 402(a) of the FFDCA, and hence may not legally be moved in interstate commerce. For a pesticide to be sold and distributed, the pesticide must not only have appropriate tolerances under the FFDCA, but also must be registered under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136 *et seq*.).

Section 408 was substantially amended by the Food Quality Protection Act of 1996 (FQPA). Among other things, the FQPA amends the FFDCA to bring all EPA pesticide tolerance-setting activities under a new section 408 with a new safety standard and new procedures. New section 408(b)(2)(A)(i) allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through food, drinking water, and from pesticide use in gardens, lawns, or buildings (residential and other indoor uses) but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

II. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. Second, EPA examines exposure to the pesticide through the diet (e.g., food and drinking water) and through exposures that occur as a result of pesticide use in residential settings.

A. Toxicity

1. *Threshold and non-threshold effects.* For many animal studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects

(the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold margin of exposure is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short-term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or margin of exposure (MOE) calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

2. *Differences in toxic effect due to exposure duration.* The toxicological effects of a pesticide can vary with different exposure durations. EPA considers the entire toxicity data base, and based on the effects seen for different durations and routes of exposure, determines which risk assessments should be done to assure that the public is adequately protected from any pesticide exposure scenario. Both short and long durations of exposure are always considered. Typically, risk assessments include ''acute'', ''short-term'', ''intermediate term'', and ''chronic''. These assessments are defined by the Agency as follows.

i. *Acute risk.* Acute risk, by the Agency's definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to the pesticide residues. High end exposure to food and water residues are typically assumed.

ii. *Short-term risk.* Short-term risk results from exposure to the pesticide for a period of 1 to 7 days, and therefore overlaps with the acute risk assessment. Historically, this risk assessment was intended to address primarily dermal and inhalation exposure which could result, for example, from residential pesticide applications. However, since enaction of FQPA, this assessment has been expanded to include both dietary and non-dietary sources of exposure, and will typically consider exposure from food, water, and residential uses when reliable data are available. In this assessment, risks from average food and water exposure, and high-end residential exposure, are aggregated. High-end exposures from all three sources are not typically added because of the very low probability of this occurring in most cases, and because the other conservative assumptions built into the assessment assure adequate protection of public health. However, for cases in which high-end exposure can reasonably be expected from multiple sources (e.g. frequent and widespread homeowner use in a specific geographical area), multiple high-end risks will be aggregated and presented as part of the comprehensive risk assessment/characterization. Since the toxicological endpoint considered in this assessment reflects exposure over a period of at least 7 days, an additional degree of conservatism is built into the assessment; i.e., the risk assessment nominally covers 1 to 7 days exposure, and the toxicological endpoint/NOEL is selected to be adequate for at least 7 days of exposure. (Toxicity results at lower levels when the dosing duration is increased.)

iii. *Intermediate-term risk.* Intermediate-term risk results from exposure for 7 days to several months. This assessment is handled in a manner similar to the short-term risk assessment.

iv. *Chronic risk assessment.* Chronic risk assessment describes risk which could result from several months to a lifetime of exposure. For this assessment, risks are aggregated considering average exposure from all sources for representative population subgroups including infants and children.

B. Aggregate Exposure

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from Federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model

for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants < 1 year old) was not regionally based.

III. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by cyclanilide is discussed below.

1. *Acute toxicity.* The acute oral toxicity study resulted in a LD_{50} of 315 milligrams/kilogram (mg/kg) for males and 208 mg/kg for females. The acute dermal toxicity in rabbits resulted in an LD_{50} in either sex of greater than 2,000 mg/kg. The acute inhalation study in rats resulted in a LC_{50} greater than 2.64 mg/liter. In an acute oral neurotoxicity study in rats fed 0, 15, 50 and 150 mg/kg, the NOEL was 50 mg/kg and the LOEL was 150 mg/kg based on gait abnormalities, increased abdominal muscle tone, and slightly decreased motor activity test.

2. *Mutagenicity.* Cyclanilide was negative for mutagenic activity in the bacterial reverse mutation tests (duplicate tests), forward gene mutation (CHO/HGPRT) test and mouse micronucleus test (duplicate tests). Positive findings (clastogenicity) were seen in the *in vitro* chromosomal aberrations study with Chinese hamster ovary cells at high doses near the limit of cytotoxicity. Since cyclanilide caused liver toxicity in several studies, a confirmatory rat unscheduled DNA synthesis (UDS) test needs to be conducted with cyclanilide.

3. *Rat metabolism.* In the rat metabolism study radioactive cyclanilide was rapidly absorbed after oral administration. The principal route of elimination was by renal excretion of the parent compound and amino acid conjugates. Methylation was a minor metabolic pathway.

4. *Sub-chronic toxicity.* i. In a rat 90–day feeding study the No Observed Effect Level (NOEL) was 54.6 mg/kg/day for males and 62.4 mg/kg/day for females. The Lowest Observed Effect Level (LOEL) for males was 113.2 mg/kg/day and for females it was 121.4 mg/kg/day based on reductions in body weight, body weight gain, and food consumption, clinical signs, and increased liver weight in males and females.

ii. In a 90–day mouse feeding study the NOEL for males was 38 mg/kg/day and 43 mg/kg/day for females. The LOEL was 364 mg/kg/day for males and 416 mg/kg/day for females based on mortality, elevated alkaline phosphatase, increased absolute, relative liver weights, focal hepatocellular necrosis, and handling induced rigidity.

iii. In a 21–day rabbit dermal toxicity study the NOEL was equal or greater than 1,000 mg/kg/day. The LOEL was greater than 1,000 mg/kg/day.

iv. In a 90–day mammalian neurotoxicity study the NOEL for males was equal or greater than 78.6 mg/kg/day and for females was 4.0 mg/kg/day. The LOEL was greater than 78.6 mg/kg/day for males and was 35.8 mg/kg/day for females based on increased motor activity and decreased body weight.

5. *Chronic feeding toxicity and carcinogenicity.* i. In a 1–year feeding study in dogs fed diets containing 0, 40, 160, or 640 ppm (equivalent to 0, 1.5, 5.3, and 21.2 mg/kg/day for males and 0, 1.3, 5.2, and 21.5 mg/kg/day for females) the NOEL was 5.3 mg/kg/day for males and 5.2 mg/kg/day for females. The LOEL was 21.2 mg/kg/day for males and 21.5 mg/kg/day for females based on decreased body weight gain, elevated enzymes and gross and histopathological liver lesions.

ii. In a chronic feeding and carcinogenicity study in rats fed diets containing 0, 50, 150, 450, or 1,000 ppm (equivalent to 0, 2.0, 6.2, 18.9 and 43.1 mg/kg/day for males and 0, 2.6, 8.1, 25.5, and 58.6 mg/kg/day for females) the chronic NOEL was equal or greater than 43.1 mg/kg/day for males and was 8.1 mg/kg/day for females. The chronic LOEL was greater than 43.1 mg/kg/day for males and was 25.5 mg/kg/day for females based on decreased body weight gains and histopathological changes in liver. The study was negative for carcinogenicity.

iii. In a carcinogenicity study in mice fed diets containing 0, 50, 250, or 1,000 ppm (equivalent to 0, 8.4, 41.8, and 168 mg/kg/day for males and 0, 10.6, 52.4, and 206 mg/kg/day for females) the chronic NOEL was 41.8 mg/kg/day for males and was 52.4 mg/kg/day for females. The chronic LOEL was 168 mg/kg/day for males based on decreased weight gain and was 206 mg/kg/day for females based on decreased weight gain. The study was negative for carcinogenicity.

According to the new proposed guidelines for Carcinogen Risk Assessment (April, 1996), the appropriate descriptor for human carcinogenic potential of cyclanilide is ''Not Likely''. The appropriate subdescriptor is ''has been evaluated in at least two well conducted studies in two appropriate species without demonstrating carcinogenic effects''.

6. *Developmental toxicity.* i. In a developmental toxicity study in rats fed 0, 3, 10, and 30 mg/kg/day the maternal NOEL was 10 mg/kg/day and the maternal LOEL was 30 mg/kg/day based on decreased body weight gain and food consumption. The developmental NOEL was 30 mg/kg/day (Highest Dose Tested).

ii. In a developmental toxicity study in rabbits fed 0, 3, 10, and 30 mg/kg/day the maternal NOEL was 10 mg/kg/day and the maternal LOEL was 30 mg/kg/day based on wobbly gait, partial hindlimb paralysis and emaciation. The developmental NOEL was 30 mg/kg/day (Highest Dose Tested).

iii. In a 2 generation reproduction study in rats fed 0, 30, 300 or 1,000 ppm (equivalent to 0, 1.9, 19.0 or 64.1 mg/kg/day for P (Parental) Males; 0, 2.0. 20.2, or 70.4 mg/kg/day for F1 males; 0, 2.3, 21.8, or 84.5 mg/kg/day for P females; and 0, 2.4, 25.9, or 85.7 mg/kg/day for F1 females), the systemic NOEL was less than 2.0 mg/kg/day for males and less than 2.4 mg/kg/day for females. The systemic LOEL was 2.0 mg/kg/day for males based on reduced early post-weaning weight gains. The systemic NOEL for females was 2.4 mg/kg/day based on reduce early post-weaning body weight gains and increased renal mineralization. The reproduction NOEL is 2.3 mg/kg/day and the reproduction LOEL is 21.8 mg/kg/day based on decreased mean pup weight.

IV. Aggregate Exposures

1. *From food and feed uses.* The primary source for human exposure to cyclanilide will be from ingestion of both raw and processed agricultural commodities from cotton, milk, and meat. A DRES chronic exposure analysis was conducted using tolerance level residues and 100% crop treated information to estimate the Theoretical Maximum Residue Contribution (TMRC) for the general population and 22 subgroups.

2. *From potable water.* As a worst case screen, upper bound estimates (acute/chronic) of the concentration of cyclanilide that might be found in surface water have been calculated with the generic expected environmental concentrations (GENEEC) screening model program. For cotton, based on the assumption of one application aerially at the maximum application rate 0.25 lb active ingredient/acre), GENEEC calculates the peak (acute)

concentration in runoff water adjacent to the application area to be 8.4 ppb and the chronic concentration to be 7.7 ppb.

3. *From non-dietary uses.* There are no non-food uses of cyclanilide registered under the Federal Insecticide, Fungicide and Rodenticide Act, as amended. No non-dietary exposures are expected for the general population.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether cyclanilide has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, cyclanilide does not appear to produce a toxic metabolite produced by other substances. The Agency has determined that there are no metabolites of toxicological concern associated with cyclanilide. Cyclanilide appears to be the only know pesticide member of its class of chemistry and there are no reliable data to indicate that this chemical is structurally or toxicologically similar to existing chemical substances at this time. Therefore it appear unlikely that cyclanilide bears a common mechanism of activity with other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that cyclanilide has a common mechanism of toxicity with other substances.

V. Determination of Safety

A. Chronic Risk

The Reference Dose (RfD) for cyclanilide is 0.007 mg/kg/day. This value is based on the systemic LOEL of 30 ppm (2.0 mg/kg/day in males and 2.4 mg/kg/day in females) from the rat reproductive study. The NOEL was not achieved (less than 30 ppm the Lowest Dose Tested). Reduced body weights in young post-weaning F1 males and females and increased renal mineralization in adult F1 females were observed at this level. An Uncertainty Factor (UF) of 300 was applied to the LOEL based on an Uncertainty Factor of 100 to account for interspecies extrapolation and intraspecies variability and an additional Uncertainty Factor of 3 to account for the lack of a NOEL in the reproductive toxicity study.

The chronic analysis showed that exposure from the proposed new tolerances in or on cottonseed, cotton gin trash, milk, and meat for non-nursing infants (the subgroup with the highest exposure) would be 77% of the Reference Dose (RfD). The exposure for the general U.S. population would be 15% of the RfD. Based on the estimated exposures to cyclanilide from drinking water, the percentage of the RfD utilized for non-nursing infants (the subgroup with the highest exposure) would be 10% of the Reference Dose (RfD). The exposure for the general U.S. population would be 6% of the RfD. There is no established Maximum Concentration Level or Health Advisory Level for cyclanilide under the Safe Drinking Water Act. For the aggregate dietary exposures from food and drinking water, the percentage of the RfD utilized for non-nursing infants (the subgroup with the highest exposure) would be 91% of the Reference Dose (RfD). The exposure for the general U.S. population would be 21% of the RfD.

The analysis for cyclanilide is a worst case estimate of dietary exposure with all residues at tolerance levels and 100% of the commodities assumed to be treated with cyclanilide.

B. Acute Risk

An acute dietary analysis was conducted to determine the Margin of Exposure from how close the high end exposure comes to the lowest observed effect level of 150 mg/kg/day in the rat acute oral neurotoxicity study. Generally acute dietary margins of exposure greater than 100 tend to cause no dietary concern. The high end MOE for cyclanilide for all population subgroups was greater than 5,000 and is above the acceptable level and demonstrates no acute dietary concerns.

The Acute MOE for drinking water is estimated to be greater than 47,000 for all population subgroups. The acute dietary MOE greater than 100 indicates that there is not acute dietary risk concern from acute drinking water cyclanilide exposure.

The aggregate acute MOE for non-nursing infants (the subgroup with the highest exposure) would be greater than 8,000. The acute MOE for the general U.S. population would be greater than 11,000.

C. Conclusion

Based on these risk estimates EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to cyclanilide for consumers, including major identifiable subgroups and infants and children.

VI. Additional Safety Factor for Infants and Children

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure analysis or through using

uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. In either case, EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the no observed effect level in the animal study appropriate to the particular risk assessment. This hundredfold uncertainty (safety) factor/margin of exposure (safety) is designed to account for combined inter- and intra-species variability. EPA believes that reliable data support using the standard hundredfold margin/factor not the additional tenfold margin/factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard margin/factor.

An additional Uncertainty Factor of 10 was not used for cyclanilide because (1) the experimental data provided no indication of increased sensitivity of fetal animals to in utero exposure to cyclanilide or of neonates to pre-weaning exposure to cyclanilide; (2) the endpoint upon which the RfD was set, decreased body weight gain in young post-weaning rats, was observed in young, growing animals and therefore already considered the increased sensitivity of young animals in the determination for the LOEL; and (3) treatment related effects seen in other animals did not indicate potential pre or post-natal effects of concern to infants or small children. An additional safety factor of 3 was incorporated to account for the fact that a NOEL was not determined in the study used to establish the RfD.

VII. Other Considerations

1. *Endocrine effects.* No evidence of endocrine effects on the systems of mammals was reported in the toxicology studies described above. There was no observed pathology of the endocrine organs in these studies. There is no evidence at this time that cyclanilide causes endocrine effects.

2. *Metabolism in plants and animals.* The metabolism of cyclanilide in plants and animals is adequately understood for purposes of these tolerances. There are no Codex Alimentarius Commission (Codex) Maximum Residue Levels (MRLs) for cyclanilide. An adequate analytical method, gas chromatography with electron-capture detection, is available for enforcement purposes. Because of the long lead time from establishing these tolerances to publication of the enforcement methodology in the Pesticide Analytical Manual, Vol. II, the analytical methodology is being made available in the interim to anyone interested in pesticide enforcement when requested from: Calvin Furlow, Public Information Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Room 1130A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–305–5937).

VIII. Summary of Findings

The analysis for cyclanilide for all population subgroups examined by EPA shows the proposed uses on cotton will not cause exposure at which the Agency believes there is an appreciable risk.

Based on the information cited above, the Agency has determined that the establishment of the tolerances by amending 40 CFR part 180 will be safe; therefore, the tolerances are established as set forth below.

IX. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (1)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by July 22, 1997, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

X. Public Docket

A record has been established for this rulemaking under the docket number [OPP–300496] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rule-making record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in ''ADDRESSES'' at the beginning of this document.

XI. Regulatory Assessment Requirements

This final rule establishes a tolerance under section 408 of the FFDCA and is in response to a petition received by the Agency requesting the establishment of such a tolerance. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, because tolerances that are established on the basis of a petition under section 408(d) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rwule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Prior to the recent amendments to the FFDCA, however, EPA had treated such actions as subject to the RFA. The amendments to the FFDCA clarify that no proposed rule is required for such regulatory actions, which makes the RFA inapplicable to these actions. Nevertheless, the Agency has previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact (46 FR 24950, May 4, 1981). In accordance with Small Business Administration (SBA) policy, this determination will be provided to the Chief Counsel for Advocacy of the SBA upon request.

XII. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has 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 this rule in today's **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Recording and recordkeeping requirements.

Dated: May 16, 1997.

Stephen L. Johnson,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. By adding § 180.506 to read as follows:

§ 180.506 Cyclanilide; tolerances for residues.

(a) *General.* Tolerances are established for residues of the plant growth regulator, cyclanilide, [1-(2,4-dichlorophenylaminocarbonyl)-cyclopropane carboxylic acid] determined as 2,4-dichloroaniline (calculated as cyclanilide) in or on the following food commodities and processed feed:

Commodity	Parts Per Million
Cattle, fat	0.10
Cattle, meat	0.20
Cattle, mbyp (except kidney)	0.2
Cattle, kidney	2.0
Cottonseed	0.60
Cotton gin byproducts	25.0
Goats, fat	0.10
Goats, meat	0.20
Goats, mbyp (except kidney)	0.20
Goats, kidney	2.0
Horses, fat	0.10
Horses, meat	0.20
Horses, mbyp (except kidney)	0.20
Horses, kidney	2.0
Hogs, fat	0.10
Hogs, meat	0.20
Hogs, mbyp (except kidney)	0.20
Hogs, kidney	2.0
Milk	0.04
Sheep, fat	0.10
Sheep, meat	0.20
Sheep, mbyp (except kidney)	0.20
Sheep, kidney	2.0

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–13645 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300493; FRL–5718–5]

RIN 2070–AB78

Pendimethalin; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of the herbicide pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite (CL 202, 347) in or on fresh mint hay and mint oil in connection with EPA's granting an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on mint in Idaho, Oregon, South Dakota and Washington. These tolerances will expire and are revoked on May 31, 1998.

DATES: This regulation becomes effective May 23, 1997. Objections and requests for hearings must be received by EPA on or before July 22, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300493], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300493], must be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division, (7506C), Office of Pesticide Programs, Environmental

Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300493]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202. (703) 308–8337, e-mail: schaible.stephen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, on its own initiative, pursuant to section 408(e) and (l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e) and (l)(6), is establishing tolerances for the combined residues of the herbicide pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite (CL 202, 347), hereafter referred to in this document as pendimethalin, in or on fresh mint hay at 0.1 parts per million (ppm) and in or on mint oil at 5.0 ppm. These tolerances will expire and be revoked by EPA on May 31, 1998. After May 31, 1998, EPA will publish a document in the **Federal Register** removing the revoked tolerance from the Code of Federal Regulations.

I. Background and Statutory Authority

The Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) was signed into law August 3, 1996. FQPA amends both the FFDCA, 21 U.S.C. 301 et seq., and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under section 408 with a new safety standard and new procedures. These activities are described below and discussed in greater detail in the final rule establishing the time-limited tolerance associated with the emergency exemption for use of propiconazole on sorghum (61 CFR 58135, November 13, 1996) (FRL–5572–9).

New Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by FQPA. EPA has established regulations governing such emergency exemptions in 40 CFR part 166. Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment.

Because decisions on section 18-related tolerances must proceed before EPA reaches closure on several policy issues relating to interpretation and implementation of the FQPA, EPA does not intend for its actions on such tolerance to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions.

II. Emergency Exemption for Pendimethalin on Mint and FFDCA Tolerances

On March 3, 1997, the Idaho, Oregon, and Washington State Departments of Agriculture availed of themselves the authority to declare the existence of a crisis situation within their states, thereby authorizing use under FIFRA section 18 of pendimethalin on mint to control kochia (*Kochia scoparia*) and redroot pigweed (*Amaranthus retroflexus*). The South Dakota Department of Agriculture has since requested a specific exemption for the same use. Kochia and redroot pigweed have become serious pests for mint growers in these states. The loss of mechanical control as a weed control option (due to potential spread of Verticillium wilt by tillage equipment), lack of a satisfactory herbicide, and the presence of herbicide-resistant pigweed and kochia have all contributed to the development of this emergency condition. Additionally, the presence of these weeds in the harvested mint results in reduction in quality and price of the mint oil. Without effective control of these weeds, yield losses of up to 35% in these states are expected, resulting in significant economic losses to the mint growers.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of pendimethalin in or on mint. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. These tolerances will permit the marketing of mint treated in accordance with the provisions of the section 18 emergency exemption. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although these tolerances will expire and are revoked on May 31, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on mint hay and mint oil after that date will not be unlawful, provided the pesticide is applied during the term of, and in accordance with all the conditions of, section 18 of FIFRA. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

EPA has not made any decisions about whether pendimethalin meets EPA's registration requirements for use on mint or whether permanent tolerances for this use would be appropriate. These tolerances do not serve as a basis for registration of

pendimethalin by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any States other than Idaho, Oregon, South Dakota or Washington to use this pesticide on this crop under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for pendimethalin, contact the Agency's Registration Division at the address provided above.

III. Risk Assessment and Statutory Findings

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides based primarily on toxicological studies using laboratory animals. These studies address many adverse health effects, including (but not limited to) reproductive effects, developmental toxicity, toxicity to the nervous system, and carcinogenicity. For many of these studies, a dose response relationship can be determined, which provides a dose that causes adverse effects (threshold effects) and doses causing no observed effects (the ''no-observed effect level'' or ''NOEL'').

Once a study has been evaluated and the observed effects have been determined to be threshold effects, EPA generally divides the NOEL from the study with the lowest NOEL by an uncertainty factor (usually 100 or more) to determine the Reference Dose (RfD). The RfD is a level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. An uncertainty factor (sometimes called a ''safety factor'') of 100 is commonly used since it is assumed that people may be up to 10 times more sensitive to pesticides than the test animals, and that one person or subgroup of the population (such as infants and children) could be up to 10 times more sensitive to a pesticide than another. In addition, EPA assesses the potential risks to infants and children based on the weight of the evidence of the toxicology studies and determines whether an additional uncertainty factor is warranted. Thus, an aggregate daily exposure to a pesticide residue at or below the RfD (expressed as 100% or less of the RfD) is generally considered acceptable by EPA. EPA generally uses the RfD to evaluate the chronic risks posed by pesticide exposure. For shorter term risks, EPA calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. This hundredfold margin of exposure is based on the same rationale as the hundredfold uncertainty factor.

Lifetime feeding studies in two species of laboratory animals are conducted to screen pesticides for cancer effects. When evidence of increased cancer is noted in these studies, the Agency conducts a weight of the evidence review of all relevant toxicological data including short term and mutagenicity studies and structure activity relationship. Once a pesticide has been classified as a potential human carcinogen, different types of risk assessments (e.g., linear low dose extrapolations or margin of exposure calculation based on the appropriate NOEL) will be carried out based on the nature of the carcinogenic response and the Agency's knowledge of its mode of action.

In examining aggregate exposure, FFDCA section 408 requires that EPA take into account available and reliable information concerning exposure from the pesticide residue in the food in question, residues in other foods for which there are tolerances, residues in groundwater or surface water that is consumed as drinking water, and other non-occupational exposures through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Dietary exposure to residues of a pesticide in a food commodity are estimated by multiplying the average daily consumption of the food forms of that commodity by the tolerance level or the anticipated pesticide residue level. The Theoretical Maximum Residue Contribution (TMRC) is an estimate of the level of residues consumed daily if each food item contained pesticide residues equal to the tolerance. The TMRC is a ''worst case'' estimate since it is based on the assumptions that food contains pesticide residues at the tolerance level and that 100% of the crop is treated by pesticides that have established tolerances. If the TMRC exceeds the RfD or poses a lifetime cancer risk that is greater than approximately one in a million, EPA attempts to derive a more accurate exposure estimate for the pesticide by evaluating additional types of information (anticipated residue data and/or percent of crop treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

Percent of crop treated estimates are derived from Federal and private market survey data. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of percent of crop treated, the Agency is reasonably certain that exposure is not understated for any significant subpopulation group. Further, regional consumption information is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups, to pesticide residues. For this pesticide, the most highly exposed population subgroup (non-nursing infants <1 year old) was not regionally based.

IV. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. Pendimethalin is already registered by EPA for numerous food and feed uses, as well as residential use on ornamental lawns, grasses, ground covers, turf, and ornamental plantings. For the purpose of this emergency exemption, EPA has sufficient data to assess the hazards of pendimethalin and to make a determination on aggregate exposure, consistent with 408(b)(2), for time-limited tolerances for residues of pendimethalin on fresh mint (peppermint, spearmint) hay at 0.1 ppm and mint (peppermint, spearmint) oil at 5.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by pendimethalin are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, the Agency has determined that there are no toxicological endpoints of concern and that this risk assessment is not required.

2. *Short- and intermediate-term toxicity.* OPP has determined that short- and intermediate-term risk assessments are appropriate for non-occupational, non-dietary routes of exposure. OPP recommends that the NOEL of 10 milligrams per kilogram per day (mg/kg/day), taken from the 56–day thyroid function study in rats, be used for the

short and intermediate term MOE calculations. The lowest effect level (LEL) of 31 mg/kg/day from a 14–day intrathyroid metabolism study in rats was based on thyroid hormonal effects occurring as early as Day 3. Though these endpoints have been identified, no acceptable reliable exposure data to assess these potential risks are available at this time.

3. *Chronic toxicity.* The RfD of 0.1 mg/kg/day was established based on a combination of three studies in male rats: (i) A 56–day oral thyroid function study; (ii) a 92–day thyroid function study; and (iii) a 14–day intrathyroidal metabolism study. The NOEL was established at 10 mg/kg/day. The LOEL of 31 mg/kg/day was based on thyroid hormonal changes and histologic thyroid changes. An Uncertainty Factor (UF) of 100 was applied to account for both interspecies and intraspecies variability.

4. *Carcinogenicity.* Pendimethalin has been classified as a Group C, ''possible human carcinogen'', chemical by OPP, based on a statistically significant increased trend and pairwise comparison between the high dose group and controls for thyroid follicular cell adenomas in male and female rats. OPP recommends using the RfD approach for quantification of human risk. Therefore, the RfD is deemed protective of all chronic human health effects, including cancer.

B. Aggregate Exposure

Tolerances have been established (40 CFR 180.361) for the combined residues of pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite (CL 202, 347), in or on a variety of raw agricultural commodities at levels ranging from 0.05 ppm in rice grain to 0.1 ppm in corn, peanuts, soybeans and other commodities. The proposed time-limited tolerances are based on residue data provided with the section 18 submissions. There are no livestock feed items associated with this section 18 use, so no additional livestock dietary burden is expected.

For the purpose of assessing potential chronic dietary exposure from pendimethalin, EPA assumed tolerance level residues and 100% crop treated to estimate the Theoretical Maximum Residue Contribution (TMRC) for major identifiable subgroups of consumers, including infants and children, from the proposed and existing food uses of pendimethalin. The use of these assumptions results in a conservative dietary exposure assessment, which EPA takes into consideration when making a safety determination for the subject section 18 tolerances.

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from groundwater or surface water), and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses). Based on information in the Herbicide Handbook of the Weed Science Society of America (7th ed, 1994), pendimethalin has low solubility in water and strong absorption to soil. Pendimethalin is essentially immobile in all soil types, being strongly bound to organic matter and clay, thus minimizing its potential to runoff to surface water or leach to ground water.

No Maximum Concentration Level and no Health Advisory Level has been established for residues of pendimethalin in drinking water. Information in the Pesticides in Groundwater Database (EPA 734–12–92–001, 9/92) indicates that 1,405 wells were sampled for residues of pendimethalin. Detectable residues were reported (0.02 to 0.9 μ/L) in only 1% (14) of those sampled wells.

Because the Agency lacks sufficient water-related exposure data to complete a comprehensive drinking water risk assessment for many pesticides, EPA has commenced and nearly completed a process to identify a reasonable, yet conservative bounding figure for the potential contribution of water-related exposure to the aggregate risk posed by a pesticide. In developing the bounding figure, EPA estimated residue levels in water for a number of specific pesticides using various data sources. The Agency then applied the estimated residue levels, in conjunction with appropriate toxicological endpoints (RfD's or acute dietary NOEL's) and assumptions about body weight and consumption, to calculate, for each pesticide, the increment of aggregate risk contributed by consumption of contaminated water. While EPA has not yet pinpointed the appropriate bounding figure for exposure from contaminated water, the ranges the Agency is continuing to examine are all below the level that would cause exposure from pendimethalin to exceed the RfD if the tolerance being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with pendimethalin in water, even at the higher levels the Agency is considering as a conservative upper bound, would not prevent the Agency from determining that there is a reasonable certainty of no harm if the tolerance is granted.

Pendimethalin is currently registered for use on the following residential non-food sites: ornamental lawns, grasses, ground covers, turf, and ornamental plantings. While EPA does not consider that these types of outdoor residential uses constitute a chronic residential exposure scenario, EPA acknowledges that there may be short- and intermediate-term non-occupational exposure scenarios. OPP has identified toxicity endpoints for short- and intermediate-term residential risk assessment. However, no acceptable reliable exposure data to assess these potential risks are available at this time. Given the time-limited nature of this request, the need to make emergency exemption decisions quickly, and the significant scientific uncertainty at this time about how to aggregate non-occupational exposure with dietary exposure, the Agency will make its safety determination for these tolerances based on those factors which it can reasonably integrate into a risk assessment.

C. Cumulative Exposure to Substances with Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of

such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether pendimethalin has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, pendimethalin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that pendimethalin has a common mechanism of toxicity with other substances.

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to pendimethalin from food will utilize less than 1% of the RfD for the U.S. population. The major identifiable subgroup with the highest aggregate exposure is non-nursing infants less than 1 year old (discussed below). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to pendimethalin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to pendimethalin residues.

2. *Cancer risk.* Pendimethalin has been classified as a Group C, ''possible human carcinogen'', chemical by OPP; it is recommended that the RfD approach for quantification of human risk be used. Given that the RfD is considered protective of all chronic human health effects, including cancer, and that EPA does not expect aggregate exposure to the U.S. population to exceed 100% of the RfD, carcinogenicity resulting from aggregate exposure to pendimethalin residues is not of concern.

E. Aggregate Risks and Determination of Safety for Infants and Children

In assessing the potential for additional sensitivity of infants and children to residues of pendimethalin, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

The pre- and post-natal toxicology data base for pendimethalin is complete with respect to current toxicological data requirements. The data base does not indicate a potential for increased sensitivity from pre- and post-natal exposure.

No developmental toxicity was observed in either the rat or rabbit developmental toxicity studies, nor was there any evidence in the 2-generation toxicity study that there was developmental or reproductive toxicity at dose levels below those in which parental toxicity was observed. For rabbits, the developmental toxicity NOEL was > 60 mg/kg/day, at the highest dose tested (HDT). The maternal NOEL was > 60 mg/kg/day, based upon mortality observed at 125 mg/kg/day in a pilot study. For rats, there were no maternal or developmental effects at any dose level and the NOELs were ≥ 500 mg/kg/day, the highest dose tested.

In the 2-generation reproductive toxicity study in rats, the parental (systemic) NOEL could not be determined at the doses tested. The reproductive NOEL was 172 mg/kg/day. The reproductive LOEL of 346 mg/kg/day was based on decreased pup weight, which occurred in the presence of parental (systemic) toxicity at 346 mg/kg/day.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard margin of exposure and uncertainty factor (usually 100 for combined inter- and intra-species variability)) and not the additional tenfold margin of exposure/uncertainty factor when EPA has a complete database under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard margin of exposure/safety factor.

The reproductive NOEL of 172 mg/kg/day is seventeenfold higher than the NOEL of 10 mg/kg/day used for the RfD. Additionally, the reproductive LOEL occurred in the presence of parental (systemic) toxicity and there was no evidence of developmental toxicity in either the rat or the rabbit studies. Therefore, OPP concludes that these section 18 requests do not represent any unacceptable pre- or post-natal risk to infants and children.

Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to pendimethalin from food will utilize less than 2% of the RfD for infants and children. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to pendimethalin in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the RfD. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to pendimethalin residues.

V. Other Considerations

The nature of the residue in plants is adequately understood. The regulable residue in mint is pendimethalin and its 3,5-dinitrobenzyl alcohol metabolite (CL 202,347), as per 40 CFR 180.361(a). Adequate enforcement methodology, GC/ECD, is available in the Pesticide

Analytical Manual, Vol. II, to enforce the tolerance expression. The combined residues of pendimethalin plus its regulated metabolite (CL 202,347) are not expected to exceed 0.1 ppm in/on fresh mint (peppermint, spearmint) hay or 5.0 ppm in mint (peppermint, spearmint) oil as a result of these section 18 uses. There are no Codex, Canadian, or Mexican international residue limits established for residues of pendimethalin in/on mint.

VI. Conclusion

Therefore, tolerances in connection with the FIFRA section 18 emergency exemptions are established for residues of pendimethalin in fresh mint hay at 0.1 ppm and in mint oil at 5.0 ppm.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by July 22, 1997, file written objections to any aspect of this regulation (including the revocation provision) and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number [OPP–300493] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–300493]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

IX. Regulatory Assessment Requirements

This action finalizes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994), or require special OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, pursuant to the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact (46 FR 24950, May 4, 1981). In accordance with Small Business Administration (SBA) policy, this determination will be provided to the Chief Counsel for Advocacy of the SBA upon request.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has 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 this rule in today's **Federal Register**. This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 15, 1997.

Peter Caulkins,

Acting Director, Registration Divison, Office of Pesticide Programs.

Therefore, 40 CFR Chapter I is amended as follows:

PART 180 [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.361 is amended as follows:

i. In paragraph (a) by adding a paragraph heading.

ii. In paragraph (b) by transferring the entry in the table for ''Peanuts, hulls'' to the table in paragraph (a), and by revising the remainder of paragraph (b).

iii. In paragraph (c) by adding a paragraph heading.

iv. By adding and reserving paragraph (d).

§ 180.361 Pendimethalin, tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for residues of the herbicide pendimethalin in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the dates specified in the following table:

Commodity	Parts per million	Expiration/ Revocation Date
Mint hay, fresh	0.1 ppm	5/31/98
Mint oil	5.0 ppm	5/31/98

(c) *Tolerances with regional registrations.* * * *

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–13643 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300488/PP–6F04625; FRL–5716–9]

RIN 2070–AB78

Pelargonic Acid; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of pelargonic acid when used as an herbicide in or on all food commodities. Mycogen Corporation submitted a petition to EPA under the Federal Food, Drug and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act of l996 (FQPA) requesting the exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of this herbicide in or on all food commodities..

EFFECTIVE DATE: May 23, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300488/PP 6F04625], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket control number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically to the OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300488/PP 6F04625]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit VIII. of this preamble.

FOR FURTHER INFORMATION CONTACT: By mail: Mike Mendelsohn, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs, U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 5th Floor CS, 2800 Crystal Drive, Arlington, VA 22202, (703)–308–8715); email: mendelsohn.mike@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 24, 1997 (62 FR 3688)(FRL–5579–3), EPA issued a notice pursuant to section 408(d) of FFDCA, 21 U.S.C. 346a(d) announcing the filing of a pesticide petition for an exemption from the requirement of a tolerance by Mycogen Corporation, 4980 Carroll Canyon Rd., San Diego, CA 92121. The notice contained a summary of the petition prepared by the petitioner and this summary contained conclusions and arguments to support its conclusion that the petition complied with the FQPA (Pub. L. 104–170). The petition requested that 40 CFR 180.1159 be amended to exempt pelargonic acid from the requirement for a tolerance for all food commodities (formerly raw agricultural commodities).

There were no comments received in response to the notice of filing. The data submitted in the petition and other relevant material have been evaluated. The toxicology data listed below were considered in support of this exemption from the requirement of a tolerance.

I. Toxicological Profile

Pelargonic acid, at high dose levels, showed no significant effects in a 14 day feeding study, a chronic dermal study, and a developmental toxicity study. In addition, there was no mutagenicity in an *in vivo* mouse micronucleus assay nor in a *Salmonella* reverse gene mutation assay. Further, the purported mutation observed at cytotoxic levels with S9 activation in the mouse lymphoma assay was determined not relevant to dietary risk. The results of these studies were determined applicable to evaluate human risk and the validity, completeness, and reliability of the available data from the studies were considered.

A. Acute Toxicity

A battery of acute toxicity studies place technical pelargonic acid in the following Toxicity Categories: primary eye irritation (Toxicity Category II), primary dermal irritation (Toxicity Category II), oral toxicity (Toxicity Category IV), dermal and inhalation toxicity (Toxicity Category III). Based on the results from the sensitization test, pelargonic acid was not considered a dermal sensitizer. (MRID Nos. 438435–01, –02, –03, –04, –05, and –06)

B. Mutagenicity

Pelargonic acid was shown not to be mutagenic via the Ames test (*Salmonella*/reverse mutation assay) or the *in vivo* cytogenetics study using the micronucleus assay (MRID Nos. 436037–02, and –03). In a mouse lymphoma forward mutation assay, pelargonic acid induced a purported weak mutagenic response at levels greater than or equal to 50 g/ml in

mouse TK +/- lymphoma cells in the presence of S9 metabolic activation (MRID No. 436037–01). However, this event occurred in the presence of increasing toxicity and may indicate gross chromosomal changes or damage rather than actual mutational changes within the TK gene locus.

In the review of the blossom thinning tolerance exemption for pelargonic acid (40 CFR 180.1159), the Agency used the mouse lymphoma forward mutation assay mentioned above in the determination of acceptable exposure limits for the active ingredient. The Agency has reexamined that study along with related testing as part of the review for the present proposed tolerance. As a result of the second review, the Agency has determined that the sum of the toxicological information submitted in support of the pelargonic acid tolerance exemption shows that it is unnecessary to set dietary limits for the active ingredient based upon a mutagenicity endpoint.

C. Oral Toxicity

A 14–day range-finding oral toxicity study in rats (MRID No. 438435–07) showed no systemic toxicity with either sex at the highest dose tested, 20,000 ppm (1,834 mg/kg/day). Further, no adverse effects on survival, clinical signs, body weight gain, food consumption, hematology, clinical chemistry or gross pathology were observed. Three animals per sex per dose were tested and organ weights and histopathology data were not available. The Agency determined that a 90–day oral study was not necessary for dietary risk assessment due to the following factors:

1. The lack of effects at extremely high doses in the range finding study mentioned above. Further, it is doubtful that increasing the number of animals from 3 to 10 per sex per dose and adding histopathology data would alter the toxicology profile.

2. The nature of the pelargonic acid (i.e., fatty acid) and its ubiquity in nature.

3. The use of pelargonic acid as a food additive (21 CFR 172.515 and 21 CFR 173.315).

4. The results from the acute mammalian toxicology studies.

5. The unlikelihood of prolonged human exposure via the oral route due to the proposed use patterns (i.e., control weeds before planting and prior to harvesting, burndown weeds to facilitate harvest, harvest aid or desiccant to root and tuber vegetables, bulb vegetables or cotton, and blossom thinning in tree fruits)and that dietary exposure would be minimized via plant metabolism of pelargonic acid through oxidative degradation pathways common for fatty acids.

D. Chronic Dermal Toxicity

In a chronic toxicity/carcinogenicity study in mice (MRID No. 439618–01), which evaluated the effects of pelargonic acid following repeated dermal applications of 50 mg per mouse twice a week for 80 weeks, no treatment-related clinical signs of toxicity were observed at any dose level. For example, mean body weights were similar between treated and untreated control animals. Histopathology revealed no treatment-related non-neoplastic or neoplastic lesions either of the skin or the internal organs. Although classified as supplementary, the study does provide scientifically valid information and adequately assesses the chronic toxicity and the carcinogenic potential of pelargonic acid by the dermal route.

A 90–day dermal study was not deemed necessary for dietary risk assessment because no evidence of systemic toxicity or carcinogenicity were observed in mice following repeated dermal applications as well as limited exposure via the dermal route.

E. Developmental Toxicity

In a developmental toxicity study in rats (MRID No. 438435–08), treatment had no adverse effects on clinical signs, body weights, body weight gain, or food/water consumption. No fetal toxicity was observed between the treated or the untreated controls. Moreover, the mean number of viable fetuses, early or late resorptions, implantation sites, corpora lutea, pre- and post-implantation losses, sex ratios and fetal body weights were comparable to those of the control group. The no observed effect level (NOEL) for maternal and developmental toxicity was 1,500 mg/kg/day with the lowest oberved effect level (LOEL) greater than 1,500 mg/kg/day.

F. Metabolism in Plants and Animals

Pelargonic acid, commonly referred to as nonanoic acid, is a nine (9)-carbon straight-chain fatty acid found naturally in apples (224 ppb), in the skin of grapes (385 ppm), in grape pulp (143 ppm), and in other foods such as cheese and milk, rice, beans, oranges, and potatoes at levels of 10 to 100 ppm (MRID Nos. 429005–01, –02). The oxidative degradation of fatty acids, such as pelargonic acid, into two (2)–carbon fragments through enzymatically-catalyzed reactions is a well-documented central metabolic pathway in animals and plants.

Residue chemistry data were not required for a human health effects assessment of the subject active ingredient because of the lack of mammalian toxicity. Both available information concerning the dietary consumption patterns of consumers, and major identifiable subgroups of consumers including infants and children, and safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of food additives, are generally recognized as appropriate for the use of animal experimentation data were not evaluated because the lack of mammalian toxicity at high levels of exposure demonstrate the safety of the product at levels above possible maximum exposure levels.

II. Cumulative Effects

The Agency has considered available information on the cumulative effects of such residues and other substances that have a common mode of toxicity. These considerations included the cumulative effects on infants and children of such residues and other substances with a common mechanism of toxicity. Because there is no indication of mammalian toxicity to pelargonic acid, there are no cumulative effects.

III. Aggregate Exposures

The Agency has considered available information on the aggregate exposure levels of consumers (and major identifiable subgroups of consumers) to the pesticide chemical residue and to other related substances. These considerations include dietary exposure under the tolerance exemption and all other tolerances or exemptions in effect for the pesticide's chemical residue, and exposure from non-occupational sources.

Pelargonic acid is cleared by the Food and Drug Administration as a synthetic food flavoring agent (21 CFR 172.515), as an adjuvant, production aid and sanitizer to be used in contact with food (21 CFR 178.1010(b)), and in washing or to assist in lye peeling of fruits and vegetables (up to 1%) (21 CFR 173.315). Application of the end-use products will not directly contact edible portions of desirable food commodities. For pelargonic acid's use to control weeds before planting and as a blossom thinner in tree fruits, dietary exposure would be minimized via plant metabolism of pelargonic acid through oxidative degradation pathways common for fatty acids. For pelargonic acid's use as a harvest aid or desiccant to root and tuber vegetables, bulb vegetables, or cotton, dietary exposure is minimized by the 24–hour pre-harvest interval, via

plant metabolism of pelargonic acid through oxidative degradation pathways common for fatty acids, and the fact that pelargonic acid is not systemic. For pelargonic acid's use in controlling weeds prior to harvesting and burndown of weeds to facilitate harvest, any residues on food commodities will occur primarily as a result of spray drift. In an effort to estimate the worst case dietary exposure due to spray drift, Mycogen used the application of pelargonic acid between grape vine rows as a model (MRID No. 438435–09). They estimated a worst case deposition of 10% of the pelargonic acid (not the diluted end-product) applied per acre with 2 applications at a maximum application rate of 42 lbs pelargonic acid per acre. Thus, they estimated a maximum application rate to grapes via spray drift of 8.4 lbs pelargonic acid/acre. Mycogen then went on to estimate the daily consumption level of pelargonic acid from treated grapes using the worst case scenario to be 0.397 mg/kg/day. The Agency agrees that this is a representative worst case and notes that this exposure dose is well below the highest daily feeding dose of 1,834 mg/kg/day (20,000 ppm) used in the 14–day oral range-finding study which showed no signs of toxicity or abnormalities. Exposure via the skin or inhalation route is possible through residential use of the herbicide product. Oral exposure may occur from ingestion of produce and drinking water.

IV. Safety Determination for U.S. Population, Infants and Children

A. Population in General

A determination of safety for the population in general has been made by the Agency due to the insignificant exposure expected beyond the naturally occurring background levels, the metabolism of fatty acids in mammalian systems, and the toxicology profile.

B. Infants and Children

A determination of safety for infants and children has been made by the Agency due to the insignificant exposure expected beyond the naturally occurring background levels, the metabolism of fatty acids in mammalian systems, and the toxicology profile. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of exposure (safety) for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of exposure (safety) will be safe for infants and children. In this instance, EPA believes there is reliable data to support the conclusion that pelargonic acid is not toxic to mammals, including infants and children, and thus there are no threshold effects of concern. As a result, the provision requiring an additional margin of exposure does not apply.

V. Endocrine Effects

EPA does not have any information on pelargonic acid regarding endocrine effects. The Agency is not requiring information on the endocrine effects of pelargonic acid or any other fatty acids at this time; Congress allowed 3 years after August 3, 1996, for the Agency to implement a screening and testing program with respect to endocrine effects.

VI. Conclusion

There is a reasonable certainty that no harm will result from aggregate exposure to the United States population, including infants and children, to pelargonic acid. As a result, EPA modifies the exemption from tolerance requirements for pelargonic acid as provided herein.

VII. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which governs the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by July 22, 1997, file written objections to any aspect of this regulation (including the automatic revocation provision) and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ADDRESSES section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VIII. Public Docket

EPA has established a record for this rulemaking under docket control number [OPP–300488] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which

will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

IX. Regulatory Assessment Requirements

This document finalizes an exemption from the tolerance requirement under section 408 of the FFDCA and therefore does not impose any other regulatory requirements. As such, the Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Since this final rule does not impose any requirements, it does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or require any other action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994),), or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency hereby certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This determination is based on the fact that this action does not impose any requirements and therefore does not have any adverse economic impacts. In accordance with Small Business Administration (SBA) policy, this determination will be provided to the Chief Counsel for Advocacy of the SBA upon request.

X. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the Agency has 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 this rule in today's **Federal Register**. This is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 6, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 346a and 371.

2. Section 180.1159 is revised to read as follows:

§ 180.1159 Pelargonic acid; exemption from the requirement of tolerances.

(a) Pelargonic acid is exempt from the requirement of a tolerance on tree fruits provided it is used as a blossom thinner only and is in a dilution of 100 gallons of water applied to blooms at a rate not to exceed 4.2 lbs/acre with the maximum number of applications not exceeding two per year.

(b) Pelargonic acid when used as an herbicide is exempt from the requirement of a tolerance on all plant food commodities provided that:

(1) Applications are not made directly to the food commodity except when used as a harvest aid or desiccant to: any root and tuber vegetable, bulb vegetable or cotton.

(2) When pelargonic acid is used as a harvest aid or desiccant, applications must be made no later than 24 hours prior to harvest.

[FR Doc. 97–13644 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[FRL–5827–1]

Underground Storage Tank Program: Approved State Program for Mississippi

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976, as amended (RCRA), authorizes the Environmental Protection Agency (EPA) to grant approval to states to operate their underground storage tank programs in lieu of the federal program. 40 CFR part 282 codifies EPA's decision to approve state programs and incorporates by reference those provisions of the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions. This rule codifies in part 282 the prior approval of Mississippi's underground storage tank program and incorporates by reference appropriate provisions of state statutes and regulations.

DATES: This regulation is effective July 22, 1997 , unless EPA publishes a prior Federal Register document withdrawing this immediate final rule. All comments on the codification of Mississippi's underground storage tank program must be received by the close of business June 23, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of July 22, 1997, in accordance with 5 U.S.C. 552(a).

ADDRESSES: Comments may be mailed to the Docket Clerk, U.S. EPA Region 4, Atlanta Federal Center, UST Section, 61 Forsyth Street, SW., Atlanta, GA 30303–3104. Comments received by EPA may be inspected in the public docket, located in the EPA Region 4 Library from 8 a.m. to 4:30 p.m., Monday through Friday, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: John Mason, U.S. EPA Region 4, Atlanta Federal Center, UST Section, 61 Forsyth Street, SW., Atlanta, GA 30303–3104. Phone: John Mason (404) 562–9441.

SUPPLEMENTARY INFORMATION:

Background

Section 9004 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6991c, allows the U.S. Environmental Protection Agency to approve state underground storage tank programs to operate in the state in lieu of the federal underground storage tank program. EPA published a **Federal Register** document announcing its decision to grant approval to Mississippi on June 11, 1990 (55 FR 23549). Approval was effective on July 11, 1990.

EPA codifies its approval of State programs in 40 CFR part 282 and incorporates by reference therein the state statutes and regulations that will be subject to EPA's inspection and enforcement authorities under sections

9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions. Today's rulemaking codifies EPA's approval of Mississippi's underground storage tank program. This codification reflects the state program in effect at the time EPA granted Mississippi approval under section 9004(a), 42 U.S.C. 6991c(a) for its underground storage tank program. Notice and opportunity for comment were provided earlier on the Agency's decision to approve the Mississippi program, and EPA is not now reopening that decision nor requesting comment on it.

This effort provides clear notice to the public of the scope of the approved program in each state. By codifying the approved Mississippi program and by amending the Code of Federal Regulations whenever a new or different set of requirements is approved in Mississippi, the status of federally approved requirements of the Mississippi program will be readily discernible. Only those provisions of the Mississippi underground storage tank program for which approval has been granted by EPA will be incorporated by reference for enforcement purposes.

To codify EPA's approval of Mississippi's underground storage tank program, EPA has added § 282.74 to title 40 of the CFR. Section 282.74 incorporates by reference for enforcement purposes the State's statutes and regulations. Section 282.74 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the underground storage tank program under subtitle I of RCRA.

The Agency retains the authority under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions in approved states. With respect to such an enforcement action, the Agency will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the state authorized analogues to these provisions. Therefore, the approved Mississippi enforcement authorities will not be incorporated by reference. Section 282.74 lists those approved Mississippi authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's underground storage tank program are not part of the federally approved state program. These non-approved provisions are not part of the RCRA subtitle I program because they are ''broader in scope'' than subtitle I of RCRA. See 40 CFR 281.12(a)(3)(ii). As a result, state provisions which are ''broader in scope'' than the federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.74 of the codification simply lists for reference and clarity the Mississippi statutory and regulatory provisions which are ''broader in scope'' than the federal program and which are not, therefore, part of the approved program being codified today. ''Broader in scope'' provisions cannot be enforced by EPA; the State, however, will continue to enforce such provisions.

Certification Under the Regulatory Flexibility Act

EPA has determined that this codification will not have a significant economic impact on a substantial number of small entities. Such small entities which own and/or operate USTs are already subject to the state requirements authorized by EPA under 40 CFR part 281. EPA's codification does not impose any additional burdens on these small entities. This is because EPA's codification would simply result in an administrative change, rather than a change in the substantive requirements imposed on small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this codification will not have a significant economic impact on a substantial number of small entities. This codification incorporates Mississippi's requirements which have been authorized by EPA under 40 CFR part 281 into the Code of Federal Regulations. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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).

Unfunded Mandates Reform Act

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 certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a ''Federal mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because it merely makes federally enforceable existing requirements with which regulated entities must already comply under State law. Second, the Act also generally excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program. The requirements being codified today are the result of Mississippi's voluntary participation in accordance with RCRA Subtitle I.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector because today's action merely codifies an existing State program that EPA previously authorized. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may own and/or operate USTs, this codification incorporates into the Code of Federal Regulations Mississippi's requirements which have

already been authorized by EPA under 40 CFR Part 281 and, thus, small governments are not subject to any additional significant or unique requirements by virtue of this codification.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects In 40 CFR Part 282

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Dated: May 8, 1997.

A. Stanley Meiburg,

Acting Regional Administrator, U.S. EPA Region 4.

For the reasons set forth in the preamble, 40 CFR part 282 is amended as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

1. The authority citation for part 282 is revised to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Subpart B—Approved State Programs

2. Subpart B is amended by adding § 282.74 to read as follows:

§ 282.74 Mississippi State-Administered Program.

(a) The State of Mississippi is approved to administer and enforce an underground storage tank program in lieu of the federal program under subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Mississippi Department of Environmental Quality, was approved by EPA pursuant to 42 U.S.C. 6991c and part 281 of this chapter. EPA approved the Mississippi program on June 11, 1990 and it was effective on July 11, 1990.

(b) Mississippi has primary responsibility for enforcing its underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under other statutory and regulatory provisions.

(c) To retain program approval, Mississippi must revise its approved program to adopt new changes to the federal subtitle I program which make it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Mississippi obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Mississippi has final approval for the following elements submitted to EPA in the State's program application for final approval and approved by EPA on June 11, 1990. Copies may be obtained from the Underground Storage Tank Program, Mississippi Department of Environmental Quality, 2380 Highway 80 West, Jackson, MS 39289–0385.

(1) *State statutes and regulations.* (i) The provisions cited in this paragraph are incorporated by reference as part of the underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(A) Mississippi Statutory Requirements Applicable to the Underground Storage Tank Program, 1996.

(B) Mississippi Regulatory Requirements Applicable to the Underground Storage Tank Program, 1996.

(ii) The following statutes and regulations are part of the approved state program, although not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Mississippi Code of 1972, Title 49, Sections 49–17–401 through 49–17–435, Underground Storage Tank Act of 1988, as amended.

49–17–415 Obligations of owners and operators of tanks; powers of commission or representatives
49–17–427 Proceedings before commission; penalties for violations of Sections 49–17–401 through 49–17–433
49–17–431 Appeal rights

(2) Mississippi Code of 1972, Title 49, Chapter 17, Pollution of Waters, Streams, and Air.

49–17–17 Powers and duties
49–17–27 Emergency orders; public notice of emergency situations
49–17–31 Proceedings before commission
49–17–33 Hearings
49–17–35 Request for hearing
49–17–41 Administrative appeals; appeals to chancery court; appeals to supreme court
49–17–43 Penalties

(3) Mississippi Code of 1972, Title 49, Chapter 2, Department of Environmental Quality.

49–2–9 Commission on Environmental Quality; powers and duties
49–2–13 Powers and duties of executive director

(4) Mississippi Code of 1972, Title 17, Chapter 17, Solid Wastes Disposal.

17–17–29 Penalties; injunction; recovery of cost of remedial action; disposition of fines

(B) The regulatory provisions include:

(1) Mississippi Groundwater Protection Trust Fund Regulations.

Section XX Enforcement Actions

(iii) The following statutory and regulatory provisions are broader in scope than the federal program, are not part of the approved program, and are not incorporated by reference herein for enforcement purposes.

(A) The statutory provisions include:

(1) Mississippi Code of 1972, Title 49, Sections 49–17–401 through 49–17–433, Underground Storage Tank Act of 1988.

49–17–429 Certification to install, alter or remove underground storage tanks

(B) The regulatory provisions include:

(1) Underground Storage Tank Regulations for the Certification of Persons who Install, Alter, and Remove Underground Storage Tanks.

Section I General Intent
Section II Legal Authority
Section III Definitions
Section IV Applicability
Section V General Requirements
Section VI Certification Requirements
Section VII Testing
Section VIII Certification
Section IX Certification Renewals
Section X Continuing Education
Section XI Lapsed Certification
Section XII Revocation, Denial, and Non-Renewal of Certificates
Section XIII Enforcement and Appeals
Section XIV Property Rights

(2) Mississippi Groundwater Protection Trust Fund Regulations.

Section IV Immediate Response Action Contractor (IRAC) Application Process
Section V IRAC Application Review
Section VI IRAC Performance Standards

Section VII Denial of IRAC Applications
Section VIII Removal from the Approved List of IRAC's
Section IX Engineering Response Action Contractor (ERAC) Application Process
Section X ERAC Submittal of Documentation Requested By the Department
Section XI ERAC Performance Standards
Section XII Removal from the Approved List of ERAC's
Section XIII Denial of ERAC Applications

(2) *Statement of legal authority.* (i) ''Attorney General's Statement for Final Approval'', signed by the State Attorney General on August 15, 1989, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(ii) Letter from the Attorney General of Mississippi to EPA, August 15, 1989, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application on August 14, 1989, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program Description.* The program description and any other material submitted as part of the original application on August 14, 1989, though not incorporated by reference, are referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 4 and the Mississippi Department of Environmental Quality, approved by the EPA Regional Administrator, as part of the delegation package which received final program approval on June 11, 1990, though not incorporated by reference, is referenced as part of the approved underground storage tank program under subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

3. Appendix A to Part 282 is amended by adding in alphabetical order ''Mississippi'' and its listings to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Mississippi

(a) The statutory provisions include:

1. Mississippi Code of 1972, Title 49, Sections 49–17–401 through 49–17–435, Underground Storage Tank Act of 1988, as amended.

49–17–401 Short title
49–17–403 Definitions
49–17–405 Groundwater protection fund; duties of executive director; liability of tank owners; limitation on provisions of chapter and section
49–17–407 Environmental protection fee on motor fuels; deposit of fees; limits on use of fund; third party claims
49–17–409 Reports of contamination incidents; no recourse against tank owner; exceptions
49–17–411 Compliance with regulations
49–17–413 Rules and Regulations
49–17–417 Groundwater protection advisory committee
49–17–419 Authority of commission to take timely and effective corrective action; use of funds from pollution emergency fund
49–17–421 Tank regulatory fee
49–17–423 Commission to administer funds from Leaking Underground Storage Tank Trust Fund
49–17–425 Disclosure of records, reports, and information
49–17–433 Savings clause
49–17–435 Annual report on status of underground storage tank program

(b) The regulatory provisions include:

1. Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks.

Subpart A—Program Scope and Interim Prohibition

280.10 Applicability
280.11 Interim Prohibition for deferred UST systems
280.12 Definitions

Subpart B—UST Systems: Design, Construction, Installation, and Notification

280.20 Performance standards for new UST systems
280.21 Upgrading of existing UST systems
280.22 Notification requirements

Subpart C—General Operating Requirements

280.30 Spill and overfill control
280.31 Operation and maintenance of corrosion protection
280.32 Compatibility
280.33 Repairs allowed
280.34 Reporting and recordkeeping

Subpart D—Release Detection

280.40 General requirements for all UST systems
280.41 Requirements for petroleum UST systems
280.42 Requirements for hazardous substance UST systems
280.43 Methods of release detection for tanks
280.43 Methods of release detection for piping
280.44 Release detection recordkeeping

Subpart E—Release Reporting, Investigation, and Confirmation

280.50 Reporting of suspected releases
280.51 Investigation due to off-site impacts
280.52 Release investigation and confirmation steps
280.53 Reporting and cleanup of spills and overfills

Subpart F—Release Response and Corrective Action for UST Systems Containing Petroleum or Hazardous Substances

280.60 General
280.61 Initial response
280.62 Initial abatement measures and site check
280.63 Initial site characterization
280.64 Free product removal
280.65 Investigations for soil and groundwater cleanup
280.66 Corrective action plan
280.67 Public participation

Subpart G—Out-of-Service UST Systems and Closure

280.70 Temporary closure
280.71 Permanent closure and changes-in-service
280.72 Assessing the site at closure or change-in-service
280.73 Applicability to previously closed UST systems
280.74 Closure records

2. Financial Responsibility Requirements for Underground Storage Tanks Containing Petroleum.

280.90 Applicability
280.91 Compliance dates
280.92 Definition of terms
280.93 Amount and scope of required financial responsibility
280.94 Allowable mechanisms and combinations of mechanisms
280.95 Financial test of self-insurance
280.96 Guarantee
280.97 Insurance and risk retention group coverage
280.98 Surety bond
280.99 Letter of credit
280.100 Use of state-required mechanism
280.101 State fund or other state assurance
280.102 Trust fund
280.103 Standby trust fund
280.104 Substitution of financial assurance mechanisms by owner or operator
280.105 Cancellation or nonrenewal by a provider of financial assurance
280.106 Reporting by owner or operator
280.107 Recordkeeping
280.108 Drawing on financial assurance mechanisms
280.109 Release from the requirements
280.110 Bankruptcy or other incapacity of owner or operator or provider of financial assurance
280.111 Replenishment of guarantees, letters of credit, or surety bonds

3. Mississippi Groundwater Protection Trust Fund Regulations.

Section I General Intent
Section II Legal Authority
Section III Definitions

Section XIV Eligibility for Reimbursement from the Mississippi Groundwater Protection Trust Fund
Section XV Reimbursable Costs
Section XVI Funds Disbursement
Section XVII Third Party Claims
Section XVIII Denial of Claims
Section XIX Tank Regulatory Fees
Section XXI Property Rights

* * * * *

[FR Doc. 97–13215 Filed 5–22–97; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42150C; FRL–5712–3]

RIN 2070–AB94

Testing Consent Order For Phenol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Removal of direct final rule.

SUMMARY: On January 17, 1997, EPA published a document (62 FR 2607) which, among other things, announced a testing consent order (Order) that incorporated an enforceable consent agreement (ECA) concluded between EPA and 14 specified companies. In the ECA, the companies agreed to perform certain health effects tests on phenol (CAS No. 108–95–2). In addition, the January 17 document included a direct final rule which added phenol to the list of chemicals subject to testing consent orders and hence subject to export notification requirements. This action was published without prior proposal. EPA has received adverse comment with respect to making entities that are not signatory to the ECA subject to export notification requirements for phenol. Accordingly, EPA is removing the export notification rule (but not the Order or the ECA) and intends to issue a proposed rule addressing the export notification issue.

EFFECTIVE DATE: May 23, 1997.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. E–543B, 401 M St., SW., Washington, DC 20460, (202) 554–1404, TDD (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov. For specific information regarding this removal, contact: Keith J. Cronin, Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–8157; fax: (202) 260–1096; email: cronin.keith@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: On January 17, 1997 (62 FR 2607), EPA published a document which, among other things, announced a testing consent order (Order) that incorporated an enforceable consent agreement (ECA) that was concluded, pursuant to section 4 of the Toxic Substances Control Act, between EPA and AlliedSignal Inc., Aristech Chemical Corporation, The Dow Chemical Company, Dakota Gasification Company, Georgia Gulf Corporation, General Electric Company, GIRSA, Inc., JLM Chemicals, Inc., Kalama Chemical, Inc., Merichem Company, Mitsubishi International Corporation, Mitsui Co. (U.S.A.), Inc., Shell Chemical Company, and Texaco Refining Marketing Inc. (collectively the Companies). In the ECA, the Companies agreed to perform certain health effects tests on phenol (CAS No. 108–95–2). In addition, the January 17 document included a direct final rule which would have added phenol to the list of chemical substances and mixtures in 40 CFR 799.5000 that are subject to testing consent orders and for which export notification is required under 40 CFR 799.19. This action, which would have made export notification requirements applicable to all exporters of phenol, was published without prior proposal in the **Federal Register**. However, EPA indicated that if the Agency received any adverse comments on the addition of phenol to the list of chemicals contained in 40 CFR 799.5000, EPA would withdraw the rule. Instead, EPA would issue a proposed rule addressing this issue and would provide a 30–day period for public comment.

EPA has received adverse comment with respect to the imposition of export notification requirements for phenol on exporters of phenol that are not signatory to the ECA. By this document, EPA is removing the export notification rule. EPA intends to issue a proposed rule addressing the export notification issue and provide a 30–day period for public comment. The removal of the rule does not affect the validity of either the Order or the ECA. The ECA includes testing requirements and export notification requirements which apply to the Companies.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Environmental protection, Hazardous substances, Health effects, Laboratories, Reporting and recordkeeping requirements, and Testing.

For the reasons set forth in the preamble, 40 CFR part 799 is amended as follows:

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

§ 799.5000 [Amended]

2. The table in § 799.5000 is amended by removing the entry for CAS Number 108–95–2, phenol.

Dated: May 5, 1997.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides, and Toxic Substances.

[FR Doc. 97–13646 Filed 5–22–97; 8:45 am]
BILLING CODE 6560–50–F

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–49

[FPMR Amendment H–194]

RIN 3090–AG45

Reporting Requirements for Foreign Gifts and Decorations

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: This regulation revises criteria for reporting foreign gifts and decorations to the General Services Administration (GSA) for disposal and provides for gifts below the minimal value set by GSA to be handled in accordance with employing agency regulations. This regulation also changes the period of time foreign gifts are made available for Federal agency transfer to 21 days. The revised regulation provides for more efficient control and administration of the foreign gifts and decorations program.

EFFECTIVE DATE: May 23, 1997.

FOR FURTHER INFORMATION CONTACT: Martha S. Caswell, Director, Personal Property Management Policy Division (MTP), 202–501–3828.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

Regulatory Flexibility Act: This rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

Paperwork Reduction Act: The reporting forms required by this regulation are not subject to the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). Therefore, the Paperwork Reduction Act does not apply. This rule also is exempt

from Congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 101–49

Decorations, medals, awards, Government property, Government property management.

For the reasons set forth in the preamble, 41 CFR Part 101–49 is amended to read as follows:

PART 101–49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS

1. The authority citation for Part 101–49 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)); sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

Subpart 101–49.2—Utilization of Foreign Gifts and Decorations

2. Section 101–49.201–1 is amended by adding paragraph (a)(11) as follows:

§ 101–49.201–1 Gifts and decorations required to be reported.

(a) * * *

(11) Each gift or decoration must indicate the Administration in which it was received (e.g., Clinton Administration).

* * * * *

3. Section 101–49.201–2 is amended by revising paragraph (a) to read as follows:

§ 101–49.201–2 Gifts and decorations not to be reported.

(a) The following gifts and decorations shall not be reported to GSA:

(1) Gifts and decorations returned to the donor;

(2) Gifts and decorations below the minimal value deposited by the employee recipient with the employing agency or retained by the employee recipient with the approval of the employing agency;

(3) Gifts and decorations above minimal value retained by the employing agency for official use, except upon termination of the official use;

(4) Intangible gifts, including checks, money orders, bonds, shares of stock, and other securities and negotiable instruments (see § 101–49.205);

(5) Cash, currency, and money, except those with possible historic or numismatic value (see § 101–49.205); and

(6) Gifts and decorations received by a Senator or an employee of the Senate disposed of by the Commission on Art and Antiquities of the United States (see § 101–49.106).

* * * * *

4. Section 101–49.202 is amended by revising paragraph (a) to read as follows:

§ 101–49.202 Transfers to other Federal agencies.

(a) Gifts and decorations will be made available for transfer for a period of 21 calendar days following receipt by GSA of the Standard Form 120 to activities specified in § 101–43.309–1. Transfers will be made as considered appropriate by GSA, generally on a first-come-first-served basis.

* * * * *

5. Section 101–49.203 is revised to read as follows:

§ 101–49.203 Costs incident to transfer.

All transfers of gifts and decorations will be made without reimbursement, except that direct costs incurred by the employing agency in actual packing, preparation for shipment, loading, and transportation may be recovered by the employing agency from the transferee agency if billed by the employing agency. (See § 101–43.310–1.)

Dated: May 7, 1997.

David J. Barram,

Acting Administrator of General Services.

[FR Doc. 97–13626 Filed 5–22–97; 8:45 am]

BILLING CODE 6820–24–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–267; FCC 97–68]

Implementation of the AM Expanded Band Allotment Plan

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of April 29, 1997, page 23176, a document concerning Implementation of the AM Expanded Band Allotment Plan, FCC 97–68. The Final Regulatory Flexibility Analysis was inadvertently omitted. This document corrects that error.

EFFECTIVE DATE: March 17, 1997.

FOR FURTHER INFORMATION CONTACT: Peter H. Doyle, Audio Services Division, Mass Media Bureau, (202) 418–2625.

SUPPLEMENTARY INFORMATION: The Final Regulatory Flexibility Analysis should have appeared on page 23176, in the second column, in the Supplementary Information following the first paragraph.

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act (RFA), 5 U.S.C. 603 (RFA) an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in Review of the Technical Assignment Criteria for the AM Broadcast Service, 5 FCC Rcd 4381 (1990) (Technical Assignment Criteria Rulemaking). The Commission sought written public comments on the proposals in Technical Assignment Criteria Rulemaking, including the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in Report and Order, Review of the Technical Assignment Criteria for the AM Broadcast Service, 6 FCC Rcd 6273 (1991) (Report and Order) was issued prior to enactment of the amendments to the RFA Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), which was enacted as Title II of the Contract With America Advancement Act of 1966 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996).[1] This FRFA is limited to matters raised in response to the Commission's action on reconsideration of Report and Order in Comments in Response to Reconsideration of Implementation of the AM Expanded Band and Allotment Plan, 11 FCC Rcd 12444 (1996) and addressed in this Memorandum Opinion and Order.

I. Need for and Objectives of this Memorandum Opinion and Order

This proceeding was initiated to improve the quality of AM broadcasting by permitting the migration of existing band stations experiencing significant levels of interference to the expanded AM band, *i.e.*, 1605—1705 kHz. The actions taken in the Memorandum Opinion and Order are consistent with this goal. Specifically, the Memorandum Opinion and Order modifies the frequency preclusion computer program to follow the federal travelers information station interference standards previously specified in this proceeding. It also clarifies the second harmonic interference standard incorporated in the frequency preclusion program. Lastly, the order conforms the revised allotment plan to Region 2 treaty requirements and eliminates software coding errors in the frequency preclusion and allotment plan programs.

[1] Title II of the CWAAA is ''The Small Business Regulatory Enforcement Fairness Act of 1996'' (SBREFA), codified at 5 U.S.C. 601 *et seq.*

II. Summary of Significant Issues Raised by the Public Comments In Response to the IRFA

As previously disclosed, no comments have been submitted in this proceeding in response to the IRFA. Out of an abundance of caution we have reconsidered the conclusions previously reached in the FRFA even though this proceeding will directly impact less than one percent of licensed commercial radio stations and less than thirteen percent of the stations eligible to migrate to the expanded band. Nineteen stations have changed frequencies from the second to third allotment plans and nine stations listed in the second allotment plan can no longer be accommodated.

III. Description and Estimate of the Number of Small Entities To Which the Memorandum Opinion and Order Will Apply

The Small Business Administration defines a radio broadcasting station that has $5 million or less in annual receipts as a small business.[2] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[3] Included in this industry are commercial, religious, educational, and other radio stations.[4] Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included.[5] The 1992 Census indicates that 96 percent (5,861 of 6,127) radio station establishments produced less than $5 million in revenue in 1992.[6] Currently, there are more than 12,000 operating, licensed radio stations.[7]

The Commission previously determined that 710 AM licensees and permittees were eligible to migrate to the expanded band, based on timely expressions of interest in these frequencies. This list excludes daytime-only stations whose calculated interference reduction improvement factor is zero. The third allotment plan, which is being released simultaneously with the Memorandum Opinion and Order, lists eighty-eight of these stations that are eligible to apply for expanded band authorizations. Nine stations listed on the second allotment plan cannot be accommodated under the new plan. Ten new stations have been added. Many, if not most of the eighty-eight potential migrators are small business entities. Because the decision to file a construction permit application and, following grant, to construct an AM broadcast station which operates on an expanded band frequency is wholly voluntary, it is impossible to predict how many stations will be directly impacted by this proceeding. To the extent that eligible stations elect to migrate to the expanded band, an unknown number of the approximately 4,900 operating, licensed AM broadcast stations could experience some reduced level of interference and congestion in the existing band. Most of these existing band stations also would qualify as ''small entities.''

Alternative Classification of Small Stations. An alternative way to classify small radio stations would be based on the number of employees. The Commission currently applies a standard based on the number of employees in administering its Equal Employment Opportunity Rule (EEO) for broadcasting.[8] Thus, radio (and television) stations with fewer than five full-time employees are exempted from certain EEO reporting and record keeping requirements.[9] We estimate that the total number of broadcast stations with 4 or fewer employees is approximately 4,239[10] and that most of these are radio stations.

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

Stations listed in the third allotment plan will be afforded 90 days to file feeable applications for construction permits on the allotted channels. These applications will be placed on cut-off lists following their acceptance for filing to permit the filing of petitions to deny. Each station, following grant of its construction permit application, will have eighteen months to complete station construction and file a feeable application for covering license. To satisfy these requirements it is likely that each of these stations will require the use of professional legal and engineering services.

V. Significant Alternatives and Steps Taken By Agency To Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent With Stated Objectives

As noted above, the revised expanded band allotment plan would permit less than thirteen percent of eligible AM station licensees and permittees to migrate to the expanded band. Stations electing to apply for and construct expanded band facilities are subject to essentially the same license processing requirements as any applicant seeking a new broadcast station. The changes adopted in the Memorandum Opinion and Order were necessary given technical considerations and international treaty requirements.

VI. Report to Congress

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A).

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–13625 Filed 5–22–97; 8:45 am]

BILLING CODE 6712–01–P

[2] 13 CFR 121.201, SIC 4832.

[3] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce.

[4] *Id.*

[5] *Id.*

[6] The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

[7] *FCC News Release,* No. 72140 (released February 5, 1997) (announcing that 4,854 AM, 5,429 FM and 1,868 noncommercial educational FM broadcast stations were licensed as of January 31, 1997).

[8] The Commission's definition of a small broadcast station for purposes of applying its EEO rules was adopted prior to the requirement of approval by the SBA pursuant to Section 3(a) of the Small Business Act, 15 U.S.C. 632(a), as amended by Section 222 of the Small Business Credit and Business Opportunity Enhancement Act of 1992, Public Law 102–366, 222(b)(1), 106 Stat. 999 (1992), as further amended by the Small Business Administration Reauthorization and Amendments Act of 1994, Public Law 103–403, 301, 108 Stat. 4187 (1994). However, this definition was adopted after the public notice and the opportunity for comment. See Report and Order in Docket No. 18244, 23 FCC 2d 430 (1970).

[9] *See, e.g.,* 47 CFR 73.3612 (Requirement to file annual employment reports on Form 395 applies to licensees with five or more full-time employees); First Report and 0rder in Docket No. 21474 (Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395), 70 FCC 2d 1466 (1979). The Commission is currently considering how to decrease the administrative burdens imposed by the EEO rule on small stations while maintaining the effectiveness of our broadcast EEO enforcement. Order and Notice of Proposed Rule Making in MM Docket No. 96–16 (Streamlining Broadcast EEO Rule and Policies, Vacating the EEO Forfeiture Policy Statement and Amending Section 1.80 of the Commission's Rules to Include EEO Forfeiture Guidelines), 11 FCC Rcd 5154 (1996). One option under consideration is whether to define a small station for purposes of affording such relief as one with ten or fewer full-time employees.

[10] Compilation of 1994 Broadcast Station Annual Employment Reports (FCC Form 395B), Equal Opportunity Employment Branch, Mass Media Bureau, FCC.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 92–258; FCC 97–156]

Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends the Commission's rules regarding indecent programming on leased access and public, educational and governmental access channels. This action is necessary to conform the rules to the decision of the Supreme Court in Denver Area Educational Telecommunications Consortium, Inc. v. FCC. The order is intended to amend the Commission's rules to conform them to the Court's decision.

DATES: These rules become effective upon OMB approval of the information collection requirements. The Commission will publish a document in the **Federal Register** confirming the effective date and notifying parties that these rules have become effective. Written comments by the public on the modified information collections are due July 22, 1997.

ADDRESSES: A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Meryl S. Icove, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained in this rulemaking, contact Judy Boley at 202–418–0217, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Order in MM Docket No. 92–258, FCC 97–156, adopted on May 6, 1997, and released on May 7, 1997. The complete text of this Order is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (''ITS Inc.'') at (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20017.

Paperwork Reduction Act

This Memorandum Opinion and Order contains modified information collections. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to comment on the information collections contained in this Memorandum Opinion and Order, as required by the Paperwork Reduction Act of 1995. Public and agency comments are due 60 days from date of publication of this Memorandum Opinion and Order in the **Federal Register**. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–0544.

Title: Commercial Leased Access Channels.

Type of Review: Revision to an existing collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 100.

Estimated Time Per Response: 8 hours per response.

Total Annual Burden: 800 hours. Section 76.701(a) states that a cable operator may adopt and enforce prospectively a written and published policy of prohibiting programming which, it reasonably believes, describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards. We estimate that an additional 100 cable system operators each year will choose to adopt a written and published policy of prohibiting offensive programming on leased access channels. The average burden to each respondent to write this policy is estimated to be 8 hours. 100 respondents × 8 hours=800 hours.

Estimated Cost Per Respondent: There are no measurable costs associated with this information collection.

Needs and Uses: Permitting cable operators to adopt policies regarding offensive programming gives operators alternatives to banning broadcasts; for example, by adopting policies to rearrange broadcast times so as to accommodate the desires of adult audiences while lessening the risks of harm to children.

Synopsis of Order

1. As part of the Cable Television Consumer Protection and Competition Act of 1992 (''1992 Cable Act''), Congress enacted Section 10 in order to protect children from indecent programming on leased access and public, educational and governmental (''PEG'') access channels. The Commission thereafter established rules to implement Section 10. As required by the statute, these rules provided that cable operators could prohibit such programming on PEG access channels. Also as required by Section 10, the rules provided that, for leased access channels, cable operators had to either enforce a policy prohibiting such programming or segregate and block any programming that was not prohibited. In Denver Area Educational Telecommunications Consortium, Inc. v. FCC (''Denver Consortium''), the Court addressed the constitutionality of Section 10. The Supreme Court found that the PEG access channel provision permitting the refusal to transmit indecency and the leased access channel provision requiring segregation and blocking were unconstitutional. 116 S. Ct. 2374 (1996). In this Memorandum Opinion and Order, we adopt rule changes responsive to the Supreme Court's decision.

2. The statutory provisions on leased access are found in section 612 of the Communications Act. Section 10(a) of the 1992 Cable Act amended Section 612(h) of the Communications Act, adding language to ''permit a cable operator to enforce prospectively a written and published policy of prohibiting programming that the cable operator reasonably believes describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards'' on commercial leased access channels on their systems. Section 10(b) added a new subsection (j) to section 612. Section 10(b) required the Commission to adopt regulations that are designed to restrict access of children to indecent programming on leased access channels (that is not voluntarily prohibited under Section 10(a)) by requiring cable operators to place indecent programming on a ''blocked'' leased access channel. Section 10(c) required the Commission to adopt regulations to enable cable operators to prohibit use of channel capacity on the PEG access channels for programming which contains obscene material, sexually explicit conduct, or material soliciting or promoting unlawful conduct. Section 10(d) of the 1992 Cable Act amended Section 638 of

the Communications Act. Section 76.701 and § 76.702 of the Commission's rules implement Section 10. See 58 FR 7990, Feb. 11, 1993; 58 FR 19623, April 15, 1993. These rules were stayed after the initial decision in Alliance for Community Media v. FCC (''Alliance'') finding them unconstitutional and that stay has been continued in force pending Supreme Court review. Alliance for Community Media v. FCC, 10 F.3d 812 (D.C. Cir. 1993), vacated, 15 F.3d 186 (D.C. Cir. 1994), reh'g en banc, 56 F.3d 105 (D.C. Cir. 1995), aff'd in part and rev'd in part, Denver Consortium, 116 S. Ct. 2374 (1996).

3. In the Telecommunications Act of 1996 (''1996 Act''), Congress further amended Sections 611 and 612 of the Communications Act. Section 611(e) and Section 612(c)(2) generally provide that a cable operator may not exercise any editorial control over the content on PEG access and leased access channels. The 1996 Act added language to except from this ban on editorial discretion programming which contains obscenity, indecency, or nudity. In Order and Notice of Proposed Rulemaking in CS Docket No. 96–85—Implementation of Cable Act Reform Provisions of the Telecommunications Act of 1996 (''Cable Act Reform Order''), the Commission amended Section 76.701 and Section 76.702 of its rules to implement the 1996 Act. 61 FR 19013, April 30, 1996, 11 FCC Rcd 5937, 5959–5961 ¶¶ 61–67 (1996).

4. As a result of the Court's decision that Section 10(b) is unconstitutional, we will delete those parts of § 76.701 which implemented the requirement that cable operators not adopting a policy of prohibiting indecent programming on leased access channels must segregate and block such programming. We note, however, that a cable operator voluntarily may segregate, block, and time channel indecent leased access programming under Section 10(a). As we stated when initially implementing section 10(a), ''we believe that cable operators with policies prohibiting indecent programming have, under section 10(a), the discretion to block any such programming, rather than banning it completely, and moreover, they may provide such programming on blocked channels during time periods of their own choosing.'' 58 FR 7992, 8 FCC Rcd at 1005. Further, the Court in Denver Consortium stated that Section 10(a)'s ''permissive nature brings with it a flexibility that allows cable operators, for example, not to ban broadcasts, but, say, to rearrange broadcast times, better to fit the desires of adult audiences while lessening the risks of harm to children.'' 116 S. Ct. at 2387, citing First Report and Order, 58 FR 7991, 8 FCC Rcd. at 1003 (interpreting the 1992 Cable Act's provisions to allow cable operators broad discretion over what to do with offensive materials). It is also the case that, under Section 10(a), cable operators may prohibit some indecent programming, but not all. In the First Report and Order, the Commission, noting that some cable operators suggested that they have the discretion to prohibit some, but not necessarily all indecent programming under section 10(a) as long as they block the rest under section 10(b), stated that ''[g]iven the wide discretion Congress afforded cable operators under this section, we see no reason to dispute this interpretation.'' 58 FR 7991, 8 FCC Rcd at 1003.

5. Finally, as a result of the Court's decision that section 10(c) is unconstitutional, we will amend § 76.702. Insofar as the 1996 Act grants to the cable operator the right to refuse to transmit indecent public access programming, it apparently conflicts with the Court's decision in Denver Consortium that cable operators may not prohibit ''the transmission of 'patently offensive' sex-related materials'' over public access channels. 116 S. Ct. at 2382.

6. Paperwork Reduction Act of 1995 Analysis. The requirements adopted in this Order have been analyzed with respect to the Paperwork Reduction Act of 1995 (the ''1995 Act'') and found to impose modified information collection requirements on the public. Implementation of any modified requirement will be subject to approval by the Office of Management and Budget (''OMB'') as prescribed by the 1995 Act. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to comment on the information collections contained in this Order as required by the 1995 Act.[1] Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

[1] Public Law 104–13.

7. Written comments by the public on the modified information collections are due on or before 60 days after publication of the Order in the **Federal Register**. A copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov For additional information concerning the information collections contained herein contact Judy Boley at 202–418–0217, or via the Internet at jboley@fcc.gov.

8. Regulatory Flexibility Act Analysis. Pursuant to Section 603 of the Regulatory Flexibility Act, 5 U.S.C. § 603, an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated in the Notice of Proposed Rulemaking in MM Docket 92–258. 57 FR 54207, November 17, 1992, 7 FCC Rcd 7709, 7712 (1992). Comments concerning the IRFA were addressed in previous orders. 58 FR 7990, 7992, 8 FCC Rcd at 1010–11; 58 FR 19623, 19626, 8 FCC Rcd at 2643. As discussed above, in this Memorandum Opinion and Order we are amending our rules to conform to the Supreme Court's Denver Consortium decision. Under the rule changes adopted here, a cable operator will no longer be required to segregate and block indecent programming on leased access channels. Further, a cable operator will not be permitted to refuse to transmit indecent PEG access programming. There will be no cost to cable operators as a result of these rule changes, and therefore the amendments will not have a significant economic impact on cable operators. Therefore, we do not believe that the amendments adopted herein will have a significant economic impact on a substantial number of small entities, and no further regulatory flexibility analysis is required. 5 U.S.C. 605(b). A copy of this certification will be sent to the Chief Counsel for Advocacy of the Small Business Administration.

9. Accordingly, *it is Ordered* that, pursuant to the authority contained in Sections 4(i) and 4(j) and 303 of the Communications Act of 1934, as amended, 47 CFR §§ 154(i), 154(j), 303, and the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102–385, Part 76 of the Commission Rules, 47 CFR Part 76, *is amended* as set forth below.

10. *It is Further Ordered* that the rule provisions set forth below shall become effective upon approval by the Office of Management and Budget of the modified information collection requirements.

Lists of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 76 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 76—CABLE TELEVISION SERVICE

1. The authority citation for Part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 552, 554, 556, 558, 560, 561, 571, 572, 573.

§ 76.701 [Revised]

2. Section 76.701 is revised to read as follows:

§ 76.701 Leased access channels.

(a) Notwithstanding 47 U.S.C. 532(b)(2) (Communications Act of 1934, as amended, section 612), a cable operator, in accordance with 47 U.S.C. 532(h) (Cable Consumer Protection and Competition Act of 1992, section 10(a)), may adopt and enforce prospectively a written and published policy of prohibiting programming which, it reasonably believes, describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards.

(b) A cable operator may refuse to transmit any leased access program or portion of a leased access program that the operator reasonably believes contains obscenity, indecency or nudity.

§ 76.702 [Revised]

3. Section 76.702 is revised to read as follows:

§ 76.702 Public access.

A cable operator may refuse to transmit any public access program or portion of a public access program that the operator reasonably believes contains obscenity.

[FR Doc. 97–13624 Filed 5–22–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[CC Docket No. 92–297; FCC 97–166]

Local Multipoint Distribution Service (''LMDS'')

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On May 8, 1997, the Federal Communications Commission adopted an *Order* reconsidering on its own motion its decision in the Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules To Redesignate the 27.5–29.5 GHz Frequency Band, To Reallocate the 29.5–30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services; Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to-Point Microwave Radio Service Rules; and Suite 12 Group Petition for Pioneer Preference, CC Docket No. 92–297, PP–22, Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rulemaking, FCC 97–82, released March 13, 1997 (''*LMDS Second Report and Order*''). The Commission affirmed its decision to refer CellularVision's Pioneer's Preference request to peer review, in order to clarify the Commission's basis for that decision. The *Order* also amends the LMDS competitive bidding affiliation rule in order to include an exemption for entities owned or controlled by Indian Tribes or Alaska Regional or Village Corporations. This affirmation and the rule change set forth in the *Order* are intended to clarify the Commission's decision and insure Indian tribes and Alaska Native Corporations a meaningful opportunity to participate in spectrum-based services.

EFFECTIVE DATE: June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Bollinger, Wireless Telecommunications Bureau, Federal Communications Commission, (202) 418–0660.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Order in FCC 97–166, CC Docket No. 92–297 and PP–22, adopted on May 8, 1997, and released on May 16, 1997. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037. The complete *Order* is also available on the Commission's Internet home page (http://www.fcc.gov/).

Synopsis of the Order

1. In this *Order*, the Commission affirms its decision to refer CellularVision's Pioneer's Preference request to peer review, but clarifies its basis for doing so. Additionally, the Commission amends a rule it adopted in the *LMDS Second Report and Order* (62 FR 23148, April 29, 1997). Specifically, the Commission amends Section 101.1112 to include subsection 101.1112(d)(11) as set forth in Appendix A of the *Order*. Consistent with the Commission's rules governing the Wireless Communications Service (''WCS'') and broadband Personal Communications Services (''PCS''), this new subsection exempts from the affiliation rules entities owned and controlled by Indian tribes or Alaska Regional or Village Corporations for purposes of determining whether an entity meets the definition of a small business or a business with average annual gross revenues of not more than $75 million.

Pioneer's Preference

2. In the *LMDS Second Report and Order*, the Commission ordered the initiation of a peer review process to examine the pending Pioneer's Preference request filed by CellularVision. The Commission stated that it was undertaking this action pursuant to Section 1.402(h) of the Commission's Rules, 47 CFR 1.402(h). On reconsideration, the Commission recognizes that Section 1.402(h) does not apply directly to the request filed by CellularVision. The rule applies only to a Pioneer's Preference request accepted for filing after September 1, 1994, and CellularVision's predecessor in interest, Suite 12 Group, filed its request on September 24, 1991.

3. Nothing in Section 1.402(h) or in the Commission Orders amending the Pioneer's Preference rules pursuant to the legislation conferring competitive bidding authority upon the Commission, and the legislation implementing the General Agreement on Tariffs and Trade (''GATT''), however, precludes the Commission from ordering peer review in cases where applications were filed before that date. While the rule is clear that applications filed after September 1, 1994, must be subject to peer review, the rule is silent with respect to

applications filed before that date. The Commission's Pioneer's Preference policy prior to the enactment of the GATT legislation explicitly contemplated referral of preference requests to peer review at the Commission's discretion.

4. In amending Section 1.402(h), the Commission did not intend to constrain its exercise of discretion with respect to invocation of the peer review process in the case of applications filed prior to September 1, 1994. Nor does the Commission believe that its action in amending the rule can be reasonably construed as resulting in any limitation on the exercise of the Commission's discretion. The rule, on its face, cannot be read to limit or terminate the Commission's ability to refer to peer review an application filed prior to September 1, 1994.

5. Likewise, in the Commission Reports and Orders discussing the applicability of the new rules, the Commission did not indicate any intention to limit its discretion to refer pre-September 1, 1994, applications to peer review. Although the Commission indicated that the new regulations would not apply to the Pioneer's Preference applicants that had been granted tentative preferences, including CellularVision, this means only that the revised rule *requiring* peer review would not apply; it did not nullify the Commission's ability to seek peer review *on a discretionary basis*, as provided under the preexisting policy.

6. Thus, in the case of CellularVision, the Commission clarifies that, consistent with the preexisting Pioneer's Preference rules, the Commission has concluded that it would benefit from a more thorough review and analysis by persons with highly specialized expertise before making a final determination on the CellularVision request. As a policy matter, the Commission appropriately exercised its discretion in this case to obtain the opinion of experts to assist it in determining whether CellularVision should be awarded a Pioneer's Preference. Although the Commission has tentatively decided to grant the request filed by CellularVision, there are several reasons why it would be advantageous to subject the application to peer review at this time. First, referring CellularVision's proposal to a panel of experts would supplement the record with the evaluations of disinterested experts who are familiar with the technology. Although the Commission ordinarily relies upon the standard notice and comment process to guide its decision making, the highly technical nature of the issues presented by the CellularVision proposal leads the Commission to believe that it would benefit from the additional advice of technical experts who do not have a stake in the outcome of this proceeding. It is the Commission's responsibility to verify that the proposal constitutes a technological advancement. The peer review process will help ensure the reasonableness of the Commission's final decision on these highly technical matters.

7. Second, CellularVision for several years has been using millimeter wave technology to provide video service. As a result, there may now be available more demonstrable evidence that would be relevant to an inquiry into whether the service being provided by CellularVision is either a new service or a substantial enhancement to an existing service, as required by the Pioneer's Preference rules. Of particular relevance is whether the work done by CellularVision merely constitutes an adaptation of existing technology. Finally, in light of the modifications to the Pioneer's Preference policy resulting from the GATT legislation and the decision to use competitive bidding to choose between mutually exclusive LMDS applications, CellularVision is now potentially eligible to receive a substantial discount on its license. Under these circumstances, which have changed during the pendency of the CellularVision request, it is particularly appropriate that the Commission utilize the peer review process to enable it to make a fully-informed, well-reasoned decision on the Pioneer's Preference request. For these reasons, the Commission affirms its decision to refer CellularVision's Pioneer's Preference request to peer review, and clarifies that the Commission does so pursuant to its pre-1994 policy.

Competitive Bidding Rules

8. In the *LMDS Second Report and Order*, the Commission adopted rules providing that, for purposes of determining eligibility for installment payments and bidding credits, an entity's average gross revenues for the preceding three years would be aggregated with the average gross revenues of its affiliates and controlling principals. Affiliation generally exists when the applicant controls or has the power to control another entity, another entity controls or has the power to control the applicant, the applicant and another entity are controlled by the same third party, or another entity has an identity of interest with the applicant. In its broadband PCS and WCS affiliation rules, the Commission specifically exempted entities owned and controlled by Indian tribes or Alaska Regional or Village Corporations from being considered affiliates of applicants or licensees that are owned and controlled by such entities. In the *LMDS Second Report and Order*, however, the Commission did not adopt this exemption.

9. The exemption the Commission provides in the broadband PCS and WCS rules mirrors Small Business Administration (''SBA'') rules that exclude from affiliation coverage entities owned and controlled by Indian tribes or Alaska Regional or Village Corporations. The SBA is required by statute to determine the size of a small business concern owned by an Indian tribe (or a wholly owned business entity of such tribe) ''without regard to its affiliation with the tribe, any entity of tribal government, or any other business enterprise owned by the tribe, unless the Administrator determines that one or more such tribally owned business concerns have obtained, or are likely to obtain, a substantial unfair competitive advantage within an industry category.'' Additionally, Section 29(e) of the Alaska Native Claims Settlement Act (43 U.S.C. § 1626(e)) provides that:

(1) For all purposes of Federal law, a Native Corporation shall be considered to be a corporation owned and controlled by Natives and a minority and economically disadvantaged business enterprise if the Settlement Common Stock of the corporation and other stock of the corporation held by holders of Settlement Common Stock and by Natives and descendants of Natives, represents a majority of both the total equity of the corporation and the total voting power of the corporation for the purposes of electing directors.

(2) For all purposes of Federal law, direct and indirect subsidiary corporations, joint ventures, and partnerships of a Native Corporation qualifying pursuant to paragraph (1) shall be considered to be entities owned and controlled by Natives and a minority and economically disadvantaged business enterprise if the shares of stock or other units of ownership interest in any such entity held by such Native Corporation and by the holders of its Settlement Common Stock represent a majority of both—

(A) the total equity of the subsidiary corporation, joint venture, or partnership; and

(B) the total voting power of the subsidiary corporation, joint venture, or partnership for the purpose of electing directors, the general partner, or principal officers.

These statutory provisions have been incorporated into the SBA's regulations.

10. The Commission believes that entities owned and controlled by Indian tribes and Alaska Regional or Village Corporations should be eligible to bid in LMDS auctions as small businesses or as businesses with average annual gross revenues not exceeding $75 million, notwithstanding their affiliation with other entities owned by tribes or Alaska Native Corporations whose gross revenues cause the combined average gross revenues of the entity and its affiliates to exceed the general limits for eligibility for bidding as such a business. An exemption from the affiliation rules will ensure that these entities will have a meaningful opportunity to participate in spectrum-based services from which they would otherwise be precluded. As is true of other services where the Commission has adopted this exception, LMDS is expected to be a highly capital intensive wireless service. Furthermore, the Commission does not believe that this exemption for the specified entities will entitle them to an unfair advantage over entities that are otherwise eligible for small business status. The Commission will therefore amend the LMDS affiliation rules so as not to preclude the eligibility of entities owned and controlled by Indian tribes and Alaska Native Corporations for classification as small businesses, or as businesses with average annual gross revenues not exceeding $75 million.

Procedural Matters and Ordering Clauses

11. Accordingly, *It Is ordered* that the Chief, Federal Communications Commission Office of Engineering and Technology, *Shall Select* a panel of experts to review the specific technologies set forth in the Pioneer's Preference request that was filed by the Suite 12 Group on September 23, 1991, as amended on November 19, 1991, and that was accepted and placed on Public Notice on December 16, 1991.

12. *It is further ordered* that part 101 of the Commission's Rules is amended as set forth in Appendix A, attached to the *Order*.

13. *It is further ordered* that the rule changes made by the *Order* are *adopted and effective* June 23, 1997. This action is taken pursuant to Section 4(i), 303(r) and 309(j) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. §§ 154(i), 303(r) and 309(j).

List of Subjects in 47 CFR Part 101

Communications common carriers, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Part 101 of Chapter 1 of title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation continues to read as follows:

Authority: 47 U.S.C. 154, 303, 309(j), unless otherwise noted.

2. Section 101.1112 is amended by adding subsection (d)(11):

§ 101.1112 Definitions.

* * * * *

(d) * * *

(11) *Exclusion from affiliation coverage.* For purposes of paragraphs (b) and (d) of this section, Indian tribes or Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), or entities owned and controlled by such tribes or corporations, are not considered affiliates of an applicant (or licensee) that is owned and controlled by such tribes, corporations or entities, and that otherwise complies with the requirements of paragraphs (b), except that gross revenues derived from gaming activities conducted by affiliated entities pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 *et seq.*) will be counted in determining such applicant's (or licensee's) compliance with the financial requirements of paragraph (b) of this section, unless such applicant establishes that it will not receive a substantial unfair competitive advantage because significant legal constraints restrict the applicant's ability to access such gross revenues.

[FR Doc. 97–13545 Filed 5–22–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1002 and 1180

[STB Ex Parte No. 556]

Railroad Consolidation Procedures—Modification of Fee Policy

AGENCY: Surface Transportation Board (Board), DoD.

ACTION: Final rules.

SUMMARY: In this proceeding the Board adopts as final rules with one minor change in the interim rules relating to the Board's fee policy for proceedings involving major railroad consolidations, which were published in the **Federal Register** at 62 FR 9714 on March 4, 1997.

EFFECTIVE DATE: These final rules are effective May 15, 1997.

FOR FURTHER INFORMATION CONTACT: Kathleen M. King, (202) 565–1639 or David T. Groves, (202) 565–1551. (TDD for the hearing impaired: (202) 565–1695.)

SUPPLEMENTARY INFORMATION: On March 4, 1997, at 62 FR 9714, the Board published interim rules that modified the Board's user fee policy for proceedings involving major railroad consolidations under 49 CFR part 1180 and the Board's corresponding fee regulations at 49 CFR part 1002.

The interim rules modified the Board's fee policy to require that the primary applicant in a major railroad consolidation proceeding pay a separate filing fee for each and every directly related proceeding that is filed with the primary application. The Board's fee policy was further revised to provide that for filing fee purposes an inconsistent responsive application would be classified as a major, significant, or minor transaction under the Board's regulations in 49 CFR 1180.2 (a)–(c), and that the fee for an inconsistent application would be based on the classification of the transaction in the Board's fee schedule at 49 CFR 1002.2(f) (38)–(41). In addition, the Board's fee policy at 49 CFR 1180.4(d)(4)(ii) was modified to provide that the fee for any other type of responsive application would be the fee for that particular type of filing as set forth in the Board's fee schedule.

The interim rules also contained technical amendments to conform part 1180 to the ICC Termination Act of 1995, Pub. L. 104–88 (Dec. 29, 1995).

No comments were filed in this proceeding. Therefore, we are adopting the interim rules as final rules with only one minor change. We are modifying the interim rule for 49 CFR 1180.3(h) relating to responsive applications to provide a more accurate cross-reference to the proper fees for various responsive applications. To provide the appropriate cross-reference, we are deleting the last sentence of § 1180.3(h) and replacing it with the following two sentences:

> For fees covering inconsistent applications or responsive applications not otherwise covered in the Board's fee schedule see, 49 CFR 1002.2(f) (38)–(41) and 1180.4(d)(4)(ii). The fees for all other responsive applications are set forth in 49 CFR 1002.2(f).

We conclude that the fee and other changes adopted here will not have a significant economic impact on a

substantial number of small entities. Our regulations provide for waiver of filing fees for those entities that can make the required showing of financial hardship.

This action will not significantly affect either the quality of human environment or the conservation of energy resources.

Notice of the final rules adopted here will be transmitted to Congress pursuant to Pub. L. 104–121 (Mar. 29, 1996).

List of Subjects

49 CFR Part 1002

Administrative practice and procedure, Common carriers, Freedom of information, User fees.

49 CFR Part 1180

Administrative practice and procedure, Bankruptcy, Railroads, Reporting and recordkeeping requirements.

Decided: April 24, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

Accordingly, the interim rules amending 49 CFR Parts 1002 and 1180, which were published at 62 FR 9714 on March 4, 1997, are adopted as final rules with the following changes:

PART 1180—RAILROAD ACQUISITION, CONTROL, MERGER, CONSOLIDATION PROJECT, TRACKAGE RIGHTS, AND LEASE PROCEDURES

1. The authority citation for part 1180 continues to read as follows:

Authority: 5 U.S.C. 553 and 559; 11 U.S.C. 1172; 49 U.S.C. 721, 10502, 11323–11325.

2. Section 1180.3 is amended by revising paragraph (h) to read as follows:

§ 1180.3 Definitions.

* * * * *

(h) *Responsive applications.* Applications filed in response to a primary application are those seeking affirmative relief either as a condition to or in lieu of the approval of the primary application. Responsive applications include inconsistent applications, inclusion applications, and any other affirmative relief that requires an application, petition, notice, or any other filing to be submitted to the Board (such as trackage rights, purchases, constructions, operation, pooling, terminal operations, abandonments, and other types of proceedings not otherwise covered). For fees covering inconsistent applications or responsive applications not otherwise covered in the Board's fee schedule, see 49 CFR 1002.2(f) (38)–(41) and 1180.4(d)(4)(ii). The fees for all other responsive applications are set forth in 49 CFR 1002.2(f).

* * * * *

[FR Doc. 97–13635 Filed 5–22–97; 8:45 am]

BILLING CODE 4915–00–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 970512113–7113–01; I.D. 042297D]

RIN 0648–AJ56

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 1997 Harvest Guideline

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

ACTION: Harvest guideline for crustaceans for 1997.

SUMMARY: NMFS announces a 1997 harvest guideline of 327,000 lobsters for the Northwestern Hawaiian Islands (NWHI) crustacean fishery. The guideline was calculated according to the formula in Amendment 9 to the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP), and includes spiny and slipper lobster combined. This harvest guideline is for the 1997 fishing year, which begins July 1, 1997; however, the harvest guideline system will be adjusted before the beginning of the season to account for lobster mortality from discards of lobster by permit holders. The intent of this action is to prevent overfishing and achieve the objectives of the FMP.

DATES: Effective July 1, 1997.

ADDRESSES: Copies of background material for determining the harvest guideline may be obtained from Dr. William T. Hogarth, Acting Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin Katekaru, NMFS, (808) 973–2985 or Mr. Svein Fougner, NMFS, (562) 980–4034.

SUPPLEMENTARY INFORMATION: The annual harvest guideline for the crustacean fishery is to be announced in the **Federal Register** by March 31 of each year. The harvest guideline is determined by the Southwest Regional Administrator, NMFS, based on previous years' fishery data, sampling during research cruises, and other available data. A population model that is used in the process for determining the harvest guideline is described in Amendment 9 to the FMP, which provides that an annual harvest guideline will be derived by multiplying a constant harvest rate associated with a specific level of risk of overfishing times the exploitable population estimated by the NMFS. Under Amendment 9, there is no limit on retention of spiny or slipper lobsters based on size or reproductive condition. The harvest guideline is a specified numerical harvest objective and is expected to represent total mortality from the fishery. When the harvest guideline is estimated to be reached, the Regional Administrator will close the fishery.

The 1996 fishing season was the first season managed under the provisions of Amendment 9. Data on discarded lobsters reported by permit holders indicated that high-grading (retention of only the more valuable components of the catch) was about 2,300 lobsters. However, an analysis of data obtained by sampling the landings and comparing size composition of the landings with expected size composition based on research and experimental fishing results provided evidence that a higher level of high-grading occurred. Mortality of discarded lobster is believed to be high in the NWHI; therefore, high-grading would result in mortality in excess of the harvest guideline and thus compromise a major objective of Amendment 9.

Because there were differences between the estimate of high-grading by NMFS and the reported discarding by the permit holders in 1996, the Council convened a panel of technical experts to conduct a thorough review of the 1996 fishery and the underlying population model and harvest guideline system. That panel concluded that, while the approach used by NMFS to estimate high-grading was technically sound, there were significant questions about the underlying assumptions and data used in making the estimate. The review panel found that the analytical procedure likely resulted in an overestimate of discarding in 1996. The review panel agreed, however, that discarding needs to be accounted for in the management program.

The Council met in April and, after considering the inputs from the experts panel and its Advisory Panel, Plan Team, and Scientific and Statistical

Committee, determined that changes are needed in the harvest guideline system to ensure achievement of the objectives of the FMP as amended by Amendment 9. Necessary changes include a pre-season or in-season estimate of the amount of high-grading and associated mortality so that the fishery can be closed when total harvest (retained catch plus discards) reaches the harvest guideline level. Accordingly, a change in the harvest guideline system for the 1997 season is necessary before the beginning of the fishing season on July 1. This system can be implemented under the framework procedures of Amendment 9, in this case the ''Procedure for established measures'' at 50 CFR 660.53(c). Permit holders and the public will be advised of the change by publication in the **Federal Register** before July 1. A letter also will be sent by the Regional Administrator to all permit holders to advise them of the action.

The Southwest Region, NMFS, will monitor landings against the harvest guideline and issue timely reports of summary catch and effort information. However, participants are advised to contact the Southwest Region (see **ADDRESSES**) periodically to stay abreast of any change in the harvest guideline and progress of the fishery toward attaining the harvest guideline. Under the procedures in 50 CFR 660.50(b)(3), NMFS will announce the date upon which the harvest guideline will be reached and close the fishery.

Classification

This action is authorized by 50 CFR part 660 and is exempt from review under E.O. 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., are inapplicable.

The Assistant Administrator for Fisheries (AA), NOAA, finds that since this notice merely announces a quota resulting from the nondiscretionary application of the objective quota formula in Amendment 9 to the FMP, no useful purpose would be served by providing prior notice and opportunity for public comment. Accordingly, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive as unnecessary the requirement to provide prior notice and opportunity for public comment.

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

Dated: May 20, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 97–13674 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 100
Friday, May 23, 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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2423 and 2429

Unfair Labor Practice Proceedings: Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Notice of proposed rulemaking; notice of meeting.

SUMMARY: The Federal Labor Relations Authority proposes to revise portions of its regulations regarding unfair labor practice (ULP) proceedings (Part 2423) and miscellaneous and general requirements (Part 2429). The purpose of the proposed revisions is to streamline the existing regulations, facilitate dispute resolution, clarify the matters to be adjudicated, provide more flexibility to the participants in the ULP process, and simplify the filing and service requirements. Implementation of the proposed changes will enhance the ULP process, raising the level of advocacy and facilitating adjudication of ULP claims.

DATES: Comments must be received on or before June 30, 1997. Meetings will be held at 10:00 a.m. on June 12, 1997, in Chicago, Illinois, and at 10:00 a.m. on June 18, 1997, in Washington, D.C.

ADDRESSES: Mail or deliver written comments to the Office of Case Control, Federal Labor Relations Authority, 607 14th Street, NW., Washington, DC 20424–0001. The June 12, 1997 meeting will be held at the Xerox Centre, 55 West Monroe Street, Room 1610, Chicago, Illinois 60603. The June 18, 1997 meeting will be held at the Federal Labor Relations Authority's Headquarters, 607 14th St. NW., Washington, DC 20424, 2nd Floor Agenda Room.

FOR FURTHER INFORMATION CONTACT: *Regulatory information or registration for the Washington meeting*: Edward Bachman, Office of Case Control, at the address listed above or by telephone # (202) 482–6540. *Registration for the Chicago meeting*: Peter Sutton, Chicago Regional Office, Federal Labor Relations Authority, 55 West Monroe Street, Suite 1150, Chicago, Illinois 60603, telephone # (312) 886–3465 ext. 22.

SUPPLEMENTARY INFORMATION: The Federal Labor Relations Authority established a Task Force to study and evaluate the policies and procedures in effect concerning the processing of a ULP complaint from the issuance of the complaint through the transfer of the case to the Authority after the issuance of a decision and recommended order of an Administrative Law Judge—§§ 2423.12–2423.31 of the current regulations. To this end, the Task Force published a **Federal Register** notice (60 FR 11057) (Mar. 1, 1995) inviting parties to submit written recommendations on ways to improve the post complaint ULP process. In addition, the Task Force convened focus groups in order to solicit and consider customers' views prior to proposing these revisions. The Task Force's review of the ULP process also included review of certain of the miscellaneous and general requirements of Part 2429.

The proposed revisions, driven for the most part by the recommendations of the Task Force and focus group participants, represent the Federal Labor Relations Authority's intent to simplify, clarify, and improve the ULP regulations as well as related miscellaneous and general regulations in Part 2429. The proposed revisions attempt to eliminate perceptions of unfairness and potential conflict of interest problems, noted by the Task Force, by moving certain post-complaint, administrative responsibilities from the Regional Director to the Office of Administrative Law Judges. Another major aspect of this revision is the division of Part 2423 into four sequential subparts: Subpart A—Filing, Investigating, Resolving and Acting on Charges— §§ 2423.2–2423.19; Subpart B—Post Complaint, Prehearing Procedures—§§ 2423.20–2423.29; Subpart C—Hearing Procedures—§§ 2423.30–2423.39; and Subpart D—Post-transmission and Exceptions to Authority Procedures—§§ 2423.40–2423.49. Other than the minor revisions to §§ 2423.9 and 2423.11 included in these proposed revisions, Subpart A, which sets forth the precomplaint procedures, will be revised at a later date. With regard to Subpart A, the Office of the General Counsel of the Federal Labor Relations Authority has already established internal policies to improve the precomplaint process. Recent examples include the Office of the General Counsel's policies concerning Settlement, Prosecutorial Discretion, Scope of Investigation, Intervention, and Quality in ULP Investigations. Proposed revisions to Subpart A are anticipated for 1998.

In connection with the proposed revisions to Parts 2423 and 2429, two focus group meetings will be conducted. The first focus group meeting will be held on June 12, 1997, at the Xerox Centre, 55 West Monroe Street, Room 1610, Chicago, Illinois 60603, at 10:00 a.m. Persons interested in attending this first meeting on this proposed rulemaking should write or call Peter Sutton, Chicago Regional Office, Federal Labor Relations Authority, 55 West Monroe Street, Suite 1150, Chicago, Illinois 60603, telephone # (312) 886–3465 ext. 22, to confirm attendance. The second focus group meeting will be held on June 18, 1997, at the Federal Labor Relations Authority's Headquarters, 607 14th St. N.W., Washington, D.C. 20424, 2nd Floor Agenda Room, at 10:00 a.m. Persons interested in attending this second meeting on this proposed rulemaking should write or call Edward Bachman, Office of Case Control, at the address and phone number listed in the preceding section to confirm attendance.

Copies of all written comments will be available for inspection and photocopying between 8 a.m. and 5 p.m., Monday through Friday, in Suite 415 at the Office of Case Control.

Sectional analyses of the proposed amendments and revisions to Part 2423— Unfair Labor Practice Proceedings and Part 2429—Miscellaneous and General Requirements are as follows:

Part 2423—Unfair Labor Practice Proceedings

Section 2423.1

No change is made to the text; however, the section is separated from all subparts to reflect its applicability to the entire part.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

Sections 2423.2–2423.8, 2423.10

No changes are made at this time.

Section 2423.9

Subsection (a)(3) is amended to incorporate changes to the settlement regulations. Subsection (a)(5) of the current regulations, which permits the Regional Director to transfer stipulations of fact to the Authority pursuant to § 2429.1, is omitted to reflect the proposed deletion and reservation of § 2429.1 from the revised regulations. Subsection (a)(6) is redesignated as subsection (a)(5).

Section 2423.11

This section is revised in accord with the new sequential arrangement of the ULP regulations. The general settlement policy in current subsection (a) is deleted. Revised § 2423.11 consists of the precomplaint informal settlement language contained in current subsections (b) (1) and (2). Post complaint, prehearing settlement provisions, currently in subsections (c)–(d), are revised and removed to Subpart B, at proposed § 2423.25. Similarly, the provisions currently contained in subsection (e), regarding settlements after the opening of the hearing, are revised and moved to Subpart C, proposed § 2423.31.

Sections 2423.12–2423.19

These sections are reserved.

Subpart B—Post Complaint, Prehearing Procedures

Section 2423.20

Matters related to the complaint and answer, which appear in §§ 2423.12 and 2423.13 of the current regulations, are consolidated here. A new provision in subsection (a)(5), requiring that the complaint set out the relief sought, is intended to clarify both the purpose of the complaint and the remedy to be obtained. Subsection (a)(6) regarding scheduling the date, time, and place of the hearing reflects the current practice, wherein the Regional Director sets forth in the complaint the date, time, and place of the hearing established by the Administrative Law Judge. Subsection (b) retains the 20-day answer period established in § 2423.13 of the current regulations. Subsections (c) and (d) transfer to the Administrative Law Judge certain adjudicatory responsibilities related to the complaint and answer—including receiving the pleadings, ruling on motions and amendments, and scheduling conference and hearing dates. Under the current regulations, many of these items are the responsibility of the Regional Director. Subsection (d) clarifies the authority of the Chief Administrative Law Judge to designate judges in an efficient and expeditious manner.

Section 2423.21

This section incorporates and amends the current motions procedure, set out in § 2423.22 of the current regulations. Specifically, subsection (a) sets forth the general requirements of motions procedure. Subsection (b) shifts the responsibility for ruling on prehearing motions from the Regional Director to the Administrative Law Judge. This accords with the changes in responsibility made in the previous section. In addition, the time deadline for filing prehearing motions is changed from 10 days to 15 days before the hearing. This is intended to sharpen the factual and legal issues earlier in the proceedings and, as a result, clarify the matters being adjudicated. Requiring earlier party involvement also is expected to facilitate the resolution of disputes. Subsections (c) and (d) explain the filing process for post-transmission and interlocutory motions.

Section 2423.22

This section amends the current § 2423.15 by establishing a standard of review for motions to intervene and clarifying the extent to which intervenors may participate in the proceedings. These changes are expected to improve the Administrative Law Judge's decision-making regarding intervention, improve the Authority's ability to review rulings on intervention, and, in time, establish a uniform body of law in this area. The changes generally accord with Merit Systems Protection Board practice (5 CFR 1201.34).

Section 2423.23

This new section is intended to facilitate the trial process by both broadening prehearing disclosure obligations and causing this exchange of information to occur at least 21 days in advance of the hearing. The 21-day period is necessary in order to permit the parties time to properly evaluate and meet deadlines involving other pre-hearing matters, such as motions, subpoenas, and the pre-hearing conference. For example, the exchange of witness lists and theories of the case 21 days prior to the hearing will assist parties in making informed determinations concerning subpoena requests, which requests must be made 15 days prior to the hearing, pursuant to § 2429.7. By contrast, under the current regulations (§ 2423.14(a)), witness lists and documents are exchanged immediately before or at the start of the hearing, and case theories are often not revealed until the hearing begins. Involving the parties in the disclosure process well in advance of the hearing should clarify the issues to be litigated and enable knowledgeable settlement discussions.

Section 2423.24

This new section sets forth an expanded role for the Administrative Law Judge in the prehearing process, specifically providing for the Judge's regulation of the course and scheduling of prehearing matters. Under subsection (c), the Administrative Law Judge has the discretion to issue a prehearing order. Subsection (d) renders mandatory a prehearing conference to be scheduled by the Administrative Law Judge, unless the Administrative Law Judge determines that the conference is not necessary and no party has moved for a prehearing conference. At such conferences, which may occur telephonically or in person, the parties must be prepared to discuss, narrow, and resolve the issues set forth in the complaint and answer. The matters that may be discussed at the prehearing conference are specifically set forth in the regulation. As with § 2423.23, this subsection emphasizes the discussion and resolution of issues at an earlier stage in the proceedings. Subsection (e), which grants the Administrative Law Judge authority to impose sanctions as appropriate, such as the exclusion of evidence or submissions regarding sanctions, represents a substantial change from the current regulations. Such authority accords with the regulations of both the Merit Systems Protection Board (MSPB) (5 CFR 1201.43) and Equal Employment Opportunity Commission (EEOC) (29 CFR 1614.109(c)) as well as other administrative agencies. In addition to the new provisions set forth above, this section also incorporates the current § 2423.12(c), which addresses changing the date, time, or place of hearing, as well as some of the powers of the Administrative Law Judge set forth in the current § 2423.19.

Section 2423.25

The provisions regarding post complaint, prehearing settlements of an informal or formal nature, that appear in the current § 2423.11, are moved to this section and appear in subsections (a), (b), and (c). A significant change to the overall settlement process is the provision for the settlement judge program in subsection (d). This program provides the parties with an Administrative Law Judge or other appropriate official to conduct negotiations for informal settlements.

The settlement official shall not be the hearing judge unless otherwise agreed to by the parties. Further, all settlement proceedings under this program are confidential. This revision implements a successful trial program that has been tested by the Authority for the past two years and closely parallels the National Labor Relations Board's settlement judge program regulations (29 CFR 102.35).

Section 2423.26

This is a new section that supersedes the current stipulation provision in § 2429.1. As under current stipulation practice, the parties must agree that no material issue of fact exists. Subsection (a) of the revised regulation provides that the parties may jointly move to have a case considered on stipulation. Subsection (b) of the revised regulation clarifies that stipulations of fact may be submitted to the Administrative Law Judge rather than to the Authority. If the stipulation is deemed adequate, the Judge may adjudicate the case on the basis of the stipulation. This was not expressly authorized in the current regulations. Subsection (c) alters the current procedure, by providing that the Authority has discretion to grant such motions when the Authority concludes that a decision by the Administrative Law Judge would not assist in resolution of the case.

Section 2423.27

This section creates a specific regulation for the filing of a motion for summary judgment. The current regulations do not provide for the filing of such motions, although the Authority has held that motions for summary judgment

> serve the same purpose and have the same requirements as motions for summary judgment filed with United States District Courts pursuant to Rule 56 of the Federal Rules of Civil Procedure.

U.S. Equal Employment Opportunity Commission, 51 FLRA 248, 252–53 (1995) (*citing Department of the Navy, U.S. Naval Ordnance Station, Louisville, Kentucky*, 33 FLRA 3, 4 (1988)), *rev'd on other grounds*, No. 88–1861 (D.C. Cir. Aug. 9, 1990) (unpublished). The requirements in this section are comparable to Rule 56 of the Federal Rules of Civil Procedure, as well as summary judgment procedures of other federal agencies. Time limits are established to prevent the filing of summary judgment motions from interfering with the overall post complaint process. Also, the requirement that the motion be filed 15 days prior to the hearing is consistent with the regulations of the EEOC (29 CFR 1614.109(e)).

Sections 2423.28–2423.29

These sections are reserved.

Subpart C—Hearing Procedures

Section 2423.30

This section regarding the general requirements for conduct of the hearing consolidates and condenses various provisions of current §§ 2423.14, 2423.16, 2423.21, 2423.23, and 2423.24. Unnecessary language is eliminated, particularly with regard to the relevant procedures established in the Administrative Procedure Act (APA), 5 U.S.C. 554–557. Subsections (a) and (b) incorporate provisions of the current regulations regarding an open hearing and conduct of the hearing in accordance with the APA. Subsection (d) restates the current objection regulation and eliminates antiquated and unclear language in the current § 2423.21(b), that

> [a]utomatic exceptions will be allowed to all adverse rulings.

Under subsection (d), as under the current regulations (§ 2423.23) objections not made before an Administrative Law Judge shall be deemed waived. Subsections (c), (e), and (f) make no substantive changes from the current regulations.

Section 2423.31

The current §§ 2423.17 and 2423.19 are consolidated here. As with § 2423.30, this section eliminates superfluous language from the current regulations without substantively changing the powers and duties of the Administrative Law Judge at hearing. Rather than delineating specific powers and duties, the revised regulation provides general guidance regarding the Administrative Law Judge's authority at the hearing. As in § 2423.30, the powers of the Administrative Law Judge set forth in the APA at 5 U.S.C. 556, 557, are controlling. Subsection (c) is a new provision specifying that the Administrative Law Judge may, under certain circumstances, issue bench decisions. Settlement procedures to be utilized after the start of the hearing, currently found in § 2423.11, are set forth in subsection (d). This settlement subsection retains the current practice with minor editorial changes.

Section 2423.32

This section retains the requirement regarding the General Counsel's burden of proof obligation, currently set forth in § 2423.18. A new provision specifies that the Respondent has the burden of establishing any specific defenses to charges in the complaint. This is in accord with established Authority precedent. *See, e.g., Internal Revenue Service (IRS), Washington, D.C. and IRS, Kansas City Service Center, Kansas City, Missouri*, 50 FLRA 661, 670 (1995) (Respondent is required to identify specific anti-disclosure interests to support defense that denial of information request is appropriate); *U.S. Department of Transportation, Federal Aviation Administration, New York Tracon, Westbury, New York*, 50 FLRA 338, 345 (1995) (Respondent has burden of proving elements of Privacy Act defense); *Letterkenny Army Depot*, 35 FLRA 113, 118 (1990) (Respondent has burden of rebutting prima facie case of discrimination by a preponderance of the evidence).

Section 2423.33

This section parallels the current § 2423.25.

Section 2423.34

This section, which addresses matters related to the Administrative Law Judge's decision, incorporates the requirements set out in the current § 2423.26.

Sections 2423.35–2423.39

These sections are reserved.

Subpart D—Post-transmission and Exceptions to Authority Procedures

Section 2423.40

All matters related to exceptions, cross-exceptions, and oppositions, which currently appear in §§ 2423.26, 2423.27, and 2423.28, are consolidated here. In addition, this section requires that each of these filings include a supporting brief meeting certain format requirements. These changes are intended to assist the Authority in evaluating arguments, accelerate the issuance of decisions, and improve the quality and responsiveness of the Authority's decisions. This section also increases the time that respondents have for filing oppositions.

Section 2423.41

Consolidated into one section are matters related to action by the Authority and compliance with decisions and orders of the Authority. These matters appear in current §§ 2423.29 and 2423.30. As with the reorganizations made elsewhere in the proposed rules, this consolidation is intended to facilitate the parties' understanding of and compliance with the regulations. This section does not make substantive changes to current regulations and practice.

Section 2423.42

This section simplifies current § 2423.31, which sets forth the procedures to be followed when compliance with a backpay order is at issue. Current practice is continued with one exception—backpay specifications by the Regional Director are no longer a required part of the process. Instead, if the backpay amount is in question, the Regional Director may issue a notice of hearing setting forth the issues to be resolved without specification. The Respondent is responsible for filing an answer to the notice of hearing. Thereafter, the ULP hearing procedures are to be followed, with the Administrative Law Judge ultimately determining the amount of backpay.

Sections 2423.43–2423.49

These sections are reserved.

Part 2429—Miscellaneous and General Requirements

Section 2429.1

This section is removed and reserved. The proposed § 2423.26 covers this procedure.

Section 2429.7

The spelling of the term ''subpoena'' is changed throughout this section to reflect the more commonly used and dictionary spelling of the word. Other than this spelling change, subsections (a) and (b) remain the same. Subsection (c) amends the current process wherein requests for subpoenas in ULP proceedings are filed with the Regional Director and provides instead that such subpoena requests shall be filed with the Office of Administrative Law Judges. This revision is in keeping with the goal of eliminating any perception of unfairness or conflict of interest in ULP proceedings. Subsection (e) provides that petitions to revoke a subpoena in the ULP process shall be filed with the Administrative Law Judge. A change applying to all proceedings before the Authority is that requests for subpoenas shall be granted if the issuing authority finds that the testimony or documents are material and relevant to the matters under consideration. The intent of the regulations is to establish minimal requirements for the obtaining of a subpoena. In the ULP process, such subpoenas would be issued, on sufficient showing, by the Office of Administrative Law Judges. Subsection (d) of the revised regulation also establishes that in all proceedings, requests for subpoenas made less than 15 days prior to the opening of the hearing shall be granted if sufficient explanation is provided as to why the request was not timely filed. Subsection (e) clarifies the requirements for revocation of subpoenas and describes the presiding official's role in explaining the procedural or other ground for the ruling. Subsection (e) also establishes a procedure for the revocation of a subpoena if, on further review, the subpoena does not appear appropriate. In the ULP process, subpoena revocation determinations would be made by an Administrative Law Judge. Subsection (f) changes the Federal Labor Relations Authority official responsible for court enforcement of subpoenas in all Authority proceedings from the General Counsel to the Solicitor of the Authority.

Section 2429.11

This section retains current language regarding interlocutory appeals and also creates a procedure for filing and a standard for reviewing interlocutory appeals in the ULP process. This new procedure is consistent with both MSPB regulations (5 CFR 1201.91–93) and interlocutory appeals procedure under federal practice (28 U.S.C. 1292(b)).

Section 2429.12

This section, addressing service on parties by Authority officials in all proceedings, simplifies and facilitates service requirements in several respects. Corresponding changes are made to other sections addressing service by the parties (§§ 2429.22 and 2429.27) and filing with the Authority (§§ 2429.21 and 2429.24). Subsection (a) permits service of process by first-class rather than certified mail, although service by certified mail is still permitted. The provision permitting service by telegraph is deleted. In another change, service by facsimile is permitted for certain procedural and other matters in order to facilitate and expedite service where appropriate. However, non-procedural determinations, such as recommended decisions of the Administrative Law Judge or final decisions of the Authority, which are likely to be lengthier and not as time-sensitive, will be served by mail. Subsection (c) is revised to address the changes in subsection (a); thus, proof of service is now accomplished by certificate of the individual serving the papers. Date of service, when service is by mail, remains the same. For facsimile service, the date of service is the date of facsimile transmission.

Section 2429.13

This section is amended to eliminate the current provision that necessary transportation and per diem expenses for witnesses are paid by the employing activity or agency. The revision reflects current practice in ULP proceedings.

Section 2429.14

The substance of subsection (a) is unchanged, although the language is simplified and clarified. Subsection (b) is revised in accordance with the changes regarding payment of witness fees explained in § 2429.13 above. Thus, witness fees, transportation, and per diem expenses are paid by the party that calls the witness to testify.

Section 2429.21

No change is proposed to subsection (a) concerning computation of time; however, comments are solicited concerning how it could be clarified. Subsection (b) is changed to address the date of filing when facsimile transmission is utilized and to clarify that if the filing is by commercial delivery, it shall be considered filed on the date it is received by the Authority.

Section 2429.22

This section is revised to permit service by facsimile transmission.

Section 2429.24

Subsection (e) is amended to clarify that documents may be filed by commercial delivery. The subsection also permits limited filing by facsimile transmission and parallels the change in § 2429.12(a). A 5-page limitation is placed on such filings to discourage extensive filings by facsimile that would potentially overload facsimile equipment capabilities and shift voluminous document reproduction responsibility from the parties to the Authority office involved.

Section 2429.25

This section is amended to clarify that where filing by facsimile transmission is permitted, one legible copy shall be a sufficient submission. The requirement that the parties file an original plus four copies of documents not served by facsimile transmission is retained. The extra copies facilitate review by the various Authority officials with whom the documents are filed.

Section 2429.27

Subsection (b) is amended to permit service by facsimile. Subsection (d) now reflects the date of service when service is effected by facsimile.

List of Subjects in 5 CFR Parts 2423 and 2429

Administrative practice and procedure, Government employees, Labor management relations.

For the reasons set forth in the preamble, the Federal Labor Relations Authority proposes to revise 5 CFR Part 2423 and to amend 5 CFR Part 2429 as follows:

1. Part 2423 is revised to read as follows:

PART 2423—UNFAIR LABOR PRACTICE PROCEEDINGS

Sec.

Authority: 5 U.S.C. 7134.

§ 2423.1 Applicability of this part.

This part is applicable to any charge of alleged unfair labor practices filed with the Authority on or after January 11, 1979.

Subpart A—Filing, Investigating, Resolving, and Acting on Charges

§ 2423.2 Informal proceedings.

(a) The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved by the cooperative efforts of all persons covered by the program. To this end, it shall be the policy of the Authority and the General Counsel to encourage all persons alleging unfair labor practices and persons against whom such allegations are made to meet and, in good faith, attempt to resolve such matters prior to the filing of unfair labor practice charges with the Authority.

(b) In furtherance of the policy referred to in paragraph (a) of this section, and noting the six (6) month period of limitation set forth in 5 U.S.C. 7118(a)(4), it shall be the policy of the Authority and the General Counsel to encourage the informal resolution of unfair labor practice allegations subsequent to the filing of a charge and prior to the issuance of a complaint by the Regional Director.

(c) In order to afford the parties an opportunity to implement the policy referred to in paragraphs (a) and (b) of this section, the investigation of an unfair labor practice charge by the Regional Director will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed 15 days from the filing of the charge, during which period the parties are urged to attempt to informally resolve the unfair labor practice allegation.

§ 2423.3 Who may file charges.

An activity, agency or labor organization may be charged by any person with having engaged in or engaging in any unfair labor practice prohibited under 5 U.S.C. 7116.

§ 2423.4 Contents of the charge; supporting evidence and documents.

(a) A charge alleging a violation of 5 U.S.C. 7116 shall be submitted on forms prescribed by the Authority and shall contain the following:

(1) The name, address and telephone number of the person(s) making the charge;

(2) The name, address and telephone number of the activity, agency, or labor organization against whom the charge is made;

(3) A clear and concise statement of the facts constituting the alleged unfair labor practice, a statement of the section(s) and subsection(s) of chapter 71 of title 5 of the United States Code alleged to have been violated, and the date and place of occurrence of the particular acts; and

(4) A statement of any other procedure invoked involving the subject matter of the charge and the results, if any, including whether the subject matter raised in the charge:

(i) Has been raised previously in a grievance procedure;

(ii) Has been referred to the Federal Service Impasses Panel, the Federal Mediation and Conciliation Service, the Equal Employment Opportunity Commission, the Merit Systems Protection Board or the Special Counsel of the Merit Systems Protection Board for consideration or action; or

(iii) Involves a negotiability issue raised by the charging party in a petition pending before the Authority pursuant to Part 2424 of this subchapter.

(b) Such charge shall be in writing and signed and shall contain a declaration by the person signing the charge, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of that person's knowledge and belief.

(c) When filing a charge, the charging party shall submit to the Regional Director any supporting evidence and documents.

§ 2423.5 Selection of the unfair labor practice procedure or the negotiability procedure.

Where a labor organization files an unfair labor practice charge pursuant to this part which involves a negotiability issue, and the labor organization also files pursuant to Part 2424 of this subchapter a petition for review of the same negotiability issue, the Authority and the General Counsel ordinarily will not process the unfair labor practice charge and the petition for review simultaneously. Under such circumstances, the labor organization must select under which procedure to proceed. Upon selection of one procedure, further action under the other procedure will ordinarily be suspended. Such selection must be made regardless of whether the unfair labor practice charge or the petition for review of a negotiability issue is filed first. Notification of this selection must be made in writing at the time that both procedures have been invoked, and must be served on the Authority, the appropriate Regional Director and all parties to both the unfair labor practice case and the negotiability case. Cases which solely involve an agency's allegation that the duty to bargain in good faith does not extend to the matter proposed to be bargained and which do not involve actual or contemplated

changes in conditions of employment may only be filed under Part 2424 of this subchapter.

§ 2423.6 Filing and service of copies.

(a) An original and four (4) copies of the charge together with one copy for each additional charged party named shall be filed with the Regional Director for the region in which the alleged unfair labor practice has occurred or is occurring. A charge alleging that an unfair labor practice has occurred or is occurring in two or more regions may be filed with the Regional Director for any such region.

(b) Upon the filing of a charge, the charging party shall be responsible for the service of a copy of the charge (without the supporting evidence and documents) upon the person(s) against whom the charge is made, and for filing a written statement of such service with the Regional Director. The Regional Director will, as a matter of course, cause a copy of such charge to be served on the person(s) against whom the charge is made, but shall not be deemed to assume responsibility for such service.

(c) A charge will be deemed to be filed when it is received by the appropriate Regional Director in accordance with the requirements in paragraph (a) of this section.

§ 2423.7 Investigation of charges.

(a) The Regional Director, on behalf of the General Counsel, shall conduct such investigation of the charge as the Regional Director deems necessary. Consistent with the policy set forth in § 2423.2, the investigation will normally not commence until the parties have been afforded a reasonable amount of time, not to exceed 15 days from the filing of the charge, to informally resolve the unfair labor practice allegation.

(b) During the course of the investigation all parties involved will have an opportunity to present their evidence and views to the Regional Director.

(c) In connection with the investigation of charges, all persons are expected to cooperate fully with the Regional Director.

(d) The purposes and policies of the Federal Service Labor-Management Relations Statute can best be achieved by the full cooperation of all parties involved and the voluntary submission of all potentially relevant information from all potential sources during the course of the investigation. To this end, it shall be the policy of the Authority and the General Counsel to protect the identity of individuals and the substance of the statements and information they submit or which is obtained during the investigation as a means of assuring the Authority's and the General Counsel's continuing ability to obtain all relevant information.

§ 2423.8 Amendment of charges.

Prior to the issuance of a complaint, the charging party may amend the charge in accordance with the requirements set forth in § 2423.6.

§ 2423.9 Action by the Regional Director.

(a) The Regional Director shall take action which may consist of the following, as appropriate:

(1) Approve a request to withdraw a charge;

(2) Refuse to issue a complaint;

(3) Approve a written settlement agreement in accordance with the provisions of Part 2423;

(4) Issue a complaint; or

(5) Withdraw a complaint.

(b) Parties may request the General Counsel to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d). The General Counsel will initiate and prosecute injunctive proceedings under 5 U.S.C. 7123(d) only upon approval of the Authority. A determination by the General Counsel not to seek approval of the Authority for such temporary relief is final and may not be appealed to the Authority.

(c) Upon a determination to issue a complaint, whenever it is deemed advisable by the Authority to seek appropriate temporary relief (including a restraining order) under 5 U.S.C. 7123(d), the Regional Attorney or other designated agent of the Authority to whom the matter has been referred will make application for appropriate temporary relief (including a restraining order) in the district court of the United States within which the unfair labor practice is alleged to have occurred or in which the party sought to be enjoined resides or transacts business. Such temporary relief will not be sought unless the record establishes probable cause that an unfair labor practice is being committed, or if such temporary relief will interfere with the ability of the agency to carry out its essential functions.

(d) Whenever temporary relief has been obtained pursuant to 5 U.S.C. 7123(d) and thereafter the Administrative Law Judge hearing the complaint, upon which the determination to seek such temporary relief was predicated, recommends dismissal of such complaint, in whole or in part, the Regional Attorney or other designated agent of the Authority handling the case for the Authority shall inform the district court which granted the temporary relief of the possible change in circumstances arising out of the decision of the Administrative Law Judge.

§ 2423.10 Determination not to issue complaint; review of action by the Regional Director.

(a) If the Regional Director determines that the charge has not been timely filed, that the charge fails to state an unfair labor practice, or for other appropriate reasons, the Regional Director may request the charging party to withdraw the charge, and in the absence of such withdrawal within a reasonable time, decline to issue a complaint.

(b) If the Regional Director determines not to issue a complaint on a charge which is not withdrawn, the Regional Director shall provide the parties with a written statement of the reasons for not issuing a complaint.

(c) The charging party may obtain a review of the Regional Director's decision not to issue a complaint by filing an appeal with the General Counsel within 25 days after service of the Regional Director's decision. The appeal shall contain a complete statement setting forth the facts and reasons upon which it is based. A copy of the appeal shall also be filed with the Regional Director. In addition, the charging party should notify all other parties of the fact that an appeal has been taken, but any failure to give such notice shall not affect the validity of the appeal.

(d) A request for extension of time to file an appeal shall be in writing and received by the General Counsel not later than 5 days before the date the appeal is due. The charging party should notify the Regional Director and all other parties that it has requested an extension of time in which to file an appeal, but any failure to give such notice shall not affect the validity of its request for an extension of time to file an appeal.

(e) The General Counsel may sustain the Regional Director's refusal to issue or re-issue a complaint, stating the grounds of affirmance, or may direct the Regional Director to take further action. The General Counsel's decision shall be served on all the parties. The decision of the General Counsel shall be final.

§ 2423.11 Settlement prior to issuance of a complaint.

(a) Prior to the issuance of any complaint or the taking of other formal action, the Regional Director will afford the Charging Party and the Respondent

a reasonable period of time in which to enter into an informal settlement agreement to be approved by the Regional Director. Upon approval by the Regional Director and compliance with the terms of the informal settlement agreement, no further action shall be taken in the case. If the Respondent fails to perform its obligations under the informal settlement agreement, the Regional Director may determine to institute further proceedings.

(b) In the event that the Charging Party fails or refuses to become a party to an informal settlement agreement offered by the Respondent, if the Regional Director concludes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations Statute, the Regional Director shall enter into the agreement with the Respondent and shall decline to issue a complaint. The Charging Party may obtain a review of the Regional Director's action by filing an appeal with the General Counsel in accordance with § 2423.10(c). The General Counsel shall take action on such appeal as set forth in § 2423.10(e).

§§ 2423.12–2423.19 [Reserved]

Subpart B—Post Complaint, Prehearing Procedures

§ 2423.20 Issuance and contents of the complaint; answer to the complaint; amendments; role of Office of Administrative Law Judges.

(a) *Complaint.* Whenever formal proceedings are deemed necessary, the Regional Director shall file and serve, in accordance with § 2429.12 of this Subchapter, a complaint with the Office of Administrative Law Judges. The decision to issue a complaint shall not be subject to review. Any complaint may be withdrawn by the Regional Director prior to the hearing. The complaint shall set forth:

(1) Notice of the charge;

(2) The basis for jurisdiction;

(3) The facts alleged to constitute an unfair labor practice;

(4) The particular sections of 5 U.S.C., chapter 71 and the rules and regulations involved;

(5) The relief sought;

(6) Notice of the date, time, and place that a hearing will take place before an Administrative Law Judge; and

(7) A brief statement explaining the nature of the hearing.

(b) *Answer.* Within 20 days after the date of service of the complaint, the Respondent shall file and serve, in accordance with Part 2429 of this Subchapter, an answer with the Office of Administrative Law Judges. The answer shall admit, deny, or explain each allegation of the complaint. If the Respondent has no knowledge of an allegation or insufficient information as to its truthfulness, the answer shall so state. Absent a showing of good cause to the contrary, failure to file an answer or respond to any allegation shall constitute an admission. Motions to extend the filing deadline shall be filed in accordance with § 2423.21.

(c) *Amendments.* The Regional Director may amend the complaint at any time before the answer is filed. The Respondent then has 20 days from the date of service of the amended complaint to file an answer with the Office of Administrative Law Judges. The answer may be amended by the Respondent within 20 days after the answer is filed. Thereafter, any requests to amend the complaint or answer must be made by motion to the Office of Administrative Law Judges.

(d) *Office of Administrative Law Judges.* Pleadings, motions, conferences, hearings, and other matters throughout as specified in Subparts B, C, and D shall be administered by the Office of Administrative Law Judges. The Chief Administrative Law Judge, or any Administrative Law Judge designated by the Chief Administrative Law Judge, shall administer any matters properly submitted to the Office of Administrative Law Judges. Throughout subparts B, C, and D of this part, ''Administrative Law Judge'' refers to the Chief Administrative Law Judge or his or her designee.

§ 2423.21 Motions procedure.

(a) *General requirements.* All motions, except those made during a prehearing conference or hearing, shall be in writing. Motions for an extension of time, postponement of a hearing, or any other procedural ruling shall include a statement of the position of the other parties on the motion. All written motions and responses shall satisfy the filing and service requirements of part 2429 of this subchapter.

(b) *Motions made to the Administrative Law Judge.* Prehearing motions and motions made at the hearing shall be filed with the Administrative Law Judge. Unless otherwise specified in Subparts B or C of this part, or otherwise directed or approved by the Administrative Law Judge, prehearing motions shall be filed at least 15 days prior to the hearing, and responses to both prehearing motions and motions made at the hearing shall be filed within 5 days after the date of service of the motion. Posthearing motions shall be filed within 15 days after the date the hearing closes, and responses shall be filed within 5 days after the date of service of the motion. Motions to correct the transcript shall be filed with the Administrative Law Judge.

(c) *Post-transmission motions.* After the case has been transmitted to the Authority, motions shall be filed with the Authority.

(d) *Interlocutory appeals.* Motions for an interlocutory appeal of any ruling and responses shall be filed in accordance with this section and § 2429.11 of this subchapter.

§ 2423.22 Intervenors.

Motions for permission to intervene and responses shall be filed in accordance with § 2423.21. Such motions shall be granted upon a showing that the outcome of the proceeding is likely to directly affect the movant's rights or duties. Intervenors may participate only: on the issues determined by the Administrative Law Judge to affect them; and to the extent permitted by the Judge. Denial of such motions may be appealed pursuant to § 2423.21(d).

§ 2423.23 Prehearing disclosure.

Unless otherwise directed or approved by the Judge, the parties shall exchange the following items at least 21 days prior to the hearing:

(a) Proposed witness lists, including a brief synopsis of the expected testimony of each witness;

(b) Copies of documents, with an index, to be offered into evidence; and

(c) A brief statement of the theory of the case, including any and all defenses to the charges, and citations to any precedent relied upon.

§ 2423.24 Powers and duties of the Administrative Law Judge during prehearing proceedings.

(a) *Prehearing procedures.* The Administrative Law Judge shall regulate the course and scheduling of prehearing matters, including prehearing orders, conferences, disclosure, motions, and subpoena requests.

(b) *Changing date, time, or place of hearing.* After issuance of the complaint or any prehearing order, the Administrative Law Judge may, upon his or her own motion or proper cause shown by any party through the motions procedure in § 2423.21, change the date, time, or place of the hearing.

(c) *Prehearing order.* (1)The Administrative Law Judge may issue a prehearing order confirming or changing:

(i) The date, time, or place of the hearing;

(ii) The schedule for prehearing disclosure of witness lists and

documents intended to be offered into evidence at the hearing;

(iii) The date for submission of procedural and substantive motions;

(iv) The date, time, and place of the prehearing conference; and

(v) Any other matter pertaining to prehearing or hearing procedures.

(2) The prehearing order shall be served in accordance with § 2429.12 of this Subchapter.

(d) *Prehearing conferences.* The Administrative Law Judge shall conduct one or more prehearing conferences, either by telephone or in person, at least 7 days prior to the hearing date, unless the Administrative Law Judge determines that a prehearing conference would serve no purpose and no party has moved for a prehearing conference in accordance with § 2423.21. If a prehearing conference is held, all parties must participate and be prepared to discuss, narrow, and resolve the issues set forth in the complaint and answer. The Administrative Law Judge may either prepare and file for the record a written summary of actions taken at the conference or direct a party to do so. Summaries of the conference shall be served on all parties in accordance with § 2429.12 of this Subchapter.The following matters may also be considered at the prehearing conference:

(1) Settlement of the case, either by the Judge conducting the prehearing conference or pursuant to § 2423.25;

(2) Admissions of fact, disclosure of contents and authenticity of documents, and stipulations of fact;

(3) Objections to the introduction of evidence at the hearing, including oral or written testimony, documents, papers, exhibits, or other submissions proposed by a party;

(4) Subpoena requests;

(5) Any matters subject to official notice;

(6) Outstanding motions; or

(7) Any other matter that may expedite the hearing or aid in the disposition of the case.

(e) *Sanctions.* The Administrative Law Judge may impose sanctions upon the parties as necessary and appropriate under the circumstances. Such authority includes, but is not limited to, the power to:

(1) Prohibit a party who fails to comply with any requirement of Subpart B or C of this part from, as appropriate, introducing evidence, calling witnesses, or raising objections to the introduction of evidence or testimony of witnesses at the hearing.

(2) Refuse to consider any submission that is not filed in compliance with Subparts B or C of this part.

§ 2423.25 Post Complaint, Prehearing Settlements.

(a) *Informal and formal settlements.* Post complaint settlements may be either informal or formal.

(1) Informal settlement agreements provide for withdrawal of the complaint by the Regional Director and are not subject to approval by or an order of the Authority. If the Respondent fails to perform its obligations under the informal settlement agreement, the Regional Director may re-institute formal proceedings consistent with this Subpart.

(2) Formal settlement agreements are subject to approval by the Authority, and include the parties' agreement to waive their right to a hearing and acknowledgment that the Authority may issue an order requiring the Respondent to take action appropriate to the terms of the settlement. The formal settlement agreement shall also contain the Respondent's consent to the Authority's application for the entry of a decree by an appropriate federal court enforcing the Authority's order.

(b) *Informal settlement procedure.* If the Charging Party and the Respondent enter into an informal settlement agreement that is accepted by the Regional Director, the Regional Director shall withdraw the complaint and approve the informal settlement agreement. If the Charging Party fails or refuses to become a party to an informal settlement agreement offered by the Respondent, and the Regional Director concludes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations Statute, the Regional Director shall enter into the agreement with the Respondent and shall withdraw the complaint. The Charging Party then may obtain a review of the Regional Director's action by filing an appeal with the General Counsel as provided in subpart A of this part.

(c) *Formal settlement procedure.* If the Charging Party and the Respondent enter into a formal settlement agreement that is accepted by the Regional Director, the Regional Director shall withdraw the complaint upon approval of the formal settlement agreement by the Authority. If the Charging Party fails or refuses to become a party to a formal settlement agreement offered by the Respondent, and the Regional Director concludes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations Statute, the agreement shall be between the Respondent and the Regional Director. The formal settlement agreement together with the Charging Party's objections, if any, shall be submitted to the Authority for approval. The Authority may approve a formal settlement agreement upon a sufficient showing that it will effectuate the policies of the Federal Service Labor-Management Relations Statute.

(d) *Settlement judge program.* The Administrative Law Judge, on his or her own motion, or upon the request of any party, may assign a judge or other appropriate official, who shall be other than the hearing judge unless otherwise mutually agreed to by the parties, to conduct negotiations for informal settlements.

(1) The settlement official shall convene and preside over settlement conferences by telephone or in person.

(2) The settlement official may require that the representative for each party be present at settlement conferences and that the parties or agents with full settlement authority be present or available by telephone.

(3) All discussions between the parties and the settlement official shall be confidential. The settlement official shall not discuss any aspect of the case with the hearing judge, and no evidence regarding statements, conduct, offers of settlement, and concessions of the parties made in proceedings before the settlement official shall be admissible in any proceeding before the Administrative Law Judge or Authority, except by stipulation of the parties.

§ 2423.26 Stipulations of fact submissions.

(a) *General.* In any unfair labor practice case under this Subchapter, upon agreement of all parties that no material issue of fact exists, the parties may jointly submit a motion to the Administrative Law Judge or Authority requesting consideration of the matter based upon stipulations of fact.

(b) *Stipulations to the Administrative Law Judge.* Where the stipulation adequately addresses the appropriate material facts, the Administrative Law Judge may grant the motion and decide the case through stipulation.

(c) *Stipulations to the Authority.* Where the stipulation adequately addresses the appropriate material facts and a decision by the Administrative Law Judge would not assist in the resolution of the case, the Authority may grant the motion and decide the case through stipulation.

§ 2423.27 Summary judgment motions.

(a) Any party may move, no later than 15 days prior to the scheduled hearing, for a summary judgment in its favor upon any of the issues pleaded. The motion shall demonstrate that there is no genuine issue of material fact and that the moving party is entitled to a

judgment as a matter of law. Such motions shall be supported by documents, affidavits, applicable precedent, or other appropriate materials.

(b) Responses must be filed within 10 days after the date of service of the motion. Responses may not rest upon mere allegations or denials but must show, by documents, affidavits, applicable precedent, or other appropriate materials, that there is a genuine issue to be determined at the hearing.

(c) If all issues are decided by summary judgment, no hearing will be held and the Administrative Law Judge shall prepare a decision in accordance with § 2423.34. If summary judgment is denied, or if partial summary judgment is granted, the Administrative Law Judge shall issue an opinion and order, subject to interlocutory appeal as provided in § 2429.11 of this subchapter, and the hearing shall proceed as necessary.

§§ 2423.28–2423.29 [Reserved]

Subpart C—Hearing Procedures

§ 2423.30 General rules.

(a) *Open hearing.* The hearing shall be open to the public unless otherwise ordered by the Administrative Law Judge.

(b) *Administrative Procedure Act.* The hearing shall, to the extent practicable, be conducted in accordance with the Administrative Procedure Act, 5 U.S.C. 554–557.

(c) *Rights of parties.* A party shall have the right to appear at any hearing in person, by counsel, or by other representative; to examine and cross-examine witnesses; to introduce into the record documentary or other relevant evidence; and to submit rebuttal evidence, except that the participation of any party shall be limited to the extent prescribed by the Administrative Law Judge.

(d) *Objections.* Objections are oral or written complaints concerning the conduct of a hearing. Any objection not raised to the Administrative Law Judge shall be deemed waived.

(e) *Oral argument.* Any party shall be entitled, upon request, to a reasonable period prior to the close of the hearing for oral argument, which shall be included in the official transcript of the hearing.

(f) *Official transcript.* An official reporter shall make the only official transcript of such proceedings. Copies of the transcript may be examined in the appropriate Regional Office during normal working hours. Parties desiring a copy of the transcript shall make arrangements for a copy with the official hearing reporter.

§ 2423.31 Powers and duties of the Administrative Law Judge at the hearing.

(a) *Conduct of hearing.* The Administrative Law Judge shall conduct the hearing in a fair, impartial, and judicial manner, taking action as needed to avoid unnecessary delay and maintain order during the proceedings. The Administrative Law Judge may take any action necessary to schedule, conduct, continue, control, and regulate the hearing, including ruling on motions and taking official notice of material facts when appropriate. No provision of these regulations shall be construed to limit the powers of the Administrative Law Judge provided by the Administrative Procedure Act, 5 U.S.C. 556, 557.

(b) *Evidence.* The Administrative Law Judge shall receive evidence and inquire fully into the relevant and material facts concerning the matters that are the subject of the hearing. The Administrative Law Judge may exclude any evidence which is immaterial, irrelevant, unduly repetitious, or customarily privileged. Rules of evidence shall not be strictly followed.

(c) *Bench decisions.* The Administrative Law Judge may, upon mutual agreement of and motion by the parties, issue a decision orally at the close of the hearing when the nature of the case and the public interest warrant. If the motion is granted, the parties waive their right to file posthearing briefs and exceptions to the Authority. If the decision is announced orally, a copy thereof, excerpted from the transcript or recording, shall be furnished to the parties in accordance with § 2429.12 of this subchapter. Irrespective of the date such copy is served, the issuance date of the decision shall be the date the certified record, as corrected, and any Order, is served.

(d) *Settlements after the opening of the hearing.* As set forth in § 2423.25(a), settlements may be either informal or formal.

(1) *Informal settlement procedure: Judge's approval of withdrawal.* If the Charging Party and the Respondent enter into an informal settlement agreement that is accepted by the Regional Director, the Regional Director may request the Administrative Law Judge for permission to withdraw the complaint and, having been granted such permission, shall withdraw the complaint and approve the informal settlement between the Charging Party and Respondent. If the Charging Party fails or refuses to become a party to an informal settlement agreement offered by the Respondent, and the Regional Director concludes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations Statute, the Regional Director shall enter into the agreement with the Respondent and shall, if granted permission by the Administrative Law Judge, withdraw the complaint. The Charging Party then may obtain a review of the Regional Director's decision as provided in subpart A of this part.

(2) *Formal settlement procedure: Judge's approval of settlement.* If the Charging Party and the Respondent enter into a formal settlement agreement that is accepted by the Regional Director, the Regional Director may request the Administrative Law Judge to approve such formal settlement agreement, and upon such approval, to transmit the agreement to the Authority for approval. If the Charging Party fails or refuses to become a party to a formal settlement agreement offered by the Respondent, and the Regional Director concludes that the offered settlement will effectuate the policies of the Federal Service Labor-Management Relations Statute, the agreement shall be between the Respondent and the Regional Director. After the Charging Party is given an opportunity to state on the record or in writing the reasons for opposing the formal settlement, the Regional Director may request the Administrative Law Judge to approve such formal settlement agreement, and upon such approval, to transmit the agreement to the Authority for approval.

§ 2423.32 Burden of proof before the Administrative Law Judge.

The General Counsel shall present the evidence in support of the complaint and have the burden of proving the allegations of the complaint by a preponderance of the evidence. The Respondent shall have the burden of establishing any specific defenses that it raises to the charges in the complaint.

§ 2423.33 Posthearing briefs.

Posthearing briefs may be filed with the Administrative Law Judge within a time period set by the Judge, not to exceed 30 days from the close of the hearing, unless otherwise directed by the judge, and shall satisfy the filing and service requirements of part 2429 of this subchapter. Reply briefs shall not be filed absent permission of the Judge. Motions to extend the filing deadline or for permission to file a reply brief shall be filed in accordance with § 2423.21.

§ 2423.34 Decision and record.

(a) Except when bench decisions are issued pursuant to § 2423.31(c), the Administrative Law Judge shall prepare a written decision expeditiously in every case. All written decisions shall be served in accordance with § 2429.12 of this subchapter. The decision shall set forth:

(1) A statement of the issues;

(2) Relevant findings of fact;

(3) Conclusions of law and reasons therefor;

(4) Credibility determinations as necessary; and

(5) A recommended disposition or order.

(b) The Judge shall transmit the decision and record to the Authority. The record shall include the charge, complaint, service sheet, answer, motions, rulings, orders, stipulations, objections, depositions, interrogatories, exhibits, documentary evidence, official transcript of the hearing, briefs, and any other filings or submissions made by the parties.

§§ 2423.35–2423.39 [Reserved]

Subpart D—Post-transmission and Exceptions to Authority Procedures

§ 2423.40 Exceptions; oppositions and cross-exceptions; waiver.

(a) *Exceptions.* Exceptions may be filed with the Authority within 25 days after the date of service of the Judge's decision. Exceptions and supporting briefs shall satisfy the filing and service requirements of part 2429 of this subchapter.

(1) Exceptions shall state: the specific findings, conclusions, determinations, rulings, or recommendations being challenged; the grounds relied upon; and the relief sought.

(2) Exceptions shall include a supporting brief. The brief shall set forth in this order: all relevant facts; the issues to be addressed; and a separate argument for each issue. Statements of fact shall include specific citations to the record, and arguments shall be supported by specific citations to legal authority. Attachments to briefs shall be separately paginated and indexed as necessary. Briefs containing 20 or more pages shall include a table of contents and a table of legal authorities cited.

(b) *Oppositions and cross-exceptions.* Unless otherwise directed or approved by the Authority, oppositions to exceptions and/or cross-exceptions may be filed with the Authority within 20 days after the date of service of the exceptions. Oppositions shall state the specific exceptions being opposed. Oppositions and cross-exceptions shall be subject to the same requirements as exceptions set out in paragraph (a) of this section.

(c) *Waiver.* Any exception not specifically urged shall be deemed to have been waived.

§ 2423.41 Action by the Authority; compliance with Authority decisions and orders.

(a) In the absence of the filing of exceptions within the time limits established in § 2423.40, the findings, conclusions, and recommendations in the decision of the Administrative Law Judge shall, without precedential significance, become the findings, conclusions, decision and order of the Authority, and all objections and exceptions to the rulings and decision of the Administrative Law Judge shall be deemed waived for all purposes. Failure to comply with any filing requirement established in § 2423.40 may result in the information furnished being disregarded.

(b) Whenever exceptions are filed in accordance with § 2423.40, the Authority shall issue a decision affirming or reversing, in whole or in part, the decision of the Administrative Law Judge or disposing of the matter as is otherwise deemed appropriate.

(c) Upon finding a violation, the Authority shall, in accordance with 5 U.S.C. 7118(a)(7), issue an order directing the violator, as appropriate, to cease and desist from any unfair labor practice, or to take any other action to effectuate the purposes of the Federal Service Labor-Management Relations Statute.

(d) Upon finding no violation, the Authority shall dismiss the complaint.

(e) After the Authority issues an order, the Respondent shall, within the time specified in the order, provide to the appropriate Regional Director a report regarding what compliance actions have been taken. Upon determining that the Respondent has not complied with the Authority's order, the Regional Director shall refer the case to the Authority for enforcement or take other appropriate action.

§ 2423.42 Backpay proceedings.

After the entry of an Authority order directing payment of backpay, or the entry of a court decree enforcing such order, if it appears to the Regional Director that a controversy exists between the Authority and a Respondent regarding backpay that cannot be resolved without a formal proceeding, the Regional Director may issue and serve on all parties a notice of hearing before an Administrative Law Judge to determine the backpay amount. The notice of hearing shall set forth the specific backpay issues to be resolved. The Respondent shall, within 20 days after the service of a notice of hearing, file an answer in accordance with § 2423.20. After the issuance of a notice of hearing, the procedures provided in subparts B, C, and D of this part shall be followed as applicable.

§§ 2423.43–2423.49 [Reserved]

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

2. The authority citation for Part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134.

3. Section 2429.1 is removed and reserved, and reads as follows:

§ 2429.1 [Removed and reserved]

4. Section 2429.7 is amended by revising the heading, removing the word ''subpena'' and substituting ''subpoena'' throughout the section and by revising paragraphs (c) through (f) to read as follows:

§ 2429.7 Subpoenas.

* * * * *

(c) A request for a subpoena by any person, as defined in 5 U.S.C. 7103(a)(1), shall be in writing and filed with the Regional Director, in proceedings arising under part 2422 of this Subchapter, with the Office of Administrative Law Judges in proceedings arising under subparts B and C of part 2423 of this subchapter, or with the Authority, in proceedings arising under parts 2424 and 2425 of this subchapter, not less than 15 days prior to the opening of a hearing, or with the appropriate presiding official(s) during the hearing.

(d) All requests shall name and identify the witnesses or documents sought and state the reasons therefor. The Authority, General Counsel, Office of Administrative Law Judges, Regional Director, Hearing Officer, or any other employee of the Authority designated by the Authority, as appropriate, shall grant timely requests upon the determination that the testimony or documents appear to be material and relevant to the matters under investigation and the request describes with sufficient particularity the documents sought. Requests for subpoenas made less than 15 days prior to the opening of the hearing shall be granted on sufficient explanation of why the request was not timely filed. Service of an approved subpoena is the responsibility of the party on whose behalf the subpoena was issued. The

subpoena shall show on its face the name and address of the party on whose behalf the subpoena was issued.

(e)(1) Any person served with a subpoena who does not intend to comply, shall, within 5 days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke a subpoena shall be served on the party on whose behalf the subpoena was issued. Such petition to revoke, if made prior to the hearing, and a written statement of service, shall be filed with the Regional Director in proceedings arising under part 2422 of this subchapter, with the Administrative Law Judge in proceedings arising under part 2423 of this subchapter, and with the Authority, in proceedings arising under parts 2424 and 2425 of this subchapter for ruling. A petition to revoke a subpoena filed during the hearing, and a written statement of service, shall be filed with the appropriate presiding official(s).

(2) The Authority, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Authority designated by the Authority, as appropriate, shall revoke the subpoena if, on further review, the person or evidence, the production of which is required, is not material and relevant to the matters under investigation or in question in the proceedings, or the subpoena does not describe with sufficient particularity the evidence the production of which is required, or if for any other reason sufficient in law the subpoena is invalid. The Authority, General Counsel, Administrative Law Judge, Regional Director, Hearing Officer, or any other employee of the Authority designated by the Authority, as appropriate, shall state the procedural or other ground for the ruling on the petition to revoke. The petition to revoke, any answer thereto, and any ruling thereon shall not become part of the official record except upon the request of the party aggrieved by the ruling.

(f) Upon the failure of any person to comply with a subpoena issued and upon the request of the party on whose behalf the subpoena was issued, the Solicitor of the Authority shall institute proceedings on behalf of such party in the appropriate district court for the enforcement thereof, unless to do so would be inconsistent with law and the Federal Service Labor-Management Relations Statute.

5. Section 2429.11 is revised to read as follows:

§ 2429.11 Interlocutory Appeals.

(a) Except as set forth in paragraphs (b), (c), and (d), of this section, the Authority and the General Counsel ordinarily will not consider interlocutory appeals.

(b) In an unfair labor practice proceeding under Part 2423 of this Subchapter, motions for an interlocutory appeal shall be filed in writing with the Administrative Law Judge within 5 days after the date of the contested ruling. The motion shall state why interlocutory review is appropriate, and why the Authority should modify or reverse the contested ruling.

(c) The Judge shall grant the motion and certify the contested ruling to the Authority if:

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

(2) Immediate review will materially advance completion of the proceeding, or the denial of immediate review will cause undue harm to a party or the public.

(d) If the motion is granted, the Judge or Authority may stay the hearing during the pendency of the appeal. If the motion is denied, exceptions to the contested ruling may be filed in accordance with § 2423.40 of this Subchapter after the Judge issues a decision and recommended order in the case.

6. Section 2429.12 is amended by revising paragraphs (a) and (c) to read as follows:

§ 2429.12 Service of process and papers by the Authority.

(a) *Methods of service.* Notices of hearings, decisions and orders of Regional Directors, decisions and recommended orders of Administrative Law Judges, decisions of the Authority, complaints, written rulings on motions, and all other papers required by this Subchapter to be issued by the Authority, the General Counsel, Regional Directors, Hearing Officers, and Administrative Law Judges, shall be served personally, by first-class mail, or by certified mail. Provided, however: Where facsimile equipment is available, rulings on motions; information pertaining to prehearing disclosure, conferences, orders, or hearing dates, times, and locations; information pertaining to § 2429.7; and other similar matters may be served by facsimile transmission.

* * * * *

(c) *Proof of service.* Proof of service shall be verified by certificate of the individual serving the papers describing the manner of such service. When service is by mail, the date of service shall be the day when the matter served is deposited in the United States mail. When service is by facsimile, the date of service shall be the date the facsimile transmission is transmitted and, when necessary, verified by a dated facsimile record of transmission.

7. Section 2429.13 is revised to read as follows:

§ 2429.13 Official time for witnesses.

If the participation of any employee in any phase of any proceeding before the Authority, including the investigation of unfair labor practice charges and representation petitions and the participation in hearings and representation elections, is deemed necessary by the Authority, the General Counsel, any Administrative Law Judge, Regional Director, Hearing Officer, or other agent of the Authority designated by the Authority, the employee shall be granted official time for such participation, including necessary travel time, as occurs during the employee's regular work hours and when the employee would otherwise be in a work or paid leave status.

8. Section 2429.14 is revised to read as follows:

§ 2429.14 Witness fees.

(a) Witnesses, whether appearing voluntarily or pursuant to a subpoena, shall be paid the fee and mileage allowances which are paid subpoenaed witnesses in the courts of the United States. However, any witness who is employed by the Federal Government shall not be entitled to receive witness fees.

(b) Witness fees, as appropriate, as well as transportation and per diem expenses for a witness shall be paid by the party that calls the witness to testify.

9. Section 2429.21 is amended by revising paragraph (b) to read as follows:

§ 2429.21 Computation of time for filing papers.

* * * * *

(b) Except when filing an unfair labor practice charge pursuant to part 2423 of this subchapter, a representation petition pursuant to part 2422 of this subchapter, and a request for an extension of time pursuant to § 2429.23(a) of this part, when this Subchapter requires the filing of any paper with the Authority, the General Counsel, a Regional Director, or an Administrative Law Judge, the date of filing shall be determined by the date of mailing indicated by the postmark date or the date a facsimile is transmitted. If no postmark date is evident on the mailing, it shall be presumed to have

been mailed 5 days prior to receipt. If the date of facsimile transmission is unclear, the date of transmission shall be the date the facsimile transmission is received. If the filing is by personal or commercial delivery, it shall be considered filed on the date it is received by the Authority or the officer or agent designated to receive such materials.

* * * * *

10. Section 2429.22 is revised to read as follows:

§ 2429.22 Additional time after service by mail or facsimile.

Except as to the filing of an application for review of a Regional Director's Decision and Order under § 2422.31 of this subchapter, whenever a party has the right or is required to do some act pursuant to this Subchapter within a prescribed period after service of a notice or other paper upon such party, and the notice or paper is served on such party by mail or by facsimile transmission, 5 days shall be added to the prescribed period: Provided, however, that 5 days shall not be added in any instance where an extension of time has been granted.

11. Section 2429.24 is amended by revising paragraph (e) to read as follows:

§ 2429.24 Place and method of filing; acknowledgment.

* * * * *

(e) All documents filed pursuant to this section shall be filed in person, by commercial delivery, by first-class mail, or by certified mail. Provided, however, that where facsimile equipment is available, motions; information pertaining to prehearing disclosure, conferences, orders, or hearing dates, times, and locations; information pertaining to § 2429.7; and other similar matters may be filed by facsimile transmission, provided that the document filed does not exceed 5 pages in total length.

* * * * *

12. Section 2429.25 is revised to read as follows:

§ 2429.25 Number of copies and paper size.

Unless otherwise provided by the Authority or the General Counsel, or their designated representatives, as appropriate, or under this Subchapter, and with the exception of any prescribed forms, any document or paper filed with the Authority, General Counsel, Administrative Law Judge, Regional Director, or Hearing Officer, as appropriate, under this Subchapter, together with any enclosure filed therewith, shall be submitted on 8½ × 11 inch size paper in an original and four (4) legible copies. Where facsimile filing is permitted pursuant to § 2924.24(e), one (1) legible copy, capable of reproduction, shall be sufficient. A clean copy capable of being used as an original for purposes such as further reproduction may be substituted for the original.

13. Section 2429.27 is amended by revising paragraphs (b) and (d) to read as follows:

§ 2429.27 Service; statement of service.

* * * * *

(b) Service of any document or paper under this Subchapter, by any party, including documents and papers served by one party on another, shall be accomplished by certified mail, first-class mail, or in person. Where facsimile equipment is available, service by facsimile of documents described in § 2429.24(e) is permissible.

* * * * *

(d) The date of service or date served shall be the day when the matter served is deposited in the U.S. mail, delivered in person, or, in the case of facsimile transmissions, the date of transmission.

Dated: May 20, 1997.

Solly Thomas,

Executive Director, Federal Labor Relations Authority.

[FR Doc. 97–13661 Filed 5–22–97; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 96–ASW–08]

Proposed Revision of Class E Airspace; Carlisle, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a Notice of Proposed Rulemaking (NPRM) that proposed to revise the Class E airspace at Carlisle, AR. The proposal was to revise the controlled airspace extending upward from 700 feet above the ground (AGL) needed to contain aircraft executing a Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 09 at Carlisle Municipal Airport. The NPRM was published with errors in the description of the airspace required to provide adequate controlled airspace for aircraft executing this approach. Therefore, the proposal is withdrawn.

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

SUPPLEMENTARY INFORMATION: On June 18, 1996, an NPRM was published in the **Federal Register** (61 FR 30842) to revise the Class E airspace at Carlisle, AR. The intended effect of the proposal was to provide adequate Class E airspace to contain aircraft executing the GPS SIAP to RWY 09 at Carlisle Municipal Airport, Carlisle, AR. After publication of the NPRM, errors were found in the description of the proposed airspace. Accordingly, the proposed rule is withdrawn.

List of Subjects in 14 CFR Part 71

Airspace, Navigation (air).

Withdrawal of Proposed Rule

Accordingly, pursuant to the authority delegated to me, Airspace Docket No. 96–ASW–08, as published in the **Federal Register** on June 18, 1996 (61 FR 30842), is withdrawn.

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

Issued in Fort Worth, TX on May 12, 1997.

Albert L. Viselli,

Manager, Air Traffic Division, Southwest Region.

[FR Doc. 97–13567 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–24]

Proposed Amendment to Class E Airspace: Lewisburg, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Lewisburg, WV. The development of new Standard instrument Approach Procedures (SIAP) at the Greenbrier Valley Airport based on the Global Positioning System (GPS) and VHF Omnidirectional Radio Range (VOR) has made this proposal necessary. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate these SIAPs and for instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before June 5, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Operations Branch, AEA–530, Docket No. 97–AEA–24, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA–530 F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430; telephone: (718)553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–AEA–24,'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Lewisburg, WV. A GPS RWY 22 SIAP, and a VOR RWY 22 SIAP for the Greenbrier Valley Airport have been developed. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate these SIAP and for IFR operations at the airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6006 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

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

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

* * * * *

AEA WV E5 Lewisburg, WV [Revised]

Greenbrier Valley Airport, Lewisburg, WV
(Lat. 37°51′30″ N., long 80°23′58″ W.)

That airspace extending upward from 700 feet above the surface within a 9-mile radius of Greenbrier Valley Airport and within 4.4 miles each side of the 215° bearing from the Greenbrier Valley Airport extending from the 9-mile radius to 17 miles southwest of the airport and within 4.4 miles each side of the 020° bearing from the Greenbrier Valley Airport extending from the 9-mile radius to 12 miles northeast of the airport.

* * * * *

Issued in Jamaica, New York, on May 7, 1997.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 97–13586 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 401, 411, 413, 415 and 417

[Docket No. 28851; Notice 97–2]

RIN 2120–AF99

Commercial Space Transportation Licensing Regulations; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** on March 19, 1997 (62 FR 13216) which proposes to amend licensing regulations for launching commercial launch vehicles from Federal launch ranges. The proposed regulations are intended to provide applicants and licensees greater

specificity and clarity regarding the scope of a license, and regarding licensing requirements and criteria.

FOR FURTHER INFORMATION CONTACT: J. Randall Repcheck, Commercial Space Transportation, AST–200, (202) 366–2258 or Laura Montgomery, Office of the Chief Counsel, AGC–200, (202) 366–9305.

Correction

In proposed FR Doc. 97–6607, on page 13234 in the **Federal Register** issue of March 19, 1997, make the following corrections:

1. On page 13234 in the third column, under the heading: E. Paperwork Reduction Act, in the first paragraph, line 7, change the word ''approval'' to ''review.'' and remove the words ''under OMB No. 2105–0515, Title: Commercial Space Transportation Licensing Regulations.''.

2. On the same page, in the same column, under the same heading, in the second paragraph, in lines 29 and 30, concurrently ''518 hours'' should read ''518 hours×4=2,072 hours'' and ''421 hours'' should read ''421 hours×2=842 hours for a total of 2,914 hours''.

3. On the same page, in the same column, under the same heading, in the third paragraph, line 12, the docket number ''49815'' should be changed to ''28851''.

Issued in Washington, DC on May 15, 1997.

Donald P. Byrne,

Assistant Chief Counsel, Regulations Division.

[FR Doc. 97–13573 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

28 CFR Part 58

RIN 1105–AA54

Procedures for Suspension and Removal of Panel Trustees and Standing Trustees

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The United States Trustee Program (''Program'') is formalizing procedures by which a chapter 7 panel trustee and a standing chapter 12 or chapter 13 trustee can seek review within the agency of a decision by the United States Trustee to suspend or terminate the assignment of cases to the trustee. The procedures are a mandatory prerequisite for the trustee to seek judicial review. The proposed rule specifies the manner in which the United States Trustee shall notify a trustee of the decision to suspend or terminate the assignment of cases. It also establishes the procedure by which a trustee may request further review and decision by the Director.

DATES: Written comments must be submitted on or before July 22, 1997.

ADDRESSES: Please submit written comments to the Office of the General Counsel, Executive Office for United States Trustees, 901 E Street, N.W., Room 740, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: Martha L. Davis, General Counsel, or P. Matthew Sutko, Attorney, (202) 307–1399. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The United States Trustee Program was first enacted on a pilot basis by the Bankruptcy Reform Act of 1978, Pub. L. No. 95–598, 92 Stat. 2549 (1978), which instituted massive reform in the Federal bankruptcy system. The United States Trustee Program is a component of the Department of Justice charged with the responsibility of supervising the administration of bankruptcy cases and trustees. The success of the pilot program led Congress to expand the Program nationwide in 1986 as a permanent program in the Department of Justice. Bankruptcy Judges, United States Trustees, and Family Farmers Act of 1986, Pub. L. No. 99–554, 100 Stat. 3088 (1986).

The Program consists of an Executive Office for United States Trustees, which is headed by the Director, and 21 United States Trustees. Among the administrative functions assumed by the Program is the responsibility to appoint and supervise trustees who administer cases under chapters 7, 12, and 13 of the Bankruptcy Code. 28 U.S.C. §§ 509, 510 and 586. The United States Trustee Program has enacted standards that set minimum qualifications for appointment. 28 CFR part 58.

A trustee's performance is monitored by the United States Trustee Program on an ongoing basis. When appropriate, the United States Trustee will stop assigning cases to a trustee. In some instances, this is temporary, as in the case of a suspension; in others it is permanent. This occurs most often when a trustee engages in improper conduct or fails to perform adequately. It also occurs when the caseload within a district declines or when the United States Trustee determines that cases could be more efficiently administered by other trustees or by fewer trustees. Trustees are rarely, if ever, surprised by such a decision. Trustees receive regular reviews and are in regular contact with Program employees regarding problems or other issues arising out of their administration of cases. In addition, the Program has long had a policy of allowing trustees an opportunity to ask the Director of the Executive Office of United States Trustees to determine the propriety of a suspension or termination.

This rule will formalize those procedures. Under the rule, a trustee will receive written notice from a United States Trustee when a suspension or termination occurs; it shall set forth reasons why that action is occurring and will refer to or be accompanied by copies of relevant documentation. The United States Trustee's decision will be final and unreviewable unless the trustee asks the Director to review the suspension or termination. If the trustee seeks such a review, the trustee will be able to provide written submissions to a reviewing official within the organization, who will be a person who was not involved in the United States Trustee's decision. After the reviewing official makes a report and recommendation, the Director will determine whether the United States Trustee's decision is supported by the record and the action is an appropriate exercise of the United States Trustee's discretion. The Director's decision will constitute final agency action. If a trustee is dissatisfied with the final agency action, the trustee may then seek judicial review under the relevant provisions of the Administrative Procedure Act in a United States district court. Judicial review may be sought only after the trustee exhausts these remedies.

When published in final form, this rule will facilitate the Program's fulfillment of its statutory duty to appoint trustees and supervise their administration of bankruptcy cases. Although trustees have no constitutional or statutory right to continue receiving bankruptcy cases in the future, *see Joelson* v. *United States*, 86 F.3d 1413 (6th Cir. 1996) (holding that trustees have no statutory or constitutionally protected interest in their positions as trustees); *Richman* v. *Straley*, 48 F.3d 1139, 1143 (10th Cir. 1995) (trustees have no constitutional right to continue acting as trustees); *Shaltry* v. *United States*, 182 B.R. 836, 842 (D. Ariz.) (same), *aff'd*, 1995 WL 866862 (9th Cir. 1995), the proposed rule will ensure that trustees are apprised of the bases for suspension or termination of case assignments and will provide trustees with a mechanism to obtain further agency review of the appropriateness of the suspension or termination.

Executive Order 12866

This proposed rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), The Principles of Regulation. The Director has determined that this rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and accordingly the rule has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

The Director, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule and by approving it certifies that this rule will not have a significant impact on a substantial number of small entities. This rule only affects individuals who serve as panel and standing trustees, which is fewer than 1,500 individuals.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act (44 U.S.C. §§ 3501, *et seq.*).

Unfunded Mandates Reform Act of 1995

This proposed rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

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

List of Subjects in 28 CFR Part 58

Bankruptcy, Trusts and trustees.

For the reasons set forth in the preamble, the Department of Justice proposed to amend 28 CFR part 58 as follows:

PART 58—REGULATONS RELATING TO THE BANKRUPTCY REFORM ACTS OF 1978 AND 1994

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

Authority: 28 U.S.C. §§ 509, 510, 586, 5 U.S.C. § 301.

2. New section 58.6 is added to read as follows:

§ 58.6 Procedures for suspension and removal of Panel Trustees and Standing Trustees.

(a) A United States Trustee shall notify a panel trustee or a standing trustee in writing of any decision to suspend or terminate the assignment of cases to the trustee including, where applicable, any decision not to renew the trustee's term appointment. The notice shall state the reason(s) for the decision and should refer to, or be accompanied by copies of, pertinent materials upon which the United States Trustee has relied and any prior communications in which the United States Trustee has advised the trustee of the potential action. The reasons may include, but are in no way limited to:

(1) Failure to safeguard or to account for estate funds and assets;

(2) Failure to perform duties in a timely and consistently satisfactory manner;

(3) Failure to comply with the provisions of the Code, the Bankruptcy Rules, and local rules of court;

(4) Failure to cooperate and to comply with instructions and policies of the court, the bankruptcy clerk or the United States Trustee;

(5) Substandard performance of general duties and case management in comparison to other members of the chapter 7 panel or other standing trustees;

(6) Failure to display proper temperament in dealing with judges, clerks, attorneys, creditors, debtors, the United States Trustee and the general public;

(7) Failure to adequately supervise professionals or employees;

(8) Failure to file timely, accurate reports, including interim reports, final reports, and final accounts;

(9) Failure to meet the eligibility requirements of 11 U.S.C. 321 or the qualifications set forth in 28 CFR 58.3 and 58.4 and in 11 U.S.C. § 322;

(10) Failure to attend in person or appropriately conduct the 11 U.S.C. § 341(a) meeting of creditors;

(11) Action by or pending before a court or state licensing agency which calls the trustee's competence, financial responsibility or trustworthiness into question;

(12) Inability to accept assigned cases due to conflicts of interest or to the trustee's unwillingness or incapacity to serve;

(13) Change in the composition of the chapter 7 panel pursuant to a system established by the United States Trustee under 28 CFR 58.1;

(14) A determination by the United States Trustee that the interests of effective case administration warrant a reduction in the number of panel trustees or standing trustees. The notice shall advise the trustee that the decision is final and unreviewable unless the trustee files a timely, written request for administrative review with the Director, Executive Office for United States Trustees, no later than 20 calendar days from the date of the United States Trustee's notice.

(b) The United States Trustee's decision shall be effective on the date specified by the United States Trustee. If the trustee files a request for administrative review, the trustee may seek a stay of the decision from the United States Trustee. If the United States Trustee declines to stay the decision, the trustee may seek a stay from the Director.

(c) The trustee's written request for administrative review (''request for review'') by the Director shall describe fully why the trustee disagrees with the United States Trustee's decision, and shall be accompanied by all material that the trustee wants the Director to consider in reviewing the decision.

(d) Upon receiving a timely request for review, the Director shall appoint a reviewing official. The reviewing official shall be a person in the United States Trustees Program who was not involved in the United States Trustee's decision nor located within the region of the United States Trustee who has made the decision.

(e) The reviewing official shall transmit a copy of the trustee's request for review and the accompanying materials to the appropriate United States Trustee. The United States Trustee shall have 20 calendar days from the date of the transmittal to respond to the matters raised in the trustee's request for review and to provide any additional materials that the United States Trustee wants the reviewing official to consider, with a copy transmitted to the trustee. The trustee shall have 10 calendar days from the date of the United States Trustee's response to reply, with a copy to the United States Trustee. The reviewing official has discretion to extend the United States Trustee's or the trustee's time for response to a date certain.

(f) The reviewing official may seek additional information from any party in the manner and to the extent the reviewing official deems appropriate.

(g) The reviewing official shall review the record and issue a written report and recommendation to the Director within 30 calendar days of the last date fixed under paragraph (e) for submission of materials.

(h) The Director thereafter shall determine whether the United States Trustee's decision is supported by the record and the action is an appropriate exercise of the United States Trustee's discretion, and shall issue a written decision adopting, modifying or rejecting the reviewing official's recommendation within 20 calendar days of the date of the reviewing official's report and recommendation. The Director's decision shall constitute final agency action.

(i) This section does not apply to any decision to increase the size of the chapter 7 panel or to appoint additional standing trustees in the district or region.

(j) A trustee who files a request for review shall bear his or her own costs and expenses, including counsel fees.

Dated: May 20, 1997.

Joseph Patchan,

Director, Executive Office for United States Trustees.

[FR Doc. 97–13614 Filed 5–22–97; 8:45 am]

BILLING CODE 4410–40–M

DEPARTMENT OF JUSTICE

Civil Division

28 CFR Part 79

RIN 1105–AA49

[A.G. Order No. 2084–97]

Radiation Exposure Compensation Act: Evidentiary Requirements; Definitions and Number of Claims Filed

AGENCY: Civil Division, Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice (''the Department'') proposes to amend its existing regulations implementing the Radiation Exposure Compensation Act (''RECA'' or ''Act''). The proposed rule would: Allow claimants to submit affidavits or declarations in support of a claim under certain circumstances; allow the use of high resolution computed tomography reports and pathology reports of tissue biopsies as additional means by which claimants can present evidence of a compensable non-malignant respiratory disease; amend the definitions of ''smoker'' and ''non-smoker;'' include *in situ* lung cancers under the definition of primary cancers of the lung; and allow claimants who have filed claims prior to the implementation of these proposed regulations and have been denied compensation to file another three times.

DATES: Written comments must be submitted on or before July 22, 1997.

ADDRESSES: Please submit written comments to Gerard W. Fischer, Assistant Director, U.S. Department of Justice, Civil Division, P.O. Box 146, Ben Franklin Station, Washington, D.C. 20044–0146.

FOR FURTHER INFORMATION CONTACT: Gerard W. Fischer (Assistant Director), (202) 616–4090 and Lori Beg (Attorney), (202) 616–4377.

SUPPLEMENTARY INFORMATION: At the recommendation of the President's Advisory Committee on Human Radiation Experiments, the Administration empaneled the Radiation Exposure Compensation Act Committee (the ''Radiation Committee'') to re-evaluate the provisions in the Radiation Exposure Compensation Act, 42 U.S.C. § 2210 note (1994), and the Department's implementing regulations relating to uranium miners. In July 1996, after extensive investigation, the Radiation Committee submitted a Final Report detailing its findings and recommendations. In addition to recommending changes to the eligibility criteria in the Act, the Radiation Committee recommended that the Department modify some of the regulations governing proof of medical, smoking, and exposure criteria. Based upon this report and the Department's own evaluation of the regulations, this rule is proposed.

This proposed rule would expand the set of circumstances in which claimants are allowed to submit affidavits or declarations in support of a claim. Sworn statements are presently permitted to establish identity of family members, prior receipt of other compensation, coffee consumption and employment information. As modified by this rule, claimants will now be allowed to submit sworn statements to establish smoking and alcohol consumption histories where no other records exist. This action is needed because relevant records are not available to some claimants due to the passage of time. Therefore, this modification represents only a minor expansion of an existing regulation.

The rule would also allow the use of high resolution computed tomography (''HRCT'') reports and pathology reports of tissue biopsies as additional means by which claimants can present evidence of a compensable non-malignant respiratory disease. HRCT is increasingly being used by physicians to diagnose pneumoconioses because it is often a more sensitive diagnostic tool than standard chest x-rays. Accepting HRCT findings will assist many claimants who cannot prove they have developed a compensable non-malignant respiratory disease through standard chest x-rays. Additionally, pathology reports of tissue biopsies are considered a highly reliable basis for diagnosis of disease by the medical community.

The rule would also allow the use of high resolution computed tomography (''HRCT'') reports and pathology reports of tissue biopsies as additional means by which claimants can present evidence of a compensable non-malignant respiratory disease. HRCT is increasingly being used by physicians to diagnose pneumoconioses because it is often a more sensitive diagnostic tool than standard chest x-rays. Accepting HRCT findings will assist many claimants who cannot prove they have developed a compensable non-malignant respiratory disease through standard chest x-rays. Additionally, pathology reports of tissue biopsies are considered a highly reliably basis for diagnosis of disease by the medical community.

The rule would amend the definitions of ''heavy smoker'' and ''smoker'' to exclude, and the definition of ''non-smoker'' to include, claimants who stopped smoking for at least fifteen years prior to the date of diagnoses of specific diseases. It is now accepted by experts in the medical community that smoking cessation leads to a significant reduction in relative risk of developing certain cancers. Another proposed change would include *in situ* long cancers under the definition of primary cancers of the lung, based upon expert opinion from the National Cancer Institute.

Finally, the rule would allow claimants who have filed claims prior to the implementation of these proposed regulations and have been denied compensation to file another three times. This action would allow denied claimants to take advantage of changes in the regulations that liberalize documentation requirements. The Department anticipates that much of the information in refiled claims will have been previously verified. Accordingly, the internal administrative processing costs of refiled cases will be minimal. Presently, the regulations permit three attempts at establishing eligibility, so

this proposal simply continues that process.

Although the practical effect of the proposed rule will likely be to increase the number of claimants eligible for compensation, the extent of that increase is not entirely clear. Presently, RECA has been appropriated $30 million for FY 1997. In addition, because the proposed rule expands the type of evidence that will be considered, it is not anticipated that the proposed rule will generate any significant controversy.

In accordance with 5 U.S.C. 605(b), the Attorney General has reviewed this regulation and certifies that this rule affects only individuals filing claims under RECA. Therefore, this rule does not have a significant economic impact on a substantial number of small entities. This rule, however, is a significant regulatory action under Executive Order 12866 and, accordingly, has been reviewed by the Office of Management and Budget. The rule is not a major rule as defined by 5 U.S.C. 804(2) nor is it a rule having federalism implications warranting assessment in accordance with section 6 of Executive Order 12612. In addition, this rule is in full compliance with the Paperwork Reduction Act.

List of Subjects in 28 CFR Part 79

Administrative practice and procedure, Authority delegations (Government agencies), Cancer, Claims, Radiation Exposure Compensation Act, Radioactive materials, Reporting and recordkeeping requirements, Underground mining, Uranium.

Accordingly, part 79 of chapter I of title 28 of the Code of Federal Regulations is proposed to be amended as follows:

PART 79—CLAIMS UNDER THE RADIATION EXPOSURE COMPENSATION ACT

1. The authority citation for part 79 continues to read as follows:

Authority: Secs. 6 (b) and (j), Pub. L. 101–426, 104 Stat. 920 (42 U.S.C. 2210 note).

2. Section 79.4(c) is amended by redesignating paragraphs (c)(3) and (c)(4) as paragraphs (c)(4) and (c)(5), adding a new paragraph (c)(3) and revising paragraphs (c)(1) and (c)(2) and new paragraphs (c)(4) and (c)(5) as follows:

§ 79.4 Burden of proof, production of documents, presumptions, and affidavits.

* * * * *

(c) * * *

(1) Eligibility of family members as set forth in § 79.51 (e), (f), (g), (h) or (i);

(2) Other compensation received as set forth in § 79.55 (c) or (d);

(3) Smoking and/or drinking history and/or age at diagnosis as set forth in § 79.27(d) and § 79.37(d);

(4) The amount of coffee consumed as set forth in § 79.27(d); or

(5) Mining information as set forth in § 79.33(b)(2).

3. Section 79.5 is amended by adding paragraph (c) to read as follows:

§ 79.5 Requirements for written medical documentation, contemporaneous records, and other records or documents.

* * * * *

(c) To establish eligibility the claimant or eligible surviving beneficiary may be required to provide, where appropriate, additional contemporaneous records to the extent they exist or an authorization to release additional contemporaneous records or a statement by the custodian(s) of the records certifying that the requested record(s) no longer exist. Nothing in these regulations shall be construed to limit the Assistant Director's ability to require additional documentation.

4. In § 79.21, paragraph (d) is amended by adding one new sentence after the second sentence to read as follows:

§ 79.21 Definitions.

* * * * *

(d) * * * The term excludes an individual who smoked more than 20 pack years, but who can establish in accordance with § 79.27 that he or she stopped smoking at least fifteen (15) years prior to the diagnosis of primary cancer of the esophagus, pharynx, or pancreas, and did not resume smoking at any time thereafter.

* * * * *

5. Section 79.27 is amended by revising the heading, redesignating paragraph (c) as new paragraph (e), adding new paragraphs (c) and (d), and revising paragraphs (a) and (b), to read as follows:

§ 79.27 Proof of no heavy smoking, no heavy drinking, no heavy coffee drinking and no indication of the presence of hepatitis B and cirrhosis.

(a)(1) If the claimant or eligible surviving beneficiary is claiming eligibility under this Subpart for primary cancer of the esophagus, pharynx, pancreas or liver, the claimant or eligible surviving beneficiary must submit, in addition to proof of the disease, all medical records listed below from any hospital, medical facility, or health care provider that were created within the period six (6) months before and six (6) months after the date of diagnosis of primary cancer of the esophagus, pharynx, pancreas or liver:

(i) All history and physical examination reports;

(ii) All operative and consultation reports;

(iii) All pathology reports; and

(iv) All physician, hospital and health care facility admission and discharge summaries.

(2) In the event that any of the above records no longer exist, the claimant or eligible surviving beneficiary must submit a certified statement by the custodian(s) of those records to that effect.

(b) If the medical records listed in paragraph (a) of this section, or information possessed by the state cancer or tumor registries reflects that the claimant was a heavy smoker or a heavy drinker or indicates the presence of hepatitis B and/or cirrhosis, the Radiation Exposure Compensation Unit will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit other written medical documentation or contemporaneous records in accordance with § 79.52(b) to establish that the claimant was not a heavy smoker or heavy drinker or that there was no indication of hepatitis B and/or cirrhosis.

(c) The Unit may also require that the claimant or eligible surviving beneficiary provide additional medical records or other contemporaneous records and/or an authorization to release such additional medical and contemporaneous records as may be needed to make a determination regarding the indication of the presence of hepatitis B and/or cirrhosis and the claimant's history of smoking and alcohol-consumption.

(d) If the custodian(s) of the records listed in paragraph (a) of this section and records requested in accordance with paragraph (c) of this section certifies that a claimant's records no longer exist, and if the state cancer or tumor registries do not contain information concerning the claimant's history of smoking or alcohol-consumption, the Assistant Director may require that the claimant or eligible surviving beneficiary submit an affidavit (or declaration) made under penalty of perjury detailing the histories or lack thereof and the basis for such knowledge (if the eligible surviving beneficiary). This affidavit (or declaration) will be considered by the Assistant Director in making a determination concerning the claimant's history of smoking and alcohol-consumption.

* * * * *

6. Section 79.31 is amended by revising paragraphs (e) and (f) and the second sentence of paragraph (h), and adding paragraphs (s) and (t) to read as follows:

§ 79.31 Definitions

* * * * *

(e) *Non-smoker* means an individual who never smoked tobacco cigarette products or smoked less than the amount defined in paragraph (f) of this section and includes an individual who smoked at least one (1) pack year but whose acceptable documentation as set forth in § 79.37 establishes that he or she stopped smoking at least fifteen (15) years prior to the diagnosis of primary cancer of the lung and did not resume smoking at any time thereafter.

(f) *Smoker* means an individual who has smoked at least one (1) pack year of cigarette products, and who is not deemed a non-smoker by virtue of paragraph (e) of this section.

* * * * *

(h) * * * The term includes cancers *in situ*.

* * * * *

(s) *High resolution computed tomography (HRCT)* means a computed tomograph (CT) of the chest that utilizes thin collimation, image reconstruction with a high-spatial frequency algorithm, increased kVp or mA technique, and the use of a large matrix size.

(t) *HRCT Reader* means a physician who is board-certified in radiology and who devotes at least thirty (30) percent of his or her practice to thoracic radiology or is a member of the Society of Thoracic Radiology. An affidavit (or declaration) made under penalty of perjury must be submitted by the HRCT reader to establish the above qualifications.

8. Section 79.36, is amended by revising the first sentence of paragraph (a), revising paragraph (d)(1)(ii), and adding new paragraph (e) to read as follows:

§ 79.36 Proof of non-malignant respiratory disease.

(a) Written medical documentation is required in all cases to prove that the claimant developed a non-malignant respiratory disease. * * *

* * * * *

(d) * * *

(1) * * *

(i) * * *

(ii) If the claimant is alive, (A) One of the following:

(*1*) *Chest x-rays and two ''B'' reader interpretations.* A chest x-ray administered in accordance with standard techniques on full size film at quality 1 or 2, *and* interpretative reports of the x-ray by *two* certified ''B'' readers classifying the existence of fibrosis of category 1/0 or higher according to the ILO 1980, or subsequent revisions;

(*2*) *High resolution computed tomography scans and interpretation.* An HRCT scan administered in accordance with Tables 5a and 5b in Appendix D of this part, and an interpretative reading by *one* HRCT reader showing:

(*i*) Honeycombing, bilaterally at two or more levels; or

(*ii*) Any two of the findings listed below, visible bilaterally at two or more HRCT levels in a non-dependent lung:

(*A*) Intralobular interstitial thickening;

(*B*) Irregular interlobular septal thickening;

(*C*) Parenchymal bands unassociated with pleural thickening;

(*D*) Subpleural lines or subpleural nodules (1 to 5 mm in diameter);

(*E*) Architectural distortion;

(*F*) Pulmonary nodules (1 to 10 mm. in diameter); or

(*G*) Cicatricial emphysema; or

(*3*) *Pathology reports of tissue biopsies.* A pathology report of a tissue biopsy, but only if performed for medically-justified reasons; and

(B) *One* or more of the following:

(*1*) *Pulmonary function tests.* Pulmonary function tests consisting of three tracings recording the results of the forced expiratory volume in one second (FEV1) and the forced vital capacity (FVC) administered and reported in accordance with the Standardization of Spirometry—1987 Update by the American Thoracic Society, and reflecting values for FEV1 or FVC that are equal to or less than 80% of the predicted value for an individual of the claimant's age, sex, and height, as set forth in the Tables in Appendix A; or

(*2*) *Arterial blood-gas studies.* An arterial blood-gas study administered at rest in a sitting position, or an exercise arterial blood-gas test, reflecting values equal to or less than the values set forth in the Tables in Appendix B.

* * * * *

(e) The Radiation Exposure Compensation Unit may seek qualified medical review of HRCT, ''B'' reader interpretations, and pathology reports of tissue biopsies submitted by a claimant or eligible surviving beneficiary or obtain additional HRCT and ''B'' reader interpretations or pathology reports of tissue biopsies at any time to ensure that appropriate weight is given to this evidence and to guarantee uniformity and reliability. This review may include obtaining additional HRCT and chest x-ray interpretations and additional pathology reports of tissue biopsies.

9. Section 79.37 is amended by revising the section heading, revising paragraphs (a) and (b), and adding new paragraphs (c) and (d) to read as follows:

§ 79.37 Proof of non-smoker and diagnosis prior to age 45.

(a) (1) In order to prove a history of non-smoking for purposes of § 79.32(c)(1), and/or diagnosis of a compensable disease prior to age 45 for purposes of § 79.32(c)(2)(i), the claimant or eligible surviving beneficiary must submit all medical records listed below from any hospital, medical facility, or health care provider that were created within the period six (6) months before and six (6) months after the date of diagnosis of primary lung cancer or a compensable nonmalignant respiratory disease:

(i) All history and physical examination reports;

(ii) All operative and consultation reports;

(iii) All pathology reports;

(iv) All physician, hospital and health care facility admission and discharge summaries.

(2) In the event that any of the above records no longer exist, the claims or eligible surviving beneficiary must submit a certified statement by the custodian(s) of those records to that effect.

(b) If, after a review of the records listed in paragraph (a) above, and/or the information possessed by the PHS, NIOSH, state cancer or tumor registries, state authorities, or the custodian of a federally supported health-related study, the Assistant Director finds that the claimant was a smoker, and/or that the claimant was diagnosed with a compensable disease after age 45, the Unit will notify the claimant or eligible surviving beneficiary and afford that individual the opportunity to submit other written medical documentation in accordance with § 79.52(b) to establish that the claimant was a non-smoker and/or was diagnosed with a compensable disease prior to age 45.

(c) The Unit may also require that the claimant or eligible surviving beneficiary provide additional medical records or other contemporaneous records and/or an authorization to release such additional medical and contemporaneous records as may be needed to make a determination regarding the claimant's smoking history and/or age at diagnosis with a compensable disease.

(d) If the custodian(s) of the records listed in paragraph (a) of this section and the records requested in accordance with paragraph (c) of this section certifies that a claimant's records no

longer exist, and information possessed by the PHS, NIOSH, state cancer or tumor registries, state authorities, or the custodian of a federally supported health-related study do not contain information pertaining to the claimant's smoking history, the Assistant Director may require that the claimant or eligible surviving beneficiary submit an affidavit (or declaration) made under penalty of perjury detailing the claimant's smoking history or lack thereof and, if the affiant is the eligible surviving beneficiary, the basis for such knowledge. This affidavit (or declaration) will be considered by the Assistant Director in making a determination concerning the claimant's history of smoking.

10. In § 79.51, paragraph (j) is amended by revising paragraphs (j)(3) and (j)(4), adding paragraph (j)(5) and adding a sentence at the end of the concluding text to read as follows:

§ 79.51 Filing of claims.

* * * * *

(j) * * *

(3) Onsite participation in a nuclear test,

(4) Exposure to a defined minimum level or radiation in a uranium mine or mines during a designated time period, or

(5) The identity of the claimant and/or surviving beneficiary.

* * * Claims filed prior to the date of implementation of these amending regulations will not be included in determining the number of claims filed.

11. In § 79.55, paragraphs (d)(1)(i) and (d)(1)(ii) are revised to read as follows:

§ 79.55 Procedures for payment of claims.

* * * * *

(d) * * *

(1) * * *

(i) Any disability payments or compensation benefits paid to the claimant and his/her dependents while the claimant is alive; and

(ii) Any Dependency and Indemnity Compensation payments made to survivors due to death related to the illness for which the claim under the Act is submitted.

* * * * *

11. Appendix D to Part 79 is added to read as follows:

Appendix D to Part 79—HRCT Technique

Table A: Summary of HRCT Technique; Essential Scanner Settings

1. Collimation: Thinnest available collimation (1–1.5 mm).
2. Reconstruction algorithm: High-spatial frequency or ''sharp'' algorithm
3. Scan time: 1–2 seconds
4. kVp; mA; mAs: Routine settings for chest CT
5. Matrix size: Largest available (512×512).
6. Window level: −600 to −700 HU Window width: 1000 HU to 1500 HU
7. Photography: 12 on 1.
8. Field of view: As small as possible to incorporate both lungs (30–40 cm.)

Table B: Scanning Protocol and Procedure; HRCT Technique: Scan Protocol for Suspected Silicosis or Fibrotic Lung disease

Chest radiograph normal or minimally abnormal:

Full inspiration with prone and supine scans using 2–cm spacing from lung apices to bases.

Dated: May 16, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–13542 Filed 5–22–97; 8:45 am]

BILLING CODE 4410–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[UT15–1–6775, UT12–2–6728, UT16–1–6776; FRL–5829–6]

Proposed Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Salt Lake and Davis Counties Ozone Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, Proposed Approval of Related Elements, Proposed Approval of Partial NO_X RACT Exemption, and Proposed Approval of Weber County I/M Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 19, 1997, the Governor of Utah submitted revisions to the Utah State Implementation Plan (SIP) that included a maintenance plan. He also submitted a request to redesignate the Salt Lake and Davis Counties (SLDC) moderate nonattainment area to attainment for the current 0.12 parts per million (ppm) ozone National Ambient Air Quality Standard (NAAQS). Included with this submittal were improved motor vehicle inspection and maintenance provisions for Salt Lake and Davis Counties. This February 19, 1997, submittal provided revised and updated emission inventory figures, revised contingency measure triggering mechanisms, updated air quality monitoring data, and other minor revisions to the maintenance plan. In this action, EPA is proposing to approve the SLDC redesignation request, maintenance plan, and other related SIP elements including the 1990 base year emissions inventory, Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC), NO_X RACT for Kennecott's Utah Power Plant and for the Pacificorp Gadsby Power Plant, and the Basic Inspection and Maintenance (I/M) and Improved I/M provisions for Salt Lake and Davis Counties. EPA is also proposing to approve a partial Nitrogen Oxides (NO_X) RACT exemption request and to give limited approval to the State's generic VOC RACT and generic NO_X RACT rules. Finally, EPA is proposing to approve the I/M provisions for Weber County, which are unrelated to the redesignation request for Salt Lake and Davis Counties.

DATES: To be considered, comments must be received by June 23, 1997.

ADDRESSES: Written comments on this action should be addressed to: Richard R. Long, Director, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region 8, Air Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air Program (8P2–A), United States Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2466 Telephone number: (303) 312–6479

SUPPLEMENTARY INFORMATION:

Background

On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 107(d)(1)(C) of the CAA, EPA designated the SLDC area as nonattainment for ozone because the area had been designated as nonattainment before November 15, 1990. The SLDC area was classified as a moderate nonattainment area (see section 181 of the CAA for further information regarding classifications and attainment dates for ozone nonattainment areas).

Under the Clean Air Act (CAA), designations can be changed if sufficient data are available to warrant such changes and if certain other requirements are met. See CAA section 107(d)(3)(D). Section 107(d)(3)(E) of the CAA provides that the Administrator may not promulgate a redesignation of

a nonattainment area to attainment unless:

(i) the Administrator determines that the area has attained the national ambient air quality standard;

(ii) the Administrator has fully approved the applicable implementation plan for the area under CAA section 110(k);

(iii) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) the State containing such area has met all requirements applicable to the area under section 110 and part D of the CAA.

Thus, before EPA can approve the redesignation request, EPA must find, among other things, that all applicable SIP elements have been fully approved. Approval of the applicable SIP elements may occur prior to final approval of the redesignation request or simultaneously with final approval of the redesignation request. EPA is proposing to approve several SIP elements, that are necessary to the redesignation, at the same time it approves the redesignation.

EPA has reviewed the State's redesignation request, maintenance plan, and related SIP elements and believes that approval of the request is warranted, consistent with the requirements of CAA section 107(d)(3)(E). Descriptions of how the section 107(d)(3)(E) requirements are being addressed are provided below in the supplementary information section of this action.

Section 1. Brief Administrative History of the SLDC Ozone Redesignation Request, Maintenance Plan, and Related Submittals

On November 12, 1993, the Governor of Utah submitted a redesignation request and maintenance plan for the SLDC area along with revisions to the SIP for offset ratios for VOCs and NO_x, RACT for VOC_s and NO_x, New Source Review (NSR), Emission Statements, and Basic I/M. Following several intervening steps, including litigation by the State, EPA issued a letter dated July 29, 1994, that deemed the redesignation request, maintenance plan, and ozone SIP elements complete as of November 12, 1993.

The State submitted a number of updates and revisions to the maintenance plan and ozone SIP elements after November 12, 1993, in an effort to address several substantive concerns identified by EPA. The latest revisions to the maintenance plan were submitted on February 19, 1997, along with improved motor vehicle inspection and maintenance provisions for Salt Lake and Davis Counties. The maintenance plan references the various SIP elements that are pertinent to the redesignation. On May 2, 1997, the State submitted a request for a partial NO_x RACT exemption. With this partial NO_x RACT exemption request, the State has now addressed all of EPA's concerns.

Section 2. Redesignation Criterion: The Area Must Have Attained the Ozone NAAQS

Section 107(d)(3)(E)(i) of the CAA states that for an area to be redesignated to attainment, the Administrator must determine that the area has attained the applicable NAAQS. As described in 40 CFR § 50.9, ''The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 part per million (235u/m^3) is equal to or less than 1, as determined by appendix H.'' Attainment of the ozone standard is not a momentary phenomenon based on short-term data. Rather, for an area to be considered attainment, each of the ozone ambient air quality monitors in the area are allowed to record three or fewer exceedances of the ozone standard over a continuous three-year period. 40 CFR § 50.9 and 40 CFR Part 50, Appendix H. If a single monitor in the ozone monitoring network records more than three expected exceedances of the standard over a three-year period as based on the expected exceedance calculation method in Appendix H, or as actual measured values, then the area is in violation of the ozone NAAQS. In addition, EPA's interpretation of the CAA and EPA national policy has been that an area seeking redesignation to attainment must not only show attainment of the ozone NAAQS for a continuous three-year period, but at least through the date that EPA promulgates the redesignation to attainment in the **Federal Register**.

Utah's ozone redesignation request is based on an analysis of quality assured ambient air quality monitoring data that are relevant to the redesignation request. Most recent ambient air quality monitoring data for consecutive calendar years 1992 through 1996 show an expected exceedance rate of less than 1.0 per year, per monitor, of the ozone NAAQS in the SLDC nonattainment area. These data were collected and analyzed as required by EPA (see 40 CFR § 50.9 and 40 CFR Part 50, Appendix H) and have been archived by the State in EPA's Aerometric Information and Retrieval System (AIRS) national database. Further information on ozone monitoring is presented in section IX.D.2.c of the State's maintenance plan and in the State's TSD. Since 1992, exceedances of the 0.12 ppm ozone standard were measured at three separate monitors in 1995, and one exceedance was measured in 1996. EPA notes, however, that the SLDC area has not violated the ozone standard and continues to demonstrate attainment.

Because the SLDC nonattainment area has complete quality-assured data showing no violations of the ozone NAAQS over the most recent consecutive three-calendar-year period, the SLDC area has met the first component for redesignation; demonstration of attainment of the ozone NAAQS. EPA notes that the State of Utah has also committed in the maintenance plan to the necessary continued operation of the ozone monitoring network in compliance with 40 CFR part 58.

Section 3. Redesignation Criterion: The Area Must Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

Section 107(d)(3)(E)(v) requires that, to be redesignated to attainment, an area must meet all applicable requirements under section 110 and part D of the CAA. EPA interprets section 107(d)(3)(E)(v) to mean that for a redesignation to be approved, the State must meet all requirements that applied to the subject area prior to or at the time of the submission of a complete redesignation request. Requirements of the CAA due after the submission of a complete redesignation request need not be considered in evaluating the request.

A. CAA Section 110 Requirements

On August 15, 1984, EPA approved revisions to Utah's SIP as meeting the requirements of section 110(a)(2) of the CAA (45 FR 32575). Although section 110 of the CAA was amended in 1990, most of the changes were not substantial. Thus, EPA has determined that the SIP revisions approved in 1984 continue to satisfy the requirements of section 110(a)(2). For further detail, please see 45 FR 32575. In addition, EPA has analyzed the SIP elements that it is proposing to approve as part of this action and has determined they comply with the relevant requirements of section 110(a)(2) of the CAA.

B. Part D Requirements

Before the SLDC moderate ozone nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, whether classified or nonclassifiable. Subpart 2 of part D establishes additional requirements for ozone nonattainment areas classified under table 1 of section 181(a).

The relevant Subpart 1 requirements are contained in sections 172(c) and 176. However, under section 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than three years after an area has been designated as nonattainment under the amended CAA. EPA has not determined that the section 172(c) requirements were due on or before November 12, 1993, the date the SLDC redesignation request was deemed complete. And, the three-year period under section 172(b) would have ended November 15, 1993 for the SLDC nonattainment area. Thus, the State was not required to meet the section 172(c) requirements for redesignation purposes.

Nonetheless, it is worth noting that the provisions of sections 172(c)(1)(RACT), 172(c)(3) (emissions inventory), and 172(c)(5) (new source review permitting program) are subsumed or superseded by provisions in sections 182 (a) and (b) of the CAA. Also, EPA has interpreted the requirements of sections 172(c)(2) (reasonable further progress), 172(c)(6) (other measures), and 172(c)(9) (contingency measures) as being irrelevant to a redesignation request because they only have meaning for an area that is not attaining the standard. See EPA's September 4, 1992, John Calcagni memorandum entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment'; General Preamble, 57 FR at 13564, April 16, 1992. Finally, the State has not sought to exercise the options that would trigger sections 172(c)(4) (identification of certain emissions increases) and 172(c)(8) (equivalent techniques). Thus, these provisions are also not relevant to this redesignation request.

Requirements under section 176, relating to conformity, were not due until November 25, 1994 (transportation conformity) and November 30, 1994 (general conformity). See 40 CFR sections 51.396 and 51.851. Because these requirements were not yet due when a complete redesignation request was submitted (November 12, 1993), they are not necessary SIP elements for the area to be redesignated.

The SLDC nonattainment area was classified as moderate for ozone. Therefore, to be redesignated to attainment, the area must meet the applicable requirements of subpart 2 of part D which include sections 182(a), 182(b), and 182(f). These requirements are discussed below.

(1.) Section 182(a)(1)—Emissions inventory. Section 182(a)(1) of the CAA requires a comprehensive, accurate, current inventory of all actual emissions from all sources in the SLDC nonattainment area, as described in section 172(c)(3). This was due by November 15, 1992. EPA has interpreted ''current'' to mean calendar year 1990 (See 57 FR 13502, April 16, 1992). On November 12, 1993, the State submitted a 1990 base year inventory. This initial submittal of the 1990 base year inventory was intended to fulfill two purposes: to meet the section 182(a)(1) emissions inventory requirement and to serve as the attainment year emissions inventory for the SLDC ozone redesignation maintenance plan. The State subsequently decided to use 1994 as the attainment year. The maintenance plan that the Governor submitted on February 19, 1997, incorporates a revised 1990 base year inventory as background material in order to fulfill the requirements of section 182(a)(1) and includes a separate 1994 attainment year inventory. The revised 1990 base year inventory meets the requirements of section 182(a)(1) and EPA is proposing to approve it.

Summaries of the 1990 VOC, NO_X, and CO daily seasonal emissions are provided in the tables below. Salt Lake and Davis Counties Summary of Ozone Seasonal Emissions:

SUMMARY OF 1990 VOC EMISSIONS

[Tons per day]

Point sources	Area sources	On-road mobile	Non-road mobile	Biogenic	Total
18.22	46.56	32.00	30.39	38.94	166.12

SUMMARY OF 1990 NO_X EMISSIONS

[Tons per day]

Point sources	Area sources	On-road mobile	Non-road mobile	Total
26.01	5.41	26.98	44.69	103.10

SUMMARY OF 1990 CO EMISSIONS

[Tons per day]

Point sources	Area sources	On-road mobile	Non-road mobile	Total
12.91	45.60	271.64	265.53	595.68

All supporting calculations and documentation for this 1990 ozone base year inventory are contained in the State's Technical Support Document (TSD) which supports this action.

(2.) Section 182(a)(2)(A) and 182(b)(2)—Reasonably Available Control Technology (RACT) for VOCs. Section 182(a)(2)(A) of the CAA requires that ozone nonattainment areas correct their deficient RACT rules for VOCs

(known as the ''RACT fix-up'' requirement). Areas designated nonattainment before the 1990 amendments to the CAA, which retained that designation after the 1990 amendments and were classified as marginal or above as of November 15, 1990, were required to meet the RACT fix-up requirement. The SLDC ozone nonattainment area falls within this category. Under section 182(a)(2)(A), those areas were required, by May 15, 1991, to correct RACT regulations to comply with pre-amendment guidance.[1] To address this requirement, the Governor submitted VOC RACT rule revisions to the SIP dated May 4, 1990, and July 25, 1991. EPA approved these VOC RACT fix-up revisions on June 26, 1992 (57 FR 28621).

Section 182(b)(2) of the CAA contains the VOC RACT ''catch-up'' requirements. For ozone nonattainment areas designated moderate and above, section 182(b)(2) requires SIP revisions to address three source categories.

Section 182(b)(2)(A) requires RACT for each category of VOC sources in the nonattainment area covered by a CTG document issued between the enactment of the 1990 CAA amendments and the date of attainment. Section 182(b)(2)(B) requires RACT for all VOC sources in the nonattainment area covered by a CTG that was issued before the date of enactment of the 1990 CAA amendments. Section 182(b)(2)(C) requires RACT for all other major stationary sources of VOCs that are located in the nonattainment area. SIP revisions described in section 182(b)(2)(A) are due by the date specified in the CTG document. Revisions described in section 182(b)(2)(B) and (C) were due November 15, 1992.

For the section 182(b)(2)(A) requirement, EPA issued a CTG document which appeared as Appendix E in the ''Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 18070, April 28, 1992). This CTG document listed the eleven CTGs that EPA anticipated publishing in accordance with section 183(a) and established timetables for the submittal of RACT rules for sources that were not ultimately covered by a CTG issued by November 15, 1993. Appendix E stated that for any of the eleven source categories for which EPA did not issue CTGs by November 15, 1993, the States were required to develop RACT rules and submit them to EPA by November 15, 1994. It should be noted that section 183(b) of the CAA also required EPA to issue CTGs for two additional source categories by November 15, 1993.

Due to budgetary constraints, EPA only issued one CTG, which covered two source categories, prior to November 15, 1993. This CTG was entitled ''Control of Volatile Organic Compound Emissions from Reactor Processes and Distillation Operations Processed in the Synthetic Organic Chemical Manufacturing Industry'' (SOCMI) (reference EPA–450/4–91–031, August, 1993). In section IX.D.2.b(3)(a) of the SLDC maintenance plan, the State indicates there are no SOCMI sources in the SLDC nonattainment area. Therefore, no SIP revision was needed to address SOCMI sources.

For the remaining nine source categories, the State was either required to make a negative declaration or submit a RACT rule for major sources by November 15, 1994, that required implementation of RACT by May 15, 1995. In the SLDC maintenance plan, the State provides negative declarations for seven of the nine source categories. The State also makes a negative declaration for one of the two section 183(b) source categories. For the two remaining section 183(a) source categories and the one remaining section 183(b) source category, the State submitted VOC RACT provisions for all major sources in the nonattainment area. These sources are the Amoco, Chevron, Crysen, Flying J, and Phillips refineries, Olympia Sales, and Hill Air Force Base. EPA has evaluated the VOC limits and requirements for these sources and has determined that they satisfy the requirements for VOC RACT. Based on the negative declarations and the adoption of VOC RACT for identified sources, EPA has determined that the State has met the requirements of section 182(b)(2)(A) of the CAA.

In addition, in section IX.D.2.b(3)(a) of the SLDC maintenance plan the State makes the following commitment to adopt CTGs issued in the future by EPA: ''As each CTG is issued, the State will review the sources in the nonattainment area, and either issue a negative declaration for that particular source category, meaning there are no sources for which the CTG is applicable or revise its rules in a manner consistent with a SIP revision to incorporate RACT (in the context of Section 182(b)(1)(A) of the Act)) for the following categories: (1) those source categories of VOC for which EPA issues a CTG document during the time between the submittal of the redesignation request, and the time when the area is officially redesignated to attainment in the **Federal Register**; and (2) at any time thereafter as CTGs are published by the EPA.''

For the section 182(b)(2)(B) requirement, EPA has determined that the Governor's submittals of May 4, 1990, and July 25, 1991, that were approved by EPA on June 26, 1992 (57 FR 28621), addressed RACT for all VOC sources in the SLDC nonattainment area covered by a CTG that was issued before the date of enactment of the 1990 CAA amendments.

Regarding the section 182(b)(2)(C) requirement for VOC RACT for major non-CTG sources, the SLDC maintenance plan addresses the same seven sources that it addresses for the 182(b)(2)(A) requirements. As noted above, EPA is satisfied that the limits and requirements for these sources represent VOC RACT. Although Utah submitted a ''generic'' RACT rule (contained in R307–14–1., UACR) for any other unidentified major sources of VOCs in the nonattainment area, EPA is satisfied that the State has identified all major sources of VOCs in the area. In reaching this conclusion, EPA is relying on the negative declarations by the State as well as EPA's review of sources in the national Aerometic Information and Retrieval System (AIRS) and of the 1994 attainment year emission inventory for the SLDC maintenance plan. Thus, Utah's generic VOC RACT rule is not needed to fulfill the requirements of section 182(b)(2)(C) of the CAA.

Also, R307–14–1. contains provisions that prevent EPA from fully approving it as meeting EPA's requirements for a generic RACT rule. In particular, R307–14–1. defines RACT in several places by reference to 40 CFR 51.100(o). This federal definition is limited by its own terms to circumstances that do not apply to a RACT determination under section 182(b) of the Act. In fact, this definition is at odds with EPA's longstanding definition of RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979). Although R307–14–1. does require any unidentified sources to meet RACT requirements and thus strengthens the SIP, it does not meet the CAA's requirements for VOC RACT. In addition, R307–14–1.F. could be construed to allow the executive secretary of Utah's Department of

[1] Among other things, the pre-amendment guidance consists of the VOC RACT portions of the Post-87 policy (52 FR 45044, November 24, 1987); the ''Blue Book'' (''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of the November 24, 1987 **Federal Register** Notice'' of which notice of availability was published in the **Federal Register** on May 25, 1998); and the existing Control Technology Guidelines (CTG).

Environmental Quality to approve alternative test methods without EPA approval. This type of director's discretion provision is not consistent with EPA's requirements. Accordingly, EPA is only proposing limited approval of R307–14–1. for its strengthening effect on the SIP, but not as meeting the CAA's requirements for VOC RACT.

EPA also notes that in Section IX, Part D.2, pages 10—12 of the maintenance plan the State includes references to 40 CFR 51.100(o) and lists factors considered in determining RACT for sources that suggest that VOC RACT may vary depending on whether or not the area is attaining the standard. It is EPA's position that VOC RACT is not dependent on whether or not the area is attaining the standard. Thus, although the language in the maintenance plan did not result in inappropriate RACT determinations, EPA wants to make clear that use of the RACT definition in 40 CFR 51.100(o) and factors that suggest that RACT is dependent on whether or not an area is attaining the standard is inappropriate for VOC RACT determinations under section 182(b)(2) of the CAA. EPA would expect the State to use the proper RACT definition in making any future RACT determinations.

(3.) Section 182(a)(2)(C) New Source Review (NSR). The CAA requires all classified ozone nonattainment areas to meet several requirements regarding NSR including provisions to ensure that increased emissions of VOC compounds will not result from any new or modified stationary major sources and a general offset rule. The State of Utah has a fully-approved NSR program (60 FR 22277, May 5, 1995) that meets the requirements of section 182(a)(2)(C). This NSR program also meets the requirements of section 172(c)(5).

(4.) Section 182(a)(3)(B)—Emissions Statements. Section 182(a)(3)(B) of the CAA required a revision to the SIP, by November 15, 1992, to require sources of NO_X and VOCs to provide the State with a statement detailing actual emissions each calendar year. The Governor of Utah submitted a revision to the SIP on November 12, 1993, for the purpose of implementing an emission statement program for stationary sources within the Salt Lake/Davis County nonattainment area. EPA determined that this submittal adequately addressed the requirements of section 182(a)(3)(B) and fully approved this SIP revision on May 6, 1996 (61 FR 20142).

(5.) Section 182(b)(1)—15% Reasonable further progress plan, and attainment demonstration. The SIP elements required by CAA section 182(b)(1) of the CAA—a 15% VOC reduction plan and an attainment demonstration—were not due until November 15, 1993, after the redesignation request was deemed complete. Therefore, these SIP elements are not necessary for the area to be redesignated to attainment. In addition, EPA has interpreted section 182(b)(1) to not require these SIP elements for areas that are attaining the ozone standard. See May 10, 1995, memorandum from John S. Seitz, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard.'' The Sierra Club Legal Defense Fund challenged the application of this interpretation to the SLDC nonattainment area, and the Tenth Circuit Court of Appeals upheld EPA's interpretation.

(6.) Section 182(b)(3)—Stage II. For ozone nonattainment areas classified as moderate and above, section 182(b)(3) required States to submit SIP revisions by November 15, 1992, to require the installation and operation of gasoline refueling vapor recovery systems (''Stage II''). However, pursuant to CAA section 202(a)(6), this requirement was superseded for moderate ozone nonattainment areas when EPA promulgated onboard vapor recovery regulations (59 FR 16262, April 6, 1994). Thus, the SLDC nonattainment area is not required to meet the requirements of section 182(b)(3).

(7.) Section 182(b)(4)—Motor Vehicle Inspection and Maintenance (I/M). Section 182(b)(4) of the CAA requires a SIP revision for all moderate ozone nonattainment areas that provides for the implementation of a basic vehicle inspection and maintenance program. In addition, Congress directed EPA in section 182(a)(2)(B) to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The states were to incorporate this guidance into the SIP for all areas required by the CAA to have an I/M program.

On November 5, 1992, the EPA published a final regulation establishing the I/M requirements, pursuant to sections 182 and 187 of the CAA (57 FR 52950). The I/M regulation was codified at 40 CFR Part 51, subpart S, and required states to submit an I/M SIP revision which includes all necessary legal authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993.

The State of Utah submitted a SIP revision in November 1993 which upgraded the then existing County-run I/M programs to meet the CAA requirements for basic I/M programs in the Salt Lake (Davis and Salt Lake Counties), Ogden (Weber County), and Provo-Orem (Utah County) metropolitan statistical areas (MSA) beginning on July 1, 1994. On February 19, 1997, the State submitted a SIP revision that provides for improved basic I/M programs in Salt Lake and Davis Counties to be implemented beginning January 1, 1998. The improved basic I/M programs in Salt Lake and Davis Counties provide additional VOC and NO_X reductions necessary for the ozone maintenance demonstration.

The Weber County basic I/M program is required by the CAA as a SIP element unrelated to the SLDC ozone nonattainment area requirements. Therefore, EPA is proposing approval of the Weber County program in this notice as an action separate from the SLDC ozone redesignation request and maintenance plan. The Utah County I/M program is not being proposed for approval in this notice, but instead will be addressed in a future notice.

Utah is currently implementing annual test-and-repair I/M programs (Davis, Salt Lake, and Weber Counties) which meet the requirements of EPA's performance standard and other requirements contained in the Federal I/M rule. Testing is being performed by independent inspection stations with State/County oversight. Other aspects of Utah's I/M programs include: testing of all 1968 and newer vehicles, a test fee to ensure the State/Counties have adequate resources to implement the program, enforcement by registration denial, a repair effectiveness program, a commitment to testing convenience, quality assurance, data collection, a specified waiver rate, reporting, test equipment and test procedure specifications, a commitment to ongoing public information and consumer protection programs, inspector training and certification, and penalties for inspector incompetence. EPA has reviewed the submittals against the CAA statutory requirements and for consistency with Federal I/M regulations as codified in 40 CFR § 51.350 through § 51.373. EPA summarizes the Federal requirements and how the State/Counties have satisfied the requirements below.

(7.)a. 40 CFR 51.350—Applicability. The SIP needs to describe the applicable areas in detail and must also include the legal authority or rules necessary to establish program boundaries. Utah's County-run I/M programs, as authorized by Sections 41–6–163.6 thru 41–6–163.7 of the Utah Code Unannotated, are to be implemented county-wide in Davis, Salt

Lake, and Weber Counties, as described in the Utah SIP, Section X, Basic Automotive Inspection and Maintenance (I/M).

(7.)b. 40 CFR 51.352—Basic I/M performance standard. The I/M programs provided for in the SIP are required to meet a performance standard for basic I/M for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

The State/Counties have submitted a modeling demonstration using the EPA's emissions factor model showing that the basic performance standard is met in all of the affected Counties. Additional modeling was submitted for the improved basic programs which will be implemented in Salt Lake and Davis Counties beginning January 1, 1998. The State/Counties used EPA's MOBILE5a emission factor model to conservatively estimate future reductions for these improved basic programs. EPA believes the conservative methodology employed by the State/Counties provides the VOC and NOx reductions necessary to demonstrate maintenance of the ozone NAAQs without further demonstration/ program evaluation.

The State/Counties may choose to perform future program evaluations to quantify emissions reductions beyond those claimed using the conservative approach employed for this submittal.

(7.)c. 40 CFR 51.353—Network type. The SIP includes a description of the network to be employed, and the required legal authority. Salt Lake and Weber Counties have chosen to implement decentralized, I/M programs, which are comprised of independently operated facilities. Davis County provides for a decentralized network of independently operated facilities through January 1, 1998, at which time the County will operate centralized testing facilities performing the IM240 test procedure in addition to independently operated facilities performing two-speed idle testing.

The Utah I/M programs, in each of the affected Counties, allow fleet self-testing programs with oversight by County Health Department employees. Legal authority contained in Sections 41–6–163.6 thru 41–6–163.7, Utah Code Unannotated, authorizes the Counties to implement these programs.

(7.)d. 40 CFR 51.354—Adequate tools and resources. The SIP needs to include a description of the resources that will be used for program operation, which include: (1) A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements discussed throughout, for the period prior to the next biennial self-evaluation required in Federal I/M rule; and (2) a description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions and the training attendant to each function.

The SIP narrative and County Ordinances contained in the SIP submittal detail that adequate budget resources, staffing support, and equipment and resources are dedicated to the program. Thus, the submittal meets the requirements of the Federal Rule.

(7.)e. 40 CFR 51.355—Test frequency and convenience. The SIP needs to include the test schedule in detail, including the test year selection scheme if testing is other than annual.

The County I/M Ordinances require annual inspections for all subject motor vehicles in the basic I/M programs. For new vehicles the first test is required for re-registration two years after initial registration.

The improved basic program in Salt Lake County requires annual testing of all 1968 and newer vehicles, with an option to perform biennial testing if legislative authority is changed to allow biennial testing. If the County seeks to switch to biennial testing, EPA would require the State/Salt Lake County to demonstrate that the necessary emission reductions can still be provided to demonstrate maintenance of the ozone standard.

The Davis County improved basic I/M program ordinance requires all 3, 6, and 9 year-old vehicles to be inspected at the County-run centralized facilities. All other vehicles are required to obtain annual inspections in independent testing facilities.

All motor vehicles registered as government-owned vehicles or gasoline-powered heavy-duty trucks are required to be certified annually in both the basic and improved basic programs.

(7.)f. 40 CFR 51.356—Vehicle coverage. The SIP includes a detailed description of the number and types of vehicles covered by the County-run programs, and a plan for how those vehicles are to be identified.

The County-run programs' vehicle coverage includes all 1968 and newer model year light-duty cars and trucks and heavy-duty gasoline-powered trucks, registered or required to be registered within the MSA, and fleets primarily operated within the I/M program areas, including government-owned and operated vehicles. Vehicles are identified through the State of Utah's Tax Commission Division of Motor Vehicles (DMV) database.

Vehicles exempted from the program include: motorcycles, farm trucks and diesel vehicles. Diesel vehicles are required to be inspected in County-run diesel I/M lanes. The exempted vehicles are accounted for in the modeling submitted by the State/Counties and documented in the SIP narrative as required.

(7.)g. 40 CFR 51.357—Test procedures and standards. The SIP includes a description of each test procedure used, and a rule, ordinance, or law describing and establishing the test procedures.

Davis and Weber Counties' I/M programs incorporate by reference EPA's preconditioned two-speed idle test as specified in EPA–AA–TSA–I/M–90–3 March 1990, Technical Report, ''Recommended I/M Short Test Procedures for the 1990's: Six Alternatives.'' Additionally, Davis County incorporates by reference the IM240 test procedure specified in EPA–AA–RSPD–IM–96–1 to be administered on 3, 6, and 9 year-old vehicles beginning January 1, 1998.

Salt Lake County's I/M program currently uses EPA's Preconditioned two-speed idle test as specified in EPA–AA–TSA–I/M–90–3 March 1990, Technical Report. Beginning January 1, 1998, the County will implement the 2-mode Acceleration Simulation Mode (ASM2) test in accordance with E0PA–AA–RSPD–IM–96–2.

The calibration specifications and emissions test procedures meet the minimum standard established in Appendix A of 40 CFR Part 51, Subpart S. Test procedures are established in each of the County Rules, which are incorporated into the SIP.

(7.)h. 40 CFR 51.358—Test equipment. The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The Utah I/M SIP provides that the program equipment will meet the California BAR 90/BAR97 accuracy standards at a minimum for the two-speed idle and ASM2 testing equipment. Also, Utah's SIP for Davis

County provides that the program equipment will meet the IM240 equipment specifications contained in EPA-AA-RSPD-IM–96–1.

The Utah SIP narrative addresses the requirements in 40 CFR 51.358 and includes descriptions of performance features and functional characteristics of the computerized test systems. The necessary test equipment, required features, and acceptance testing criteria are also contained in the SIP.

(7.)i. 40 CFR 51.359—Quality control. The SIP needs to include a description of quality control and recordkeeping procedures. The SIP also needs to include the procedures manual, rule, and ordinance or law describing and establishing the quality control procedures and requirements.

The Utah I/M SIP narrative contains descriptions and requirements establishing the quality control procedures in accordance with the Federal I/M rule. These requirements will help ensure that equipment calibrations are properly performed and recorded, and that compliance certificates are properly maintained and secured. Additional quality control procedures are documented in individual County Ordinances.

(7.)j. 40 CFR 51.360—Waivers and Compliance Via Diagnostic Inspection

The SIP needs to include a maximum waiver rate expressed as a percentage of initially failed vehicles. This waiver rate needs to be used for estimating emission reduction benefits in the modeling analysis. Also, the State needs to take corrective action if the waiver rate exceeds that estimated in the SIP or revise the SIP and the emission reductions claimed accordingly. In addition, the SIP needs to describe the waiver criteria and procedures, including cost limits, quality assurance methods and measures, and administration. Lastly, the SIP shall include the necessary legal authority, ordinance, or rules to issue waivers, set and adjust cost limits as required, and carry out any other functions necessary to administer the waiver system, including enforcement of the waiver provisions.

The Salt Lake and Davis County I/M programs commit to a waiver rate of 1 percent or less. The Weber County I/M program commits to a waiver rate of 5 percent or less. Waiver procedures are detailed in individual County ordinances, which are incorporated into the SIP. Legal authority for waivers is delegated to the Counties in section 41–6–163, Utah Code Unannotated.

(7.)k. 40 CFR 51.361—Motorist compliance enforcement. The SIP needs to provide information concerning the enforcement process, including: (1) A description of the existing compliance mechanism if it is to be used in the future and the demonstration that it is as effective or more effective than registration-denial enforcement; (2) an identification of the agencies responsible for performing each of the applicable activities in this section; (3) a description of and accounting for all classes of exempt vehicles; and (4) a description of the plan for testing fleet vehicles, rental car fleets, leased vehicles, and any other special classes of subject vehicles, e.g. those operated in (but not necessarily registered in) the program area. Also, the SIP needs to include a determination of the current compliance rate based on a study of the system that includes an estimate of compliance losses due to loopholes, counterfeiting, and unregistered vehicles. Estimates of the effect of closing such loopholes and otherwise improving the enforcement mechanism need to be supported with detailed analyses. In addition, the SIP needs to include the legal authority to implement and enforce the program. Lastly, the SIP needs to include a commitment to an enforcement level to be used for modeling purposes and to be maintained, at a minimum, in practice.

The motorist compliance enforcement program provisions are contained in the SIP narrative and in the individual County Ordinances. The motorist compliance enforcement program will be implemented, in part, by the Utah Tax Commission Division of Motor Vehicles (DMV), which will take the lead in ensuring that owners of all subject vehicles are denied registration unless they provide valid proof of having received a certificate indicating they passed an emissions test or were granted a compliance waiver. State and local police agencies have the authority to cite motorists with expired registration tags. Authority for these provisions is contained in Section 41–6–163 of the Utah Code Unannotated.

Current compliance rates are estimated at greater than 95 percent in each of the County areas. The SIP commits to a level of motorist enforcement necessary to ensure a compliance rate of no less than 96 percent among subject vehicles.

(7.)l. 40 CFR 51.362—Motorist Compliance Enforcement Program oversight. The SIP narrative includes a description of the enforcement program oversight and information management activities. The State/Counties will periodically review the compliance rates of area I/M programs to ensure the 96 percent commitment is being met. The DMV, Utah Division of Air Quality, Utah highway patrol, and County I/M program staff meet twice a month to ensure on-going high quality oversight of a joint motorist compliance program.

(7.)m. 40 CFR 51.363—Quality assurance. The SIP needs to include a description of the quality assurance program, and written procedures manuals covering both overt and covert performance audits, record audits, and equipment audits. This requirement does not include materials or discussion of details of enforcement strategies that would ultimately hamper the enforcement process.

The Utah I/M SIP narrative and appendices to the County I/M ordinances include descriptions of the quality assurance programs and procedures. The quality assurance programs include operation progress reports, and overt and covert audits of all emission inspectors and emission inspections. Overt and covert audits are conducted by the County I/M staff. In addition, remote inspector audits are performed by the County I/M personnel. Procedures and techniques for overt and covert performance, recordkeeping, and equipment audits are given to auditors and updated as needed.

(7.)n. 40 CFR 51.364—Enforcement Against Contractors, Stations and Inspectors

The SIP needs to include the penalty schedule and the legal authority for establishing and imposing penalties, civil fines, license suspension, and revocations. Also, the SIP needs to describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts, and jurisdictions are involved; who will prosecute and adjudicate cases; and other aspects of the enforcement of the program requirements, the resources to be allocated to this function, and the source of those funds.

The individual Counties are responsible for enforcement actions against incompetent or dishonest stations and inspectors. Each County I/M ordinance or regulation includes a penalty schedule. For repeat or serious offenses, auditors are authorized to immediately suspend the station or inspector by locking out the analyzer(s). A station permit may be suspended or revoked even if the owner/operator had no direct knowledge of the violation. In the case of incompetence, re-training is required before a permit is restored.

(7.)o. 40 CFR 51.366—Data analysis and reporting. The Utah I/M SIP narrative provides that the State/County programs will report summary data based upon program activities taking place in the previous year. The report

will provide statistics for the testing program, the quality control program, the quality assurance program, and the enforcement program. At a minimum, Utah commits to address all of the data elements listed in section 51.366 of the Federal I/M rule.

(7.)p. 40 CFR 51.367—Inspector training and licensing or certification. The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Utah I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. Training includes all elements required by 40 CFR 51.367(a). All inspectors are required to pass a written test in order to become certified to inspect vehicles in the Utah I/M program.

(7.)q. 40 CFR 51.369—Improving repair effectiveness. The SIP needs to include a description of the technical assistance program to be implemented, and a description of the repair technician training resources available in the community.

The Utah I/M SIP commits the program technical and supervisory staff to continue to work with both motor vehicle owners and the automotive service industry regarding their vehicles failing to meet the exhaust emission levels. These direct contacts are normally either by telephone or person-to-person. Customers with vehicles that present unusual testing problems or situations are referred to a County-run Technical Center for further testing and diagnostics.

The Utah Air Quality Board (UAQB) formally adopted the above-described I/M programs for Salt Lake County and Davis County on February 5, 1997. The Weber County I/M program was re-numbered and also re-adopted by the UAQB on February 5, 1997. Based on the above analysis of each of the three County programs, EPA is proposing approval of the I/M programs for Salt Lake, Davis, and Weber Counties as a revision to Utah's SIP.

(8.) Section 182(f)—Oxides of Nitrogen (NO_X) requirements. Section 182(f) of the CAA requires States with ozone nonattainment areas to impose the same control requirements for major stationary sources of NO_X as apply to major stationary sources of VOCs. These NO_X requirements, NO_X RACT and NO_X NSR, were to be submitted to EPA in a SIP revision by November 15, 1992. Section 182(f) also specifies circumstances under which these NO_X requirements would be limited or would not apply.

(8.)a. NSR for NO_X. For the NO_X NSR requirement, the State of Utah has a fully-approved NSR program (60 FR 22277, May 5, 1995) that meets the requirements of section 182(a)(2)(C) and applies to sources of NO_X. This program also meets the requirements of section 172(c)(5).

(8.)b. Section 182(f)—.NO_X RACT For the purposes of addressing the NO_X RACT requirement of section 182(f), sources within the SLDC ozone nonattainment area with NO_X emissions of greater than or equal to 100 tons per year are required to employ RACT. The NO_X RACT requirements are defined by reference to section 182(b)(2) of the CAA. As EPA has not issued any CTGs for NO_X sources, the provisions of sections 182(b)(2)(A) and (B) are not applicable. Section 182(b)(2)(C), as applied to NO_X, required the submittal of RACT rules for major stationary sources of NO_X by November 15, 1992.

The State has established NO_X RACT for the Gadsby Power Plant, owned by PacifiCorp, and the Utah Power Plant, owned by Kennecott Utah Copper (KUC). As part of the Utah PM_{10} SIP revision that EPA approved on July 8, 1994 (59 FR 35036), the Gadsby Power Plant was required to switch from coal to natural gas on a year-round basis and to meet NO_X limits based on the use of low-NO_X burners. These NO_X limits are contained in section IX, Part H of the Utah SIP.

For the Utah Power Plant, the State established NO_X limits for boilers numbered 1 through 4. For boiler number 4, a tangentially fired coal-burning boiler, the State established a NO_X limit of 384 ppm and 377 lbs. per hour (equivalent to 0.45 lbs. of NO_X per million Btu.) This is consistent with EPA's presumptive NO_X RACT limit for tangentially fired coal-burning boilers (see 57 FR 55620, November 25, 1992).

Boilers numbered 1 through 3 are older, coal-burning wet bottom units. Through testing, Kennecott determined that these boilers could be retrofitted with low-NO_X burners. Based on the use of low-NO_X burners, the State set NO_X limits for boilers numbered 1 through 3 at 216 lbs. of NO_X per hour and 426.5 ppmdv (parts per million dry by volume) measured at 3% oxygen. These emission limits are specified in an approval order for the Utah Power Plant and in the maintenance plan.

EPA has evaluated the NO_X limits for the Gadsby and Utah Power Plants and has determined they satisfy the NO_X RACT requirement for these sources.

(8.)c. Partial NO_X RACT Exemption request. Although the State required some NO_X reductions at other major stationary sources of NO_X as part of the PM_{10} SIP for Salt Lake County and southern Davis County, the State did not perform a NO_X RACT evaluation or require NO_X RACT for these other sources. However, the State has submitted a request pursuant to CAA section 182(f)(2) for a NO_X RACT exemption for major stationary sources of NO_X in the SLDC nonattainment area other than the Gadsby and Utah Power Plants.

Under section 182(f)(2)(A), the Administrator may limit the application of the NO_X RACT requirement to the extent necessary to avoid excess reductions of NO_X. Section 182(f)(2)(B)(i) defines excess NO_X reductions as reductions the Administrator determines would not contribute to attainment of the ozone NAAQS in the area. EPA has indicated that in cases where a nonattainment area is demonstrating attainment with 3 consecutive years of air quality monitoring data, without having implemented all or a portion of the section 182(f) NO_X provisions, it is clear that this test is met since ''additional reductions of [NO_X] would not contribute to attainment'' of the NAAQS in that area. EPA issued guidance memorandums addressing this NO_X exemption issue; of particular importance to the Utah situation are a May 27, 1994, John S. Seitz memorandum entitled ''Section 182(f) Nitrogen Oxides (NO_X) Exemptions—Revised Process and Criteria'' and a January 12, 1995, G. T. Helms memorandum entitled ''Scope of Nitrogen Oxides (NO_X) Exemptions.''

The State met this NO_X exemption threshold in 1992 as ambient air quality monitoring data from 1990, 1991, and 1992 showed that the SLDC area had attained the ozone NAAQS. In addition, monitoring data show that the SLDC area has continued to maintain the ozone NAAQS.

The ambient air quality monitoring data for the years 1990, 1991, and 1992, as provided with the State's May 2, 1997, letter, have been quality assured and archived in EPA's Aerometric Information and Retrieval System (AIRS) by the State in accordance with 40 CFR Part 58. These data were then evaluated by EPA according to the procedures in 40 CFR Part 50, Appendix H. The results of this analysis indicate that the SLDC area attained the current ozone NAAQS as of 1992. Additional quality assured data were provided with the State's May 2, 1997, letter, and are also included in the maintenance plan and the State's TSD for the redesignation request. These data were also archived in AIRS by the State, in accordance with 40 CFR part 58, and

include the years 1993, 1994, 1995, and 1996. Based on EPA's review of all the air monitoring data from 1990 through 1996, EPA has determined that the SLDC area attained the ozone NAAQS in 1992 and has continued to demonstrate attainment of the ozone NAAQS through 1996. Therefore, EPA has determined that the State's May 2, 1997, partial NO_X RACT exemption request for the SLDC area meets the applicable requirements of section 182(f)(2) of the CAA and is consistent with EPA guidance.

It is important to note that EPA is only proposing to approve an exemption from the NO_X RACT requirements for those major stationary sources of NO_X in the SLDC nonattainment area other than the Gadsby Power Plant and the Utah Power Plant. EPA is not proposing an exemption from the NO_X NSR requirements, NO_X conformity requirements, or the motor vehicle I/M requirements related to NO_X. Furthermore, EPA notes that NO_X limits for some or all of the major stationary sources of NO_X other than the Gadsby and Utah Power Plants are necessary for the SLDC nonattainment area to demonstrate maintenance of the ozone NAAQS through 2007 (2020 for conformity purposes).

(8.)d. R307–14–1 Generic NO_X RACT. The State also has a generic NO_X RACT rule, contained in R307–14–1, UACR, which requires RACT for existing major sources of NO_X for which no specific emission limits or other control requirements have been established in R307–14. EPA is proposing limited approval of the generic NO_X RACT provisions for their strengthening effect on the SIP. EPA is not making a finding that these provisions meet the requirements to be considered RACT. As noted above with respect to the State's generic VOC RACT provisions, which are also contained in R307–14–1 and which overlap to a significant degree, the State's reference to 40 CFR 51.100(o) to define RACT is inappropriate. In addition, R307–14–1.D.(2) suggests that prior applications of RACT under other Federal or State requirements might be deemed adequate to satisfy the NO_X RACT requirements of CAA section 182(f) even if they do not meet presumptive NO_X RACT levels. EPA believes the State may be referring to limits set for the PM_{10} SIP. It is EPA's position that the State's suggested approach is not allowed under section 182(f) of the CAA. NO_X RACT for section 182(f) purposes must be evaluated independently of NO_X limits set for purposes of a PM_{10} SIP or other State or Federal requirement. Finally, EPA notes that R307–14–1.F applies to NO_X as well as VOCs and leaves discretion in the Executive Secretary of the Utah Department of Environmental Quality to change test methods without EPA approval. As discussed above with respect to VOC RACT, this type of provision is not consistent with EPA's requirements.

For these reasons, EPA cannot fully approve Utah's generic NO_X RACT rule as meeting section 182(f) and other SIP requirements. However, EPA believes this generic NO_X RACT rule strengthens the SIP and is proposing limited approval of the rule provisions for their strengthening effect only. The State's generic NO_X RACT rule is not necessary to the redesignation request because the State has adopted NO_X RACT for the Gadsby and Utah Power Plants and the SLDC area qualifies for a NO_X RACT exemption for any other major stationary sources of NO_X.

Section 4. Redesignation Criterion: The Area Must Have A Fully Approved SIP Under Section 110(k) of the CAA

Section 107(d)(3)(E)(ii) of the CAA states that for an area to be redesignated to attainment, it must be determined that the Administrator has fully approved the applicable implementation plan for the area under section 110(k).

Based on the approval into the SIP of provisions under the pre-1990 CAA and EPA's prior approval of SIP revisions required under the 1990 amendments to the CAA, EPA has determined that Utah will have a fully approved ozone SIP under section 110(k) for the SLDC ozone nonattainment area if EPA takes final action to approve the 1990 base year emissions inventory, the State's VOC and NO_X RACT requirements (with the exceptions noted above), the State's partial NO_X RACT exemption request, the Basic I/M program, and the Salt Lake and Davis Counties Improved I/M rules as described above. EPA intends to take final action approving the above SIP elements at the same time that EPA takes final action to approve the SLDC ozone redesignation request.

Section 5. Redesignation Criterion: The Area Must Show That The Improvement in Air Quality is Due to Permanent and Enforceable Emissions Reductions

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

In addition to the reduction of emissions from the revisions to the SIP described above (VOC RACT, NO_X RACT for the Utah Power Plant and Gadsby Power Plant, the PM_{10} SIP revision, VOC/NO_X NSR) and in section IX.D.2.b of the SLDC maintenance plan, other Federal emission control measures have come into place since the SLDC area last violated the current ozone standard. These control measures include the reduction in summertime fuel volatility to 7.8 psi (beginning in 1992), as measured by Reid Vapor Pressure (RVP), and fleet turnover due to the Federal Motor Vehicle Control Program (FMVCP). Both of these control measures provided significant VOC emission reductions.

EPA has evaluated the various State and Federal control measures, the 1990 base year emission inventory, the 1994 attainment year emission inventory, and the projected emissions described below, and has concluded that the improvement in air quality in the SLDC nonattainment area has resulted from emission reductions that are permanent and enforceable.

Section 6. Redesignation Criterion: The Area Must Have A Fully Approved Maintenance Plan Under Section 175A

Section 107(d)(3)(E)(iv) of the CAA provides that for an area to be redesignated to attainment, the Administrator must have fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the promulgation of the redesignation, the State must submit a revised maintenance plan that demonstrates continued attainment for the subsequent ten-year period following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for adoption and implementation, that are adequate to assure prompt correction of a violation. In addition, EPA issued further maintenance plan interpretations in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992), ''General Preamble for the Implementation of

Title I of the Clean Air Act Amendments of 1990; Supplemental'' (57 FR 18070, April 28, 1992), and the EPA guidance memorandum entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' from John Calcagni, Director, Air Quality Management Division, Office of Air Quality and Planning Standards, to Regional Air Division Directors, dated September 4, 1992. In this **Federal Register** action, EPA is proposing approval of the State of Utah's maintenance plan for the SLDC nonattainment area because EPA has determined, as detailed below, that the State's maintenance plan submittal meets the requirements of section 175A and is consistent with the documents referenced above. EPA's analysis of the pertinent maintenance plan requirements, with reference to the Governor's February 19, 1997, submittal, is provided as follows:

A. Emissions Inventories—Attainment Year and Projections

EPA's interpretations of the CAA section 175A maintenance plan requirements are generally provided in the General Preamble and September 4, 1992, policy memorandum referenced above. Under EPA's interpretations, areas seeking to redesignate to attainment for ozone may demonstrate future maintenance of the NAAQS either by showing that future ozone precursor emissions will be equal to or less than the attainment year emissions or by providing a modeling demonstration. For the SLDC area, the State selected the emissions inventory approach for demonstrating maintenance of the ozone NAAQS.

The maintenance plan that the Governor submitted on February 19, 1997, included comprehensive inventories of the VOC, NO_X, and CO emissions from the SLDC area. These inventories include emissions from stationary point sources, area sources, non-road mobile sources, on-road mobile sources, and biogenics. The State selected 1994 as the year from which to develop the attainment year inventory and included year-by-year projections out to 2007. More detailed descriptions of the 1994 attainment year inventory and the projected inventories are documented in the maintenance plan, sections IX.D.2.e and IX.D.2.f, and in the State's TSD. The State's submittal contains detailed emission inventory information that was prepared in accordance with EPA guidance. Summary emission figures from the 1994 attainment year and a sampling of the projected years are provided in the tables below.

	1994	1997	2000	2003	2007
Summary of VOC Emissions in Tons Per Day					
Point Sources	11.81	12.79	13.42	14.13	15.04
Area Sources	40.81	45.24	48.50	51.81	56.59
Non-Road Mobile Sources	33.16	32.12	30.91	28.35	22.81
On-Road Mobile Sources	75.40	70.66	62.96	60.46	58.47
Biogenics	38.94	38.94	38.94	38.94	38.94
Total	200.13	199.75	194.73	193.69	191.84
Summary of NO_X Emissions in Tons Per Day					
Point Sources	27.74	24.97	26.15	27.57	29.47
Area Sources	7.32	7.95	8.38	8.85	9.57
Non-Road Mobile Sources	50.17	51.04	49.34	48.44	48.06
On-Road Mobile Sources	73.66	73.11	65.87	65.24	67.31
Total	158.89	157.08	149.74	150.10	154.39
Summary of CO Emissions in Tons Per Day					
Point Sources	3.83	3.99	4.18	4.40	4.67
Area Sources	4.88	10.19	10.45	10.72	11.15
Non-Road Mobile Sources	292.86	308.05	322.65	339.76	366.63
On-Road Mobile Sources	634.95	557.84	451.89	413.22	393.23
Total	936.51	880.07	789.17	768.10	775.68

B. Demonstration of Maintenance—Projected Inventories

Total ozone precursor emissions of VOCs and NO_X were projected by the State year-by-year from 1995 through 2007.[2] These projected inventories were prepared in accordance with EPA guidance (further information is provided in section IX.D.2.f of the maintenance plan). The projected inventories show that VOC and NO_X emissions are not expected to exceed the 1994 attainment level during this time period and, therefore, the SLDC area has satisfactorily demonstrated maintenance.

C. Monitoring Network and Verification of Continued Attainment

Continued attainment of the ozone NAAQS in the SLDC area depends, in part, on the State's efforts to track indicators throughout the maintenance period. This requirement is met in two sections of the SLDC maintenance plan. In section IX.D.2.c.(4) and section IX.D.2.j.(2) the State commits to continue the operation of the ozone monitors in the SLDC area and to annually review this monitoring

[2] EPA notes that in developing the 1990 base year inventory, the State provided CO emission data as required by EPA for 1990 base year emission inventories. As the initial November 12, 1993, maintenance plan submittal used 1990 as the attainment year inventory, these CO emissions were projected by the State along with VOC and NO_X emissions. The State continued to carry CO emission data through each subsequent revision to the maintenance plan up through, and including, the February 19, 1997 version. EPA is acknowledging and archiving these CO emission projections with this **Federal Register** action. However, these CO emission projections are not necessary for the SLDC redesignation to attainment and will not be discussed further.

network and make changes as appropriate. Also, in section IX.D.2.j.(1)(a) the State commits to prepare a comprehensive emission inventory of VOC, NO_X, and CO emissions every three years beginning with 1996. These inventories will be based on the most current Vehicle Miles Traveled (VMT) data, actual point source emissions, and area source emissions based on the most current population and industry growth information. The above commitments by the State, which will be enforceable by EPA following the final approval of the SLDC maintenance plan SIP revision, are deemed adequate by EPA.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. To meet this requirement, the State has identified appropriate contingency measures along with a schedule for the development and implementation of such measures. As stated in Section IX.D.2.h of the maintenance plan, the contingency measures for the SLDC area will be triggered by a violation of the ozone standard. The contingency measures identified are: (1) increase the VOC and NO_X offset levels from 1.15 to 1 to 1.20 to 1, (2) decrease the threshold level for requiring offsets from 100 tons per year to 50 tons per year, (3) implement Stage II vapor recovery, and (4) require more stringent low-NO_X burner controls. A more complete description of the triggering mechanism and these contingency measures can be found in section IX.D.2.h of the maintenance plan SIP submittal. EPA finds that the contingency measures provided in the State's maintenance plan meet the requirements of section 175A(d) of the CAA.

E. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, the State of Utah has committed to submit a revised maintenance plan SIP revision eight years after redesignation. This provision and other State-triggered mechanisms (such as in response to revisions to the ozone NAAQS or to take advantage of improved or more expeditious methods of maintaining the ozone standard) for revising the maintenance plan are contained in section IX.D.2.h.(3) of the SLDC maintenance plan.

F. Transportation Conformity

One key provision of the conformity regulations requires a demonstration that emissions from the transportation plan and Transportation Improvement Program are consistent with the emissions budgets in the SIP (40 CFR sections 93.118 and 93.119). The emissions budget is defined as the level of mobile source emissions relied upon in the attainment or maintenance demonstration to maintain compliance with the NAAQS in the nonattainment area. The rule's requirements and EPA's policy on emissions budgets are found in the Preamble to the transportation conformity rule (58 FR 62193–96) and in the sections of the rule referenced above.

The maintenance plan defines emissions budgets for each year between 1994 and 2007, and for 2015 and 2020. (See Table 8 of the maintenance plan). The 1994–2007 emissions budgets are based on the maintenance plan's emission inventory projections, while the 2015 and 2020 budgets are based on EKMA modeling. The maintenance plan lists budgets for Salt Lake County and Davis County separately, and for the entire nonattainment area (both Counties combined). The plan provides that the metropolitan planning organization (Wasatch Front Regional Council) may demonstrate conformity with the budgets for each County individually or for the entire nonattainment area at its option. The plan also identifies a safety margin (called the ''emissions credit'') for each year, which is the difference between total emissions from all sources in the attainment year and in each future year. The plan provides that this safety margin may be used for conformity purposes if authorized by the Utah Air Quality Board.

Proposed Action

In this action, EPA is proposing to approve the SLDC redesignation request, maintenance plan, and other related SIP elements, including the 1990 base year emissions inventory, Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC), NO_X RACT for Kennecott's Utah Power Plant and for the Gadsby Power Plant, and the Basic Inspection and Maintenance (I/M) and Improved I/M provisions for Salt Lake and Davis Counties. EPA is also proposing to approve a partial Nitrogen Oxides (NO_X) RACT exemption request. EPA will not proceed with approval of the redesignation request unless EPA also proceeds with the final full approval of the maintenance plan, all applicable SIP elements, and the partial NO_X RACT exemption.

In this action, EPA is also proposing to give limited approval to the State's generic VOC RACT and generic NO_X RACT rules, and to fully approve the I/M provisions for Weber County. These SIP elements are either not necessary or not relevant to the SLDC redesignation request.

EPA is requesting comments on all aspects of this proposal. As indicated elsewhere in this document, to be considered, comments must be received by June 23, 1997.

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

Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et. seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant 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.

Redesignation of an area to attainment under sections 107(d)(3) (D) and (E) of the CAA does not impose any new requirements on small entities. Redesignation to attainment is an action that affects the status of a geographical area and does not impose any regulatory requirements on sources. Therefore, I certify that the approval of the redesignation request will not affect a substantial number of small entities.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I

certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the 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).

Approvals of NO_X exemption requests under section 182(f) of the CAA do not create any new requirements. Therefore, I certify that approval of the State's partial NO_X RACT exemption request will not have a significant impact on any small entities affected.

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

EPA has determined that the proposed action 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 will approve a redesignation to attainment, pre-existing requirements under State or local law, and an exemption from requirements otherwise imposed under the CAA; this action will impose no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7671q.

Dated: May 14, 1997.

Jack W. McGraw,

Acting Regional Administrator.

[FR Doc. 97–13649 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5828–5]

National Oil and Hazardous Substances Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Middletown Air Field Site, located in Middletown, Pennsylvania, from the National Priorities List and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Middletown Air Field Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. EPA and the Pennsylvania Department of Environmental Protection (PADEP) have determined that all appropriate CERCLA response actions have been implemented and that no further cleanup is appropriate. Moreover, EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of this Site from the NPL may be submitted on or before June 23, 1997.

ADDRESSES: Comments may be submitted to Nicholas J. DiNardo, (3HW50), Project Manager, U.S. Environmental Protection Agency, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 566–3365.

Comprehensive information on this Site is available for viewing at the Site information repositories at the following locations:

U.S. EPA, Region III, Hazardous Waste Technical Information Center, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–5363.

Middletown Public Library, 20 North Catherine Street, Middletown, PA 17057, (717) 944–6412.

FOR FURTHER INFORMATION CONTACT: Nicholas J. DiNardo (3HW50), U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 566–3365.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Environmental Protection Agency (EPA) Region III announces its intent to delete the Middletown Air Field Site, Dauphin County, Pennsylvania, from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on this deletion. The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site from the NPL for thirty calendar days after publication of this notice in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses how the site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible or other parties have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented and no further cleanup is appropriate; or

(iii) As set forth in the investigative findings for the Site, the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

In addition to the above, for all remedial actions which result in hazardous substances, pollutants, or contaminants remaining at the site above levels that allow for unlimited use and unrestricted exposure, section 121(c) of CERCLA, 42 U.S.C. 9621(c), the NCP at 40 CFR 300.430(f)(4)(ii) and EPA's policy, OSWER Directive 9320.2–09, dated August 1995, provide that a subsequent review of the site will be conducted at least every five years after the initiation of the first remedial action at the Site to ensure that conditions at the Site remain protective of public health and the environment. In the case of this Site, EPA conducted a ''five year review'' in August of 1996. Based on the inspection, EPA determined that conditions at the Site remain protective of public health and the environment. As explained/discussed below, the Site meets the NCP's deletion criteria listed above. Five-year reviews will continue to be conducted at the Site until no hazardous substances, pollutants, or contaminants remain above levels that allow for unlimited use and unrestricted exposure.

Releases shall not be deleted from the NPL until the state in which the release was located has concurred on the proposed deletion. 40 CFR 300.425(e)(2).

All releases deleted from the NPL are eligible for further Fund-financed remedial actions should future conditions warrant such action. Whenever there is a significant release from a site deleted from the NPL, the site can be restored to the NPL without application of the Hazard Ranking System. 40 CFR 300.425(e)(3).

III. Deletion Procedures

Section 300.425(e)(4) of the NCP sets forth requirements for site deletions to assure public involvement in the decision. During the proposal to delete a site from the NPL, EPA is required to conduct the following activities:

(i) Publish a notice of intent to delete in the **Federal Register** and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) Publish a notice of availability of the notice of intent to delete in a major local newspaper of general circulation at or near the site that is proposed for deletion;

(iii) Place copies of information supporting the proposed deletion in the information repository at or near the site proposed for deletion; and,

(iv) Respond to each significant comment and any significant new data submitted during the comment period in a Responsiveness Summary.

If appropriate, after consideration of comments received during the public comment period, EPA then publishes a notice of deletion in the **Federal Register** and places the final deletion package, including the Responsiveness Summary, in the Site repositories.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. As stated in Section II of this Notice, § 300.425(e)(3) of the NCP provides that the deletion of a site from the NPL does not preclude eligibility for future response actions.

IV. Basis for Intended Site Deletion

The following site summary provide's EPA's rationale for the proposal to delete the Middletown Air Field Site from the NPL.

The Site is located in Dauphin County, Pennsylvania, about 8 miles southeast of Harrisburg. It is situated between the boroughs of Highspire and Middletown along Pennsylvania Route 230, and bordered by the Susquehanna River to the south. The site property was initially established as Camp George Gordon Meade by the Army in July 1898 and then was operated as a pickle farm by the H.J. Heinz company until May 15, 1917, when ground was broken for an Army Signal Corps storage depot (the Aviation General Depot, later known as the Middletown Air Intermediate Depot). Flight activities began on the site in 1918 and the airfield was named Olmstead Field in 1923. In 1947 it became known as Olmstead Air Force base. In 1967 Olmstead Air Force Base was transferred to the Commonwealth of Pennsylvania and the facility was renamed Olmstead State Airport. It was renamed Harrisburg International Airport in 1971.

The former Air Force field and most of the former Air Force industrial buildings (approximately 625 acres) are currently owned by the Commonwealth of Pennsylvania. The Pennsylvania Department of Transportation (PennDOT) maintains and manages the Harrisburg International Airport (HIA) portion. The 193rd Special Operations group of the Pennsylvania Air National Guard operates a small portion of the Site, just east of the airport complex. Approximately 218 acres of former administrative and housing facilities north of Route 230 are owned by the Harrisburg campus of Pennsylvania State University. An additional 93 acres of former Air Force warehouse facilities north of the Pennsylvania Turnpike (I–76) were originally leased to Fruehauf Industries (Fruehauf) in May 1966 by a local industrial development authority. Fruehauf manufactured truck trailers and its Site activities including welding, punching, fastening, foaming and painting. By May 23, 1986, Fruehauf had acquired ownership of the 93 acres. In June 1995, the property, excluding the North Base Landfill, was sold to First Industrial Realty Trust, Inc. by Fruehauf. Fruehauf still retains ownership the North Base Landfill property.

Activities throughout the history of the Site included:

- Warehousing and supply of parts, equipment, general supplies, petroleum, oil and lubricants (POL) for the Department of the Army's Northeast Procurement District;
- Complete aircraft overhaul including stripping, repainting, engine overhaul, reassembly, and equipment replacement;
- Engine and aircraft testing; and
- General base support maintenance and operation.

HIA currently conducts general airport operations and maintenance, and leases buildings to fixed base operators and industrial tenants. Tenants have performed a number of activities at this Site, including:

- Aircraft maintenance operations, aircraft paint stripping and repainting, and parts cleaning;
- Aircraft instrument overhaul and repair;
- Fabric dying;
- Machine shop operations; and
- Typewriter ribbon inking and cartridge assembly.

Various studies have been conducted by both EPA and the Pennsylvania Department of Environmental Protection (PADEP, formerly the Pennsylvania Department of Environmental Resources), at the facility since 1983 to investigate and monitor areas that were affected by operations at the Site. In March 1983, PADEP discovered the volatile organic compound (VOC) trichloroethylene (TCE) in six of ten HIA production wells. This discovery triggered subsequent environmental investigations and studies, and the installation of a water treatment system that is currently still in use at the facility.

In 1984, EPA conducted ground penetrating radar and magnetometer surveys at the Runway, Industrial, and

North Base Landfill areas at the Site. EPA removed nine partially exposed 55-gallon drums from a fill area located along a stream bank northeast of the Meade Heights housing complex. The drums were empty except for water and coatings of a hard, black tarry substance. EPA sampled the drum contents and found that they did not exhibit the characteristic of EP toxicity (as described in 40 CFR 261.24) at the time of the sampling.

EPA evaluated the Site under the Hazard Ranking System and was proposed for inclusion on the National Priorities List (NPL) on October 1, 1984. EPA added the Site to the NPL on June 1, 1986. 51 FR 21054 (June 6, 1996). EPA's initial response after the NPL listing focused on the presence of VOCs found in the groundwater beneath the Site. EPA selected an interim remedy in the December 30, 1987, Record of Decision (1987 ROD) that addressed HIA's contaminated drinking water supply. The selected response consisted of the installation of an air stripping system for the removal of VOCs to meet the drinking water standards. The existing treatment system consists of two air strippers, an ion exchange unit for the removal of hardness, and disinfection prior to distribution.

A train spill occurred northwest of the runway area on June 4, 1988, approximately 500 feet west of Production Well HIA–12. Diethylene glycol and mineral oil were released to the soil as a result of the spill. PADEP remediated the site of the spill through pumping ground water into settling tanks, skimming the mineral oil, biotreatment of the diethylene glycol, and reinjection of the treated water. PADEP completed the remediation in 1989.

In order to fully characterize the remainder of the Site and identify potential public health and environmental concerns, EPA issued a contract for an extensive study of the Site in 1988. The study was performed in two phases—the Remedial Investigation (RI) and the Feasibility Study (FS). *See* 40 CFR 300.430 (d) and (e).

Based upon the 1988 RI/FS for the Site, the Operable Unit 2 Record of Decision (1990 ROD), signed on December 17, 1990, directed continued operation of existing drinking water supply treatment and the current distribution system, the institution of groundwater use restrictions, and additional monitoring of the water supply wells. The remedy contained in the 1990 ROD also directed the use of institutional controls to address direct contact and other threats from potentially contaminated soils that may be exposed at the Site during construction, demolition, excavation or other activities that disturb Site soils and involve the potential for worker and public exposure to presently contaminated soils. The 1990 ROD also selected final remedial actions at study areas (SAs) 1, 2, 3, and 4 and an interim action at SA–5, since the field investigation results at SA–5 were inconclusive in determining contaminant sources and their potential environmental impact.

Under the 1990 ROD, the remedy selection for SA–1 involved the continued operation of the ground water treatment system currently in place at the Site, the institution of restrictions for all ground water use throughout the Site (which extends from the North Base Landfill to the Susquehanna River), and the addition of monitoring for the water supply wells.

The remedy for SA–2 and SA–3 included land use and access restrictions, and the development of public and worker health and safety requirements for activities involving construction, demolition, and excavation or other activities that would disturb the Site soil.

The remedy for SA–4, which provided for the installation of ''sentinel wells'' designed to assure protection of well MID–04 from contaminants found on the Site, was coupled with the remedy for SA–1 to efficiently and effectively address ground water contamination at the Site.

The interim action required for SA–5 included a study evaluating the water quality of, and organisms living in, the stream near Meade Heights.

After reviewing the 1990 ROD, PADEP asserted that the ROD did not fully investigate the relationship between soil and ground water contamination, nor did it consider active soil cleanup technologies. In 1992, an Explanation of Significant Differences (ESD) was issued to address PADEP's concerns by expanding the scope of the Supplemental Studies Investigation (SSI) required by the 1990 ROD. The ESD explained that the ground water remedy selected in the 1990 ROD was an interim action and that the final decision would follow in the third ROD. The ESD also rescinded the requirement in the 1990 ROD, that the existing water supply system must continue to operate even if airport operations cease would be eliminated and reevaluated at a later date.

The SSI concluded that no contaminants of concern were identified in the surface water or sediment at the Site above the Biological Technical Assistance Group (BTAG) screening levels. Furthermore, based on the Baseline Risk Assessment (BRA) that was performed as part of the SSI, EPA concluded in the third ROD, issued on September 17 1996, that:

- No additional action, other than that already required by earlier RODs, is necessary to address soils at the Site. Therefore all remedial designs and remedial actions are complete, and no cleanup standards are set for any operable unit.
- Institutional restrictions on ground water use will be continued at the Site.
- Monitoring of surface water and sediment in the Susquehanna River as required by the 1990 ROD should continue. In addition, two locations involving the J–5 storm drain, situated next to building 208, should also be sampled quarterly and evaluated as part of the five year review for the Site. These locations are the J–5 storm drain and the outfall of the J–5 storm line at Post Run. The sampling frequency may be modified by PADEP after one year. No other sampling for surface water and sediment is deemed necessary at this time.
- Monitoring of the sentinel wells in the North Base Landfill Area, as required by the 1990 ROD for the protection of the MID–04 well, should continue. No other actions for this area are deemed necessary at this time.
- No action is required for surface water or sediment in Meade Heights.
- In the event that the HIA should cease or reduce the pumping of the production wells, PADEP will assess the potential for currently contained hazardous substances to migrate towards the Susquehanna River and PADEP, as provided for in the April 16, 1997, Memorandum of Understanding (MOU) between PADEP and PennDOT, may impose a sampling and review period (not to initially exceed 5 years) to assess whether any impact is occurring regarding the Susquehanna River. After the initial review, PADEP will again review the Site's status and determine if additional action is warranted.
- As required by the 1990 ROD, ground water use will be restricted in the event any new wells are to be installed or modification of usage to existing wells is to be implemented at the Site. The extracted ground water must be tested and the results reported to PADEP. Ground water use at the Site will require a permit or approval by PADEP prior to use.

The 1996 ROD concluded that no additional action, other than that already required by the 1987 ROD and the 1990 ROD, as modified by the 1992

ESD, is required at the Site. Further, EPA has concluded that the 1996 ROD's ''No Further Action'' alternative's use of engineering and institutional controls at the Site will not interfere with the redevelopment and expansion objectives set forth in the October 1990 Master Plan Harrisburg International Airport commissioned by PennDOT's Bureau of Aviation's State-owned Airports Division.

On August 21, 1996, EPA and PADEP conducted a final inspection of the sentinel well construction. No deficiencies were noted nor were additional activities deemed necessary as a result of the inspection.

All remedial actions for this Site are complete. Collection of monitoring well data from the HIA production wells and the North Base Landfill sentinel wells, initially on a quarterly basis (unless and until modified by PADEP), is the only O&M requirement necessary.

PADEP has assumed the responsibility for assuring compliance with the institutional controls identified in the RODs for this Site, and the review of data generated as part of the 5-year review process. On April 16, 1997, PADEP and PennDOT entered into a Memorandum of Understanding (MOU). The MOU expresses the intent of PADEP and PennDOT that PennDOT will, *inter alia*, perform the sampling of the wells, water and sediment and implement institutional controls, as required by remedy selected in the 1996 ROD.

The statutorily required five-year review of the ground water treatment remedy selected in the 1987 ROD was completed on September 1996. Further five year reviews will be conducted pursuant to OSWER Directive 9355.7–02. ''Structure and Components of Five-Year Reviews,'' and/or other applicable guidance. The next scheduled five year review is set for September, 1998. Subsequent five year reviews will be conducted pursuant to the directive.

The remedies selected for this Site have been implemented in accordance with the three Records of Decision as modified and expanded in the EPA-approved Remedial Designs for the Operable Units and the 1992 ESD. Human health threats and potential environmental impacts have been reduced to acceptable levels. EPA and the PADEP find that the remedies implemented continue to provide adequate protection of human health and the environment.

EPA, with the concurrence of PADEP, believes that the criteria for deletion of this Site have been met. Therefore, EPA is proposing deletion of this Site from the NPL.

Dated: May 15, 1997.

W. Michael McCabe,

Regional Administrator, USEPA Region III.

[FR Doc. 97–13481 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Part 1001

RIN 0991–AA91

Health Care Programs, Fraud and Abuse; Intent To Form the Negotiated Rulemaking Committee for the Shared Risk Exception

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Intent to form negotiated rulemaking committee and notice of meetings.

SUMMARY: We have been statutorily-mandated under section 216 of the Health Insurance Portability and Accountability Act (HIPAA) of 1996, to establish a negotiated rulemaking committee in accordance with the Negotiated Rulemaking Act and the Federal Advisory Committee Act (FACA). The committee's purpose would be to negotiate the development of the interim final rule addressing the shared risk exception, in section 216 of HIPAA, to the Federal health care programs' anti-kickback provisions. The committee will consist of representatives of interests that are likely to be significantly affected by the interim rule. The committee will be assisted by an impartial facilitator. We are requesting public comments on whether we have properly identified interests that will be affected by key issues discussed below.

DATES: Comments will be considered if we receive them at the address provided below by no later than 5 p.m. on June 9, 1997.

The meetings will be held at 9:00 a.m. on June 17–18, 1997, and July 28–30, 1997.

ADDRESSES: Please mail or deliver your written comments (1 original and 3 copies) to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG–33–NOI, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OIG–33–NOI. Comments received timely will be available for public inspections as they are received, generally beginning approximately 2 weeks after publication of a document, in Room 5550 of the Office of Inspector General at 330 Independence Avenue, S.W., Washington, D.C., on Monday through Friday of each week from 8:00 a.m. to 4:30 p.m., (202) 619–0335.

The meetings will be held at the Holiday Inn Capitol, 550 C Street, SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Joel Schaer, (202) 619–0089, OIG Regulations Officer; Judy Ballard, (202) 690-7419, Convener.

SUPPLEMENTARY INFORMATION:

I. Negotiated Rulemaking Act

The Negotiated Rulemaking Act, Public Law 101–648 (5 U.S.C. 561–569), establishes a framework for the conduct of negotiated rulemaking and encourages agencies to use negotiated rulemaking to enhance the informal rulemaking process. Under the Act, the head of an agency must consider whether—

- There is a need for a rule;
- There are a limited number of identifiable interests that will be significantly affected by the rule;
- There is a reasonable likelihood that a committee can be convened with a balanced representation of person who (1) Can adequately represent the interests identified, and (2) are willing to negotiate in good faith to reach a consensus on the rulemaking;
- There is reasonable likelihood that a committee will reach a consensus on the rulemaking within a fixed period of time;
- The negotiated rulemaking process will not unreasonably delay the development and issuance of a final rule;
- The agency has adequate resources and is willing to commit such resources, including technical assistance, to the committee; and
- The agency, to the maximum extent possible consistent with the legal obligations of the agency, will use the consensus of the committee with respect to developing the rule proposed by the agency for notice and comment.

Negotiations are conducted by a committee chartered under the FACA (5 U.S.C. App. 2). The committee includes an agency representative and is assisted by an impartial facilitator. The goal of the committee is to reach consensus on the language or issues involved in a rule. If consensus is reached, it is used as the basis of the interim final rule. The process does not affect otherwise

procedural requirements of the FACA, the Administrative Procedure Act and other statutes.

II. Subject and Scope of the Rule

A. Need for the Rule

Section 216 of HIPAA (Public Law 104–191) mandates a negotiated rulemaking process for establishing standards for a statutory exception to the anti-kickback statute.

B. Subject and Scope of the Rule

The Federal health care programs' anti-kickback statute, set forth in section 1128B(b) of the Social Security Act (the Act), provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit or receive bribes, kickbacks or other remuneration in order to induce business reimbursed by Medicare or other Federal health care programs. In addition, for violations of section 1128B(b), the Department has the authority to exclude a person or entity from participation in the Medicare or State health care programs, in accordance with section 1128(b)(7) of the Act.

Because the statutory language of the anti-kickback statute is quite broad, there was concern that many innocuous or even beneficial arrangements would be covered by the statute. As a result, section 14 of Public Law 100–93, the Medicare and Medicaid Patient and Program Protection Act of 1987, authorized the promulgation of regulations ''specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act.'' These have come to be known as the ''safe harbor'' regulations. To date, we have promulgated two final rules that have established 13 specific areas for ''safe harbor'' protection under the anti-kickback statute (July 21, 1991 (56 FR 35952) and January 25, 1996 (61 FR 2122)).

Section 216 of HIPAA specifically amends section 128B(b)(3)(F) of the Act to include a new statutory exception for risk-sharing arrangements. The provision establishes a new statutory exception from liability under the anti-kickback statute for remuneration between an eligible organization under section 1876 of the Act and an individual or entity providing items or services, or any combination thereof, in accordance with a written agreement between these parties. The provision also allows remuneration between an organization and an individual or entity if a written agreement places the individual or entity at ''substantial financial risk'' for the cost or utilization of the items or services provided. Section 216 requires the Department, in consultation with the Department of Justice, to engage in a negotiated rulemaking process to establish standards related to this exception for risk-sharing arrangements. The factors to be considered are (1) The level of risk appropriate to the size and type of arrangement; (2) the frequency of assessment and distribution of incentives; (3) the level of capital contribution; and (4) the extent to which the risk-sharing arrangement provides incentives to control the cost and quality of health care services.

C. Issues and Questions To Be Resolved

We anticipate some discussions about the basic approach to the rule, including what policy issues are properly considered in determining whether arrangements should be excepted from the anti-kickback provisions, whether flexibility or certainty in the rule is more important, and whether the definitions of terms used in the exception must be consistent with use of those terms in other contexts. In addition, we anticipate discussion on a limited number of specific issues.

Specific Issues for Discussion

The negotiated rulemaking will address the following specific issues.

- How is the term ''written agreement'' to be defined?

We expect discussion on whether the agreement should be of minimum duration, what the agreement should contain and whether unwritten side agreements should be prohibited.

- What does the term ''eligible organization under section 1876 of the Social Security Act'' mean?

We expect discussion on whether this phrase is limited to Medicare risk contractors (and to arrangements for services provided under Medicare contracts) or has a broader meaning. In addition, we expect discussions on whether the first part of the exception applies to remuneration only if it is in accordance with an agreement where an ''eligible organization'' is a party, or also if in accordance with ''lower level'' agreements, such as one between a physician and a physician group practice that has an agreement with a health maintenance organization. There may also be some discussion of the term ''organization'' as used in the second part of the exception.

- What is an ''individual or entity providing items or services or a combination thereof''?

We expect discussion on whether this includes entities such as drug companies or device manufacturers providing combinations of items and services, and when this constitutes ''bundling'' that would be harmful to the Federal health care programs without further protections. We also expect to address whether the services must be health care services or could be other services, such as marketing services.

- What constitutes ''substantial financial risk for the cost of utilization of items or service''?

The legislative history of the exception lists certain factors (such as the level of capital contribution) to be taken into account in determining whether the risk is substantial. We expect discussion on how these factors should be taken into account, what constitutes risk (for example, should bonuses and withholds be treated the same), and whether special treatment should be given to encourage providers to assume risk where they do not ordinarily do so or where risk is difficult to measure. In addition, we anticipate discussion about how to take into account the total risk-sharing arrangement between the parties.

Issues Outside the Scope of the Rule

With regard to parameters outside the scope of the rule, the OIG does not plan to negotiate the following issues—

- Whether any existing regulatory exceptions to the anti-kickback provisions (safe harbors) should be amended, or proposed safe harbors enacted;
- Whether any other new safe harbors should be enacted; or
- How the OIG should implement a requirement that it issue advisory opinions.

In addition, the OIG will not agree to adopt any practices or concepts that do not contain adequate controls on potential abuse or manipulation.

We invite public comment on issues not identified.

III. Affected Interests and Potential Participants

The convener has proposed, and we have agreed to accept, the following organizations as negotiation participants. We believe these organizations represent an appropriate mix of interests and backgrounds affected.

American Association of Health Plans
American Association of Retired Persons
American Health Care Association
American Hospital Association
American Medical Association

American Medical Group Association
Blue Cross Blue Shield Association
Consumer Coalition on Quality in Health Care
Coordinated Care Coalition
Department of Justice
Federation of American Health Systems
Health Industry Manufacturers Association
Heath Insurance Association of America
National Association of Community Health Centers
Independent Insurance Agents of America/National Association of Health Underwriters
National Association of Medicaid Fraud Control Units
National Association of State Medicaid Directors
Nation Rural Health Association
Pharmaceutical Research and Manufacturers Association
The IPA Association of America

The interests identified included law enforcement agencies, health programs, health plans, provider organizations, health care professionals and consumers. In determining whether the potential effect of the rule on provider and professional groups which sought to participate is ''significant,'' we considered the extent to which—

- Items or services provided by group members are covered by the relevant programs;
- Group members are entering into risk-sharing arrangements;
- The anti-kickback provisions have been applied to prosecute or prohibit arrangements which group members have used or considered using (either where one party is an ''eligible organization'' or where risk-sharing may be involved); and
- The group actively lobbied for the exception or commented on related provisions. We also sought to reflect differences in the type of risk that might be assumed and in the ways individuals or entities organize to provide items or services.

The intent in establishing the negotiating committee is that all interests are represented, not necessarily all parties. We believe this proposed list of participants represents all interests associated with the rule to be negotiated. We invite comment on this list of negotiation participants.

IV. Schedule for the Negotiation

We have set a deadline of 6 months beginning with the date of the first meeting for the committee to complete work on developing the interim final rule. We intend to terminate the activities of the committee if it does not appear likely to reach consensus within this time period.

The first meeting is schedule for June 17–18, 1997 at the Holiday Inn Capitol, 550 C Street, S.W., Washington, D.C. 20024. The first day's meeting will begin at 9:00 a.m. The purpose of this meeting will be discuss in detail how the negotiations will proceed and how the committee will function. The committee will—

- Agree to ground rules for committee operation;
- Hear presentations on the anti-kickback statute and related provisions, as well as what risk-sharing arrangements are being developed;
- Determine how best to address the principal issues; and
- If time permits, begin to address those issues.

A second meeting is scheduled for July 28–30, 1997 at the Holiday Inn Capitol, 550 C Street, S.W., Washington, D.C. 20024, beginning at 9:00 a.m. We expect that by this meeting the committee can complete action on any procedural matters outstanding from the organizational meeting, and either begin or continue to address the issues.

Subsequent meetings of the committee would be held approximately one month apart, in the Washington, D.C. area.

V. Formation of the Negotiating Committee

A. Procedure for Establishing an Advisory Committee

As a general rule, an agency of the Federal Government is required to comply with the requirements of FACA when it establishes or uses a group that includes nonfederal members as a source of advice. Under FACA, an advisory committee is established once the charter has been approved by the Secretary. We will not begin negotiations until the charter is approved.

B. Participants

The number of participants in the group should not exceed 25. A number larger than this could make it difficult to conduct effective negotations. One purpose of this notice to help determine whether the interim final rule would significantly affect interests not adequately represented by the proposed participants. We do not believe that each potentially affected organization or individual must necessarily have its own representative. However, each interest must be adequately represented. Moreover, we must be satisfied that the group as a whole reflects a proper balance and mix of interests.

C. Requests for Representation

If, in response to this notice, an additional individual or representative of an interest requests membership or representation in the negotiating group, we will determine, in consultation with the convener, whether that individual or representative should be added to the group. We will make that decision based on whether the individual or interest—

- Would be significantly affected by the rule; and
- Is already adequately represented in the negotiating group.

D. Establishing the Committee

After reviewing any comments on this notice and any requests for representation, we will take the final steps to form the committee.

VI. Negotiation Procedures

When the committee is formed, the following procedures and guidelines will apply, unless they are modified as a result of comments received on this notice or during the negotiating process.

A. Facilitator

We will use an impartial facilitator. The facilitator will not be involved with the substantive development or enforcement of the regulation. The facilitator's role is to—

- Chair negotiating sessions;
- Help the negotiation process run smoothly; and
- Help participants define and reach consensus.

B. Good Faith Negotiations

Participants must be willing to negotiate in good faith and be authorized to do so. We believe this must be accomplished by selection of senior officials as participants. We believe senior officials are best suited to represent the interests and viewpoint of their organizations. This applies to the OIG as well, and we are designating D. McCarty Thornton, Chief Counsel to the Inspector General, to represent the OIG.

C. Administrative Support

We will supply logistical, administrative and management support. If deemed necessary and appropriate, we will provide technical support to the committee in gathering and analyzing additional data or information.

D. Meetings

Meetings will be held at the Holiday Inn Capitol, 550 C Street, S.W., Washington, D.C. 20024 at the convenience of the committee. We are announcing the first two meetings through this notice, and will announce

committee meetings and agendas through further notices in the **Federal Register**. Unless announced otherwise, meetings are open to the public.

E. Committee Procedures

Under the general guidance and direction of the facilitator, and subject to any applicable legal requirements, the members will establish the detailed procedures for committee meetings that they consider most appropriate.

F. Defining Consensus

The goal of the negotiating process is consensus. Under the Negotiated Rulemaking Act, consensus means that each interest concurs in the result, unless the term is defined otherwise by the committee. We expect the participants to fashion their working definition of this term.

G. Failure of Advisory Committee To Reach Consensus

If the committee is unable to reach consensus, the OIG will proceed to develop an interim final rule. Parties to the negotiation may withdraw at any time. If this happens, the remaining committee members and the OIG will evaluate whether the committee should continue.

H. Record of Meetings

In accordance with FACA's requirements, minutes of all committee meetings will be kept. The minutes will be placed in the public rulemaking record.

I. Other Information

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

Dated: April 11, 1997.

June Gibbs Brown,

Inspector General.

Approved: May 19, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–13718 Filed 5–21–97; 10:02 am]

BILLING CODE 4150–04–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1039

[STB Ex Parte No. 561]

Rail General Exemption Authority—Nonferrous Recyclables

AGENCY: Surface Transportation Board, DOT.

ACTION: Proposed rule; extension of comment due date.

SUMMARY: By decision served May 5, 1997, the Surface Transportation Board issued a notice of proposed rulemaking (NPR) proposing, *inter alia*, a total exemption from regulation for 29 nonferrous recyclable commodities. The NPR was not published in the **Federal Register** until May 16, 1997 (62 FR 27003) although parties in an earlier proceeding (Ex Parte No. 346 (Sub-No. 36)) were served with a copy of the May 5, 1997 NPR. The May 16 **Federal Register** publication provided for the filing of a notice of intent to participate on May 26, 1997, with comments due June 30, 1997, and reply comments due July 15, 1997. The Association of American Railroads (AAR), in a request dated May 8, 1997, and supplemented on May 14, 1997, has requested an extension of time to July 15, 1997, to file comments and to August 5, 1997, to file reply comments. AAR requests the extension to allow it and its members sufficient time to compile current information and to consult and coordinate a response among themselves and shippers of nonferrous recyclable commodities. AAR contacted three parties who had filed opposition comments in the earlier proceeding and reports that two of those parties do not object to the extension, and the third took no position. The extension request will be granted. Moreover, because the due date of May 26, 1997 for notice of intent is a federal holiday, that due date will be extended to May 27, 1997.

DATES: Persons interested in participating in this proceeding as a party of record by filing and receiving written comments must file a notice of intent to participate by May 27, 1997. Comments must be submitted by July 15, 1997, and reply comments are due August 5, 1997.

ADDRESSES: Send an original plus 10 copies of notices of intent to participate and pleadings referring to STB Ex Parte No. 561 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. (TDD for the hearing impaired: (202) 565–1695.)

Decided: May 19, 1997.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13631 Filed 5–22–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 227 and 425

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 17 and 425

Endangered and Threatened Species; Reopening of Comment Period on Proposed Threatened Status for a Distinct Population Segment of Anadromous Atlantic Salmon (Salmo salar) in Seven Rivers

AGENCIES: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce; and Fish and Wildlife Service, Interior.

ACTION: Reopening of public comment period.

SUMMARY: The State of Maine formally submitted the Maine Atlantic Salmon Conservation Plan (Plan) to the National Marine Fisheries Service and the U.S. Fish and Wildlife Service (collectively the Services) on March 5, 1997, in response to the Services' proposal to list Atlantic salmon in seven Maine rivers as threatened (60 FR 50530, September 29, 1995). The Services have determined that the Plan is significant new information relating to the proposed rule that merits review and consideration under the Endangered Species Act (ESA). The Services also note that information and data collected since the publication of the proposed rule is also available for review and has become part of the record for the Services' evaluation of the proposed listing. This information includes adult returns, redd counts, fry stocking, habitat assessments, commercial fishing agreements and management measures, and marine habitat assessment. Stocking, return and habitat data are provided in the Annual Report of the U.S. Atlantic Salmon Assessment Committee which is prepared annually for the U.S. Section to North Atlantic Salmon Conservation Organization. The annual field activity report prepared by the Maine Atlantic Salmon Authority and the U.S. Fish and Wildlife Service also documents management activities for the seven river populations. In order to ensure that the public has an opportunity to comment on all phases of this proposed listing, the Services are making the Plan available for review at selected locations throughout New England and the Washington DC area

(see **ADDRESSES**) and can provide guidance on the availability of other information. Because of the size of the Plan, the Services cannot send copies upon request. However, the Services will provide the Executive Summary of the Plan upon request. The Plan is also available for review on-line and the address is provided below.

DATES: The public comment period is reopened for 30 days. All comments should be received on or before June 23, 1997.

ADDRESSES: Please send any written comments to Mary Colligan, National Marine Fisheries Service, One Blackburn Drive, Gloucester, Massachusetts 01930-2298, or Paul Nickerson, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035. Individuals are also encouraged to send a copy of their comments to the State of Maine at the following address: Henry Nichols, Maine Atlantic Salmon Task Force, Land Use Regulatory Commission, 22 State House Station, Augusta, Maine 04333–0022.

As stated previously, the Plan is available on-line at the following address: http://www.state.me.us/governor. Complete copies of the Maine Atlantic Salmon Conservation Plan are available for review at the following locations:

1. University of Maine—Machias, Merrill Library, c/o Jean Clemons, O'Brien Avenue, Machias, Maine 04654.
2. Ellsworth Public Library, c/o Patricia Foster, Director, 46 State Street, Ellsworth, Maine 04605.
3. Bangor Public Library, c/o Sue Wennrick, 145 Harlow Street, Bangor, Maine 04401.
4. Calais Public Library, c/o Marilyn Diffin, Librarian, 1 Union Street, Calais, Maine 04619.
5. Portland Public Library, Portland Room, c/o Tom Gaffney, 5 Monument Square, Portland, Maine 04101.
6. Maine State Library, c/o J. Gary Nichols, Librarian, 64 State House Station, Augusta Complex, Augusta, Maine 04333–0064.
7. Pleasant River Hatchery, c/o Dwayne Shaw, Manager, Columbia Falls, Maine 04623.
8. Maine Atlantic Salmon Authority, 650 State Street, Bangor, Maine 04401.
9. Camden Public Library, c/o Elizabeth Moran, Director, 55 Main Street, Camden, Maine 04843.
10. Wiscasset Public Library, c/o Janet Morgan, High Street, Wiscasset, Maine 04578.
11. Lincolnville Central School Library, c/o Suzanne Martell, Route 235, Lincolnville, Maine 04849.
12. National Marine Fisheries Service, Northeast Regional Office, Habitat and Protected Resources Division, One Blackburn Drive, Gloucester, Massachusetts 01930.
13. U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035.
14. Craig Brook National Fish Hatchery, East Orland, Maine 04431.
15. U.S. Fish and Wildlife Service, 1033 South Main Street, Old Town, Maine 04468.
16. National Marine Fisheries Services, Office of Protected Resources, 1315 East West Highway, Room 13139, Silver Spring, MD 20910.
17. U.S. Fish and Wildlife Service, Division of Endangered Species, 4401 N. Fairfax Drive, Room 452, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Mary Colligan at (508) 281–9116 or Paul Nickerson at (413) 253–8615.

SUPPLEMENTARY INFORMATION:

Background

On September 29, 1995, the Services published a proposal to list a distinct population segment, or species, of Atlantic salmon in the Sheepscot, Ducktrap, Narraguagus, Pleasant, Machias, East Machias, and Dennys Rivers in Maine as threatened. That proposed designation contained a special 4(d) provision that invited the State of Maine to develop a conservation plan for the species. The special 4(d) rule, as proposed in the September notice (60 FR 50530, September 29, 1995) would allow for a state plan, approved by the Services, to define the manner in which certain activities could be conducted without violating the ESA. Federal furloughs and legislative and funding restrictions prevented the Services from immediately holding public hearings on the proposed action. On August 27, 1996, the Services reopened the comment period and announced three public hearings which were held in Maine on September 17, 18 and 19. The Services received additional verbal and written comments during that comment period which, together with all information submitted by the public, are being reviewed by the Services in making their final determination whether to list the distinct population segment of Atlantic salmon as threatened.

Partly in response to the special 4(d) provision in the proposed rule, the Governor of Maine issued an Executive Order creating a task force to draft the Maine Atlantic Salmon Conservation Plan. Biologists from the Services were not members of the task force but did review the draft Conservation Plan and provide comments. The task force and its four subgroups have worked on the Plan since October 1995. The four subgroups addressed the potential threats identified in the Status Review for Anadromous Atlantic Salmon and the proposed rule. Each of the subgroups (agriculture, aquaculture, forestry and recreational fishing) examined its industry or activity to identify potential impacts to Atlantic salmon and recommended actions to avoid, minimize and mitigate such impacts. In the fall of 1996, the State held public hearings on the executive summary of the Plan. Comments received during that time were considered by the State in its final drafting of the Plan. The Plan is a State action plan to provide for the protection and conservation of Atlantic salmon and their habitat within the watersheds of the seven Maine rivers identified by the Services in the proposed rule.

Following closure of this comment period, the Services will make a final determination as to whether listing is warranted, and, if so, whether the Plan meets the criteria for a special 4(d) rule that could be promulgated in combination with a final rule designating the distinct population segment of Atlantic salmon as threatened under the ESA. The Services request comments from the public specifically addressing the Plan's effectiveness in meeting the criteria for acceptance as a special 4(d) rule identified above and contained in Section 10(a)(2)(B), 50 CFR 17.32(b)(2) and 50 CFR 222.22(c)(2).

In addition, the Services have been requested by the Governor of Maine to determine that the Plan sufficiently addresses the existing threats to Atlantic salmon such that its addition to the list of threatened species is not warranted. The Services make determinations whether a species is endangered or threatened based on their analysis of the effect of the factors contained in section 4 of the ESA on the species and after taking into account those efforts being made to protect such species. The State-prepared plan is designed to address those factors in order to prevent further decline. If, in their final determination, the Services conclude under *all* of the required provisions of section 4 of the ESA that the species is not likely to become endangered in the foreseeable future, and therefore is not ''threatened'' as defined in the ESA, then they will make a finding that listing is not warranted. This conclusion, while including an evaluation of the State's conservation plan, must *also* include an evaluation of the best scientific and

commercial data available, i.e. species abundance, new data received during the comment period, re-evaluation of existing data, and other federal and/or international efforts being taken to protect the species.

To assist in their analysis of the species status, the Services request any comments, which have not already been submitted, which provide new information or data and/or reflect on the new information and data that has become available since the publication of the proposed rule, including the state Plan. Written comments may be submitted on or before June 23, 1997 to either of the offices in the **ADDRESSES** section of this notice. Individuals are also requested to send a copy of their comments to the State of Maine.

Author: The primary authors of this notice are Mary Colligan and Paul Nickerson (addresses are above).

Authority: The authority for this section is the ESA (16 U.S.C. 1531–1544).

Dated: May 15, 1997.

Patricia A. Montanio,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

Dated: May 16, 1997.

Cathy Short,

Deputy Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 97–13697 Filed 5–22–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 970129015–7072–02; I.D. 031997B]

RIN 0684–AI84

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On April 7, 1997, NMFS issued a proposed plan and implementing regulations that would reduce serious injury and mortality of four large whale stocks that occur incidental to certain fisheries. During the comment period NMFS received many comments expressing concern that the existing comment period is inadequate to allow for development of appropriate comments. Therefore, NMFS is reopening the public comment period in order to ensure that these important comments can be received.

DATES: Comments on the proposed plan and proposed rule to implement the plan must be received by June 13, 1997.

ADDRESSES: Send comments to Chief, Marine Mammal Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–33226.

FOR FURTHER INFORMATION CONTACT: Kim Thounhurst, NMFS, Northeast Region, 508/281–9368; Bridget Mansfield, NMFS, Southeast Region, 813/570–5312; or Michael Payne, NMFS, Office of Protected Resources, 301/713–2322.

SUPPLEMENTARY INFORMATION: On April 7, 1997 (62 FR 16519), NMFS issued a proposed plan and implementing regulations that would reduce the bycatch and serious injury and mortality of several large whale stocks that occur incidental to fishing for multiple species, including monkfish and dogfish, in U.S. New England sink gillnet fisheries; for multiple species in the U.S. mid-Atlantic coastal gillnet fisheries; for lobster in the Gulf of Maine and U.S. mid-Atlantic lobster trap/pot fisheries; and for sharks in the Southeastern U.S. Atlantic shark net fishery, pursuant to the Marine Mammal Protection Act (MMPA). The whale stocks considered under this plan consist of the North Atlantic right whale (*Eubalaena glacialis*), Western North Atlantic stock, humpback whale (*Megaptera novaeangliae*), Western North Atlantic stock, fin whale (*Balaenoptera physalus*), Western North Atlantic stock, and minke whale (*Balaenoptera acutorostrata*), Canadian East Coast stock. The comment period on the proposed rule and regulations implementing the rule ended on May 15, 1997. During the comment period NMFS received many comments at eleven public hearings expressing concern that the existing comment period is inadequate to allow for development of appropriate comments. Further, NMFS has been informed that several groups have been convened to review the proposed measures in detail in order to provide the agency with constructive comments on the proposed rule. Therefore, we are reopening the public comment period until June 13, 1997, in order to ensure that these important comments can be received.

Dated: May 19, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Services.

[FR Doc. 97–13551 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 100
Friday, May 23, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–026N]

International Standard-Setting Activities

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice informs the public of the sanitary and phytosanitary standard-setting activities of the Codex Alimentarius Commission (Codex), in accordance with section 491 of the Trade Agreements Act of 1979, as amended by the Uruguay Round Agreements Act, Pub. L. 103–465, 108 Stat. 4809 (1994), and seeks comments on standards currently under consideration and recommendations for new standards. It also lists other standard-setting activities of Codex, including commodity standards, guidelines, codes of practice, and revised texts. This notice covers the time periods from June 1, 1996, to May 31, 1997, and May 31, 1997, to June 1, 1998.

ADDRESSES: Submit written comments to: FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, Washington, DC 20250–3700. Please state that your comments refer to Codex and, if your comments relate to specific Codex committees, please identify those committees in your comments and submit a copy of your comments to the delegate from that particular committee. All comments submitted will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Patrick J. Clerkin, Director, U.S. Codex Office, U.S. Department of Agriculture, Food Safety and Inspection Service, 1255 22nd Street, NW, Room 311, West End Court Building, Washington, DC 20250–3700; (202) 418–8852. For information pertaining to particular committees, the delegate of that committee may be contacted. (A complete list of U.S. delegates and alternate delegates can be found in *Appendix 1* to this notice.)

SUPPLEMENTARY INFORMATION:

Background

The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreements on Tariffs and Trade (GATT). U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act, which was signed into law by the President on December 8, 1994. Pursuant to section 491 of the Trade Agreements Act of 1979, as amended, the President is required to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization, Codex, International Office of Epizootics, and the International Plant Protection Convention. The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the U.S. Department of Agriculture as the agency responsible for informing the public of sanitary and phytosanitary standard-setting activities of each international standard-setting organization. The Secretary of Agriculture has delegated to the Administrator, Food Safety and Inspection Service (FSIS), the responsibility to inform the public of the SPS standard-setting activities of Codex. The FSIS Administrator has, in turn, assigned the responsibility for informing the public to the Office of U.S. Codex Alimentarius, located in FSIS.

Codex was created in 1962 by two U.N. organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled. In the United States, the United States Department of Agriculture (USDA); the Food and Drug Administration (FDA), Department of Health and Human Services (HHS), and the Environmental Protection Agency (EPA) manage and carry out U.S. Codex activities.

As the agency responsible for informing the public of the sanitary and phytosanitary standard-setting activities of Codex, FSIS will publish this notice in the **Federal Register** annually, setting forth the following information:

1. The sanitary or phytosanitary standards under consideration or planned for consideration; and

2. For each sanitary or phytosanitary standard specified:

a. A description of the consideration or planned consideration of the standard;

b. Whether the United States is participating or plans to participate in the consideration of the standard;

The agenda for United States participation, if any; and

d. The agency responsible for representing the United States with respect to the standard.

To obtain copies of those standards listed in this notice that are under consideration by Codex, please contact the Codex delegate or the office of U.S. Codex Alimentarius. This notice also solicits public comment on those standards that are under consideration and on recommendations for new standards. The delegate, in conjunction with the responsible agency, will take the comments received into account in participating in the consideration of the standards and in proposing matters to be considered by Codex.

The United States delegate will facilitate public participation in the United States Government activities relating to Codex Alimentarius. The United States delegate will maintain a list of individuals, groups, and organizations that have expressed an interest in the activities of the Codex committees and will disseminate information regarding United States

delegation activities to interested parties. This information will include the current status of each agenda item, the United States Government's position or preliminary position on the agenda items, and the time and place of planning meetings and debriefing meetings following Codex committee sessions. Please notify the appropriate U.S. delegate or the Office of U.S. Codex Alimentarius, West End Court Building, Room 311, Washington, DC 20250–3700, if you would like to receive information about specific committees.

The information provided below describes the status of Codex standard-setting activities by the Codex Committees for the two year period from June 1, 1996 to June 1, 1998. In addition, the following information is included with this **Federal Register** notice:

Appendix 1. List of U.S. Codex Officials (includes U.S. delegates and alternate delegates).
Appendix 2. Timetable of Codex Sessions (June 1996 through June 1998)
Appendix 3. Definitions for the Purpose of Codex Alimentarius
Appendix 4.
(A) Uniform Procedure for the Elaboration of Codex Standards and Related Texts
(B) Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts
Appendix 5. Nature of Codex Standards

Done at Washington, DC on: May 15, 1997.

Thomas J. Billy,

Administrator.

Codex Alimentarius Commission and Executive Committee

The Codex Alimentarius Commission will hold its Twenty-second Session on June 23–28, 1997 in Geneva, Switzerland. At that time it will consider the standards, codes of practice, and related matters brought to its attention by the general subject committees, commodity committees, and member delegations.

Prior to the Commission meeting, the Executive Committee will meet on June 19–20 in Geneva. It is composed of the chairperson, vice-chairperson and six further members elected from the Commission, one from each of the following geographic regions: Africa, Asia, Europe, Latin America and the Caribbean, North America, and South-West Pacific. The committee may make proposals to the Commission regarding the general orientation and program work of the Commission, study special problems and help implement the program as approved by the Commission.

Codex Committee on Residues of Veterinary Drugs in Foods

The Codex Committee on Residues of Veterinary Drugs determines priorities for the consideration of residues of veterinary drugs in foods and recommends Maximum Residue Limits (MRLs) for veterinary drugs. A Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD) is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or ug/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on a food.

An MRLVD is based on the type and amount of residue considered to be without any toxicological hazard for human health as expressed by the Acceptable Daily Intake (ADI)*, or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical analytical methods are available.

*Acceptable Daily Intake (ADI): An estimate by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) of the amount of a veterinary drug, expressed on a body weight basis, that can be ingested daily over a lifetime without appreciable health risk (standard man = 60 kg).

Information about committee actions can be found in ALINORMS 97/31 and 97/31A. Residues of Veterinary Drugs in Foods to be considered at the Twenty-Second Session of the Codex Alimentarius Commission include the following:

Codex committee	Standard	Status of consideration	US participation/ agenda	Responsible agency
Residues of Veterinary Drugs in Foods (to be considered at Twenty-second Session of the Codex Alimentarius Commission) (CAC) Ref. ALINORM 97/31 and 97/31A.	Moxidectin	MRLs Under Consideration at Step 8 cattle and sheep.	Yes	HHS/FDA
	Levamisole	MRLs Under Consideration at Step 8.	Yes	HHS/FDA
	Triclabendazole	MRLs Under Consideration at Step 8.	Yes	HHS/FDA
	Carazolol	MRLs Under Consideration at Step 8.	Yes	HHS/FDA
	Bovine Somatotropin	MRLs Under Consideration at Step 8.	Yes	HHS/FDA
	Doramectin	MRLs Under Consideration at Step 8.	Yes	HHS/FDA
	Spiramycin	MRLs Under Consideration at Step 8.	Yes	HHS/FDA
	Moxidectin	MRLs Under Consideration at Step 5/8 deer.	Yes	HHS/FDA
	Oxtetracycline	MRLs Under Consideration at Step 5/8.	Yes	HHS/FDA
	Abamectin	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Azaperone	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Chlortetracycline, oxytetracycline and tetracycline.	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Cypermethrin	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
Residues of Veterinary Drugs in Foods (to be considered at Twenty-second Session of the Codex Alimentarius Commission) (CAC) Ref. ALINORM 97/31 and 97/31A.	∞Cypermethrin	MRLs Under Consideration at Step 5.	Yes	HHS/FDA

Codex committee	Standard	Status of consideration	US participation/ agenda	Responsible agency
	Dexamethasone	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Diclazuril	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Dihydrostreptomycin and streptomycin.	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Febantal/Fenbendazole/ Oxfendazole.	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Gentamicin	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Neomycin	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Spectinomycin	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Thiamphenicol	MRLs Under Consideration at Step 5.	Yes	HHS/FDA
	Tilmicosin	MRLs Under Consideration at Step 5.	Yes	HHS/FDA

In addition, the following matter will be brought to the attention of the 22nd Session of the Codex Alimentarius Commission in June 1997 for adoption:

◆ Amendments to Methods of Analysis for Previously Adopted Maximum Residue Limits for Veterinary Drugs

◆ Priority List of Veterinary Drugs Requiring Evaluation or Reevaluation.

Responsible Agency:
HHS/FDA
USDA/FSIS
US Participation: Yes

Food Additives and Contaminants

The Codex Committee on Food Additives and Contaminants (CCFAC) establishes or endorses permitted maximum or guideline levels for individual food additives, contaminants, and naturally occurring toxicants in food and animal feed. The 29th Session of the CCFAC met March 17–21, 1997, in the Hague, The Netherlands. The 30th Session of the CCFAC is tentatively scheduled for March 9–13, 1998, in the Hague, The Netherlands. The following matters contained in ALINORMS 12 and 12A are under consideration by the CCFAC:

Food Additives

◆ Proposed Draft General Standard for Food Additives: Preamble (forward to Commission at Step 8); Annex A (Guidelines for the Estimation of Appropriate Levels of Use of Food Additives) to be revised for consideration at Step 5; additives with nonnumerical JECFA ADIs (forward to Commission at Step 5 with recommendation to adopt Step 8); antioxidants, preservatives, stabilizers, thickeners, sweeteners with numerical JECFA ADIs (forward to Commission at Step 5); colours, colour retention agents, bulking agents, and emulsifiers (Step 3) (see Table 1, below); and

◆ Specifications for the following food additives are recommended by the CCFAC for adoption by the Twenty-second Session of the Codex Commission; acesulfame K, alitame, ammonia solution, benzoic acid, benzyl alcohol, calcium benzoate, calcium cyclamate, calcium dihydrogen phosphate, calcium stearoyl-2-lactylate, carmines, curcumin, cyclohexysulfamic acid, dodecyl gallate, ethyl acetate, ethyl alcohol, glycerol ester of wood rosin, hydrochloride acid, isomalt, konjac flour, lactic acid, nitrogen, octyl gallate, phosphoric acid, polydextrose, potassium benzoate, potassium bromate, potassium nitrate, propyl gallate, sodium benzoate, sodium cyclamate, sodium metaphosphate (insoluable), sodium nitrate, sodium nitrite, sodium polyphosphates (glassy), sodium stearoyl-2-lactylate, sorbitol syrup, stearyl tartrate, sucrose acetate isobutyrate, triacetin, and xylitol. Specifications for the following flavouring agents are recommended by the CCFAC for adoption by the Twenty-second Session of the Codex Commission: allyl butyrate, allyl 2-ethylbutyrate, allyl hexanoate, allyl isovalerate, allyl nonanoate, allyl octanoate, benzaldehyde, benzyl acetate, benzyl alcohol, benzyl benzoate, ethyl alcohol, ethyl butyrate, ethyl decanoate, ethyl dodecanoate, ethyl formate, ethyl heptanoate, ethyl hexadecanoate, ethyl hexanoate, ethyl octadecanoate, ethyl pentanoate, ethyl propionate, ethyl tetradecanoate, isoamyl alcohol, isoamyl formate, isoamyl hexanoate, and isoamyl propionate. Specifications for the following food additives are recommended by the CCFAC for adoption after changes considered editorial have been made by the Twenty-second Session of the Codex Commission: ''β-cyclodextrin, lactitol, maltitol, mannitol, mineral oil (high viscosity), sodium thiocyanate, and sorbitol.

Specifications for the following flavouring agents are recommended by the CCFAC for adoption after changes considered editorial have been made by the Twenty-second Session of the Codex Commission: allyl heptanoate, allyl phenoxyacetate, allyl 10-undecanoate, and ethyl acetate.

Contaminants

◆ Proposed Draft General Standard for Contaminants and Toxicants in Food Annexes I (Criteria for the Establishment of Maximum Levels in Foods), II (Procedure for Risk Management Decisions), and III (Format of the Standard) to be forwarded to the Twenty-second Session of the Commission at Step 8;

◆ Proposed Draft General Standard for Contaminants and Toxicants in Food: Introduction section of Annex IV (see attached list) and the whole of Annex V (Food Categorisation System to be used in the GSC) to be forwarded to the Twenty-second Session of the Codex Committee for adoption at Step 8;

◆ Position paper on zearalenone to be prepared for the 30th CCFAC;

◆ Proposed Draft Code of Practice for the Reduction of Aflatoxins in Raw Materials and Supplementary Feeding stuffs for Milk-Producing Animals at Step 8;

◆ Position paper on Ochratoxin A to be revised and to include proposed maximum levels;

◆ The CCFAC decided to discontinue consideration of the guideline level of 0.5 mg/kg lead in the Draft Guideline Levels for Cadmium and Lead in Cereals, Pulses and Legumes at Step 7 in view of its decision to include a level of 0.2 mg/kg in the General Standard for Contaminants and Toxins. The CCFAC decided to maintain the guideline level of 0.1 mg/kg cadmium at Step 7;

Responsible Agency: HHS/FDA
U.S. Participation: Yes

Food Additives

For the purposes of Codex, a food additive means any substance not normally consumed as a food by itself and not normally used as a typical ingredient in the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result (directly or indirectly), in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include ''contaminants'' or substances added to food for maintaining or improving nutritional qualities.

The General Standard for Food Additives (GSFA) will set forth maximum levels of use of food additives in various foods and food categories. The maximum levels will be based on the food additive provisions of previously established Codex commodity

standards, as well as on the use of the additives in non-standardized foods.

Only those food additives for which an acceptable daily intake (ADI) has been established by the Joint FAO/WHO Expert Committee on Food Additives (JECFA) will be included in the general Standard for Food Additives (GSFA). The draft GSFA, which is being developed in stages, currently covers only those JECFA-reviewed food additives that have non-numerical JECFA ADIs and additives with numerical JECFA ADIs that are used as antioxidants, preservatives, stabilizers, thickeners, and sweeteners. All of the additives that are currently under consideration for inclusion in the draft GFSA are listed below.

Codex committee	Substance	Status of consideration	US participation/ agenda	Responsible agency
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Acesulfame Potassium	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Acetic Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Acetic and Fatty Acid Esters of Glycerol.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Acetylated Distarch Adipate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Acetylated Distarch Phosphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Acid Treated Starch	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Agar	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Alginic Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Alitame	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Alkaline Treated Starch	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Allura Red AC	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Alpha-Amylase (Aspergillus oryzae, var.).	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Alpha-amylase (Bacillus megaterium expressed in Bacillus subtilis).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Alpha-amylase (Bacillus stearothermophilus expressed in Bacillus subtilis).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Alpha-amylase (Bacillus stearothermophilus).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Alpha-amylase (Bacillus subtilis).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Alpha-amylase (Carbohydrase) (Bacillus lichenforms).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Aluminum Ammonium Sulphate.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Aluminum Silicate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Amaranth	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Ammonium Acetate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Alginate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Carbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Chloride	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Citrate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Fumarate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Hydrogen Carbonate.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Hydroxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Lactate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Malate, D,L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ammonium Polyphos- phate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA

Codex committee	Substance	Status of consideration	US participation/ agenda	Responsible agency
	Ammonium Sulphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Annato Extracts (Includes Bixin and Norbixin).	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Anoxomer	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Ascorbic Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ascorbyl Palmitate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Ascorbyl Stearate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Aspartame	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Azorubin	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Beeswax, White and Yellow	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Beet Red	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Benzoic Acid	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	BHA	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	BHT	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Bleached Starch	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Bone Phosphate (Essentially Calcium Phosphate Tribasic).	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Brilliant Black PN	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Brilliant Blue FCF	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Bromelain	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Brown HT	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Calcium Acetate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Alginate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Aluminum Silicate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Ascorbate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Benzoate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Calcium Carbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Chloride	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Citrate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Dihydrogen Diphosphate.	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Calcium Disodium Ethylenediaminetetra-acetate.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Calcium Formate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Calcium Gluconate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Calcium Glutamate, DL, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Guanylate, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Calcium Hydrogen Sulphite	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Hydroxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Inosinate, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA

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	Calcium Lactate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Malate, D, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Oleyl Lactylate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Calcium Oxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Polyphosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Calcium Propionate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Ribonucleotides, 5′-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Silicate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Sorbate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Calcium Stearoyl Lactylate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Calcium Sulphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Calcium Sulphite	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Candelilla Wax	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Canthaxanthin	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Caramel Colour, Class I	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Caramel Colour, Class III	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Caramel Colour, Class IV	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Carbon Dioxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Carmines (Includes Aluminum and Calcium Lakes of Carminic Acid).	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Carnuba Wax	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Carob Bean Gum	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Carotenes, Vegetable	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Carotene, β-(synthetic)	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Carotene, β-apo-8′-	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Carotenic Acid, β-apo-8′, methyl or ethyl ester.	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Carrageenan	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Chlorophyll s	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Chlorophylls, Copper Complex	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Chlorophyllin Copper Complex, Sodium and Potassium salts.	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Cholic Acid	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Citric Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Citric and Fatty Acid Esters of Glycerol.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Curcumin	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Cyclamates (acid and Na, K, Ca salts).	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Dextrins, White and Yellow, Roasted Starch.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA

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	Diacetyltartaric Acid and Fatty Acid Esters of Glycerol.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Dicalcium Diphosphate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Dicalcium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Dilauryl Thiodipropionate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Dimagnesium Orthophosphate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Dimethyl Dicarbonate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Dioctyl Sodium Sulfosuccinate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Diphenyl	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Dipotassium Diphosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Dipotassium Guanylate, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Dipotassium Inosinate, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Dipotassium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Dipotassium Tartrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Disodium Diphosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Disodium Ethylenediaminetetra-acetate.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Disodium Guanylate, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Disodium Inosinate, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Disodium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Disodium Ribonucleotides, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Disodium Tartrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Disodium Phosphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Enzyme Treated Starch	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Erythorbic Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Erythrosine	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Ethyl Cellulose	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ethyl Hydroxyethyl Cellulose	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Ethyl p-Hydroxybenzoate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Ethyl Maltol	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Fast Green FCF	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Ferrous Gluconate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Ferrous Lactate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Formic Acid	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Fumaric Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Gellan Gum	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Glucono delta-lactone	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Glucose Oxidase (Aspergillus niger, var.).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA

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(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Glutamic Acid, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Glycerol	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Glycerol Ester of Wood Rosin	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Grape Skin Extract	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Guaiac Resin	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Guanylic Acid, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Guar Gum	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Gum Arabic	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Hexamethylene Tetramine	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Hydrochloric Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Hydroxypropyl Cellulose	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Hydroxypropyl Distarch Phosphate.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Hydroxypropyl Methyl Cellulose.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Hydroxypropyl Starch	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Indigotine	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Inosinic Acid, 5′	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Insoluable Polyvinylpyrrolidone	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Iron Carbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Iron Oxides (Black, Red, & Yellow).	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Isomalt	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Isopropyl Citrates	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Karaya Gum	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Konjac Flour	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Lactic Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Lactic and Fatty Acid Esters of Glycerol.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Lactitol	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Lethicin	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Lipase (Animal Sources)	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Lipase (Aspergillus oryzae, var.).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Lysozyme, Hydrochloride	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Magnesium Carbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Magnesium Chloride	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Magnesium Glutamate, DL, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Magnesium Hydrogen Carbonate.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Magnesium Hydroxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Magnesium Lactate, DL, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA

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	Magnesium Oxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Magnesium Silicate (Synthetic)	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Magnesium Sulphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Malic Acid, D, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Malitol (Including Malitol Syrup).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Maltol	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Mannitol	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Methyl Cellulose	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Methyl Ethyl Cellulose	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Methyl p-Hydroxybenzoate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Microcrystalline Cellulose	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Microcrystalline Wax, Synthetic	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Mineral Oil	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Mono-and Diglycerides	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Monoammonium Glutamate, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Monocalcium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Monopotassium Glutamate, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Monopotassium Orthophosphate.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Monopotassium Tartrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Monosodium Glutamate, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Monosodium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Monosodium Tartrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Monosodium Phosphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Nisin	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Nitrogen	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Orthophenylphenol	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Orthophosphoric Acid	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Oxidized Starch	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Papain	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Pectins (Amidated and non-Amidated).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Pentapotassium Triphosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Pentasodium Triphosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Phosphated Distarch Phosphate.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Pimaricin	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Polydextroses	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Polyethylene Glycol	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA

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	Polyglycerol Esters of Fatty Acids.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Polyglycerol Esters of Interesterified Ricinoleic Acid.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Polyoxyethylene (8) Stearate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Polysorbates 20, 40, 60, 65, and 80.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Polyvinylpyrrolidone	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Ponceau 4R	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Potassium Acetate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Benzoate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Potassium Alginate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Ascorbate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Bisulphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Potassium Carbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Chloride	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Dihydrogen Citrate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Hydrogen Carbonate.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Potassium Hydrogen Malate, D, L-.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Hydroxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Lactate (Solution)	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Malate, D, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Metabisul- phate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Potassium Nitrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Potassium Polyphos- phate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Potassium Propiniate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Silicate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Sodium Tartrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Potassium Sorbate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Potassium Sulphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Potassium Sulphite	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Powdered Cellulose	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Processed Eucheuma Seaweed.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Propane	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Propionic Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Propyl Gallate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Propyl p-Hydroxy- benzoate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Propylene Glycol	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Propylene Glycol Alginate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA

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	Propylene Glycol Esters of Fatty Acids.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Quinoline Yellow	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Red 2G	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Riboflavin	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Riboflavin 5′-Phosphate, Sodium.	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Saccharin (and Na, K, Ca, salts).	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Salts of Fatty Acids (Ammonium, Calcium, Potassium, Sodium).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Silicon Dioxide (Amorphous)	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Acetate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Alginate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Aluminosilicate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Aluminum Phosphate-Acidic.	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Sodium Aluminum Phosphate-Basic.	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Sodium Ascorbate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Benzoate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Calcium Polyphosphate.	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Sodium Carbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Carboxymethyl Cellulose.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Diacetate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Dihydrogen Citrate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Ethyl p-Hydroxybenzoate.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Sodium Erythorbate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Formate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Fumarate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Hydrogen Carbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Hydrogen Malate, D, L-.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Hydrogen Sulphite	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Hydroxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Lactate (Solution)	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Malate, D, L-	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Metabisulphite	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Methyl p-Hydroxybenzoate.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Nitrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Nitrite	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Oleyl Lactylate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA

Codex committee	Substance	Status of consideration	US participation/ agenda	Responsible agency
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Sodium o-Phenylphenol	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Polyphosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Propionate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Propyl p-Hydroxybenzoate.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Sesquicarbonate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Silicate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Sorbate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Sulphite	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Stearoyl Lactylate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sodium Sulphate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Sodium Sulphite	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sorbic Acid	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sorbitan Monolaurate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sorbitan Monooleate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Sorbitan Monpalmitate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sorbitan Monostearate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sorbitan Trioleate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sorbitan Triesterate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sorbitol (Including Sorbitol Syrup).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Stannous Chloride	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Starch Acetate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Starch Sodium Octenylsuccinate.	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Stearyl Citrate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Stearyl Tartrate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Sucralose	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sucroglycerides	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sucrose Acetate Isobutyrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sucrose Fatty Acid Esters	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Sulphur Dioxide	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Sunset Yellow FCF	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Talc	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Tara Gum	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Tartaric, Acetic and Fatty Acid Esters of Glycerol (Mixed).	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Tartaric Acid (L(+)−)	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	tert-Butylhydroquinone (TBHQ)	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Tetrapotassium Diphos- phate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA

Codex committee	Substance	Status of consideration	US participation/ agenda	Responsible agency
	Tetrasodium Diphos- phate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Thaumatin	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Thiodipropi- onic Acid	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Titanium Oxide	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Tocopherols (Mixed, Concentrate).	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Tocopheral, alpha-	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Tocopherals, Delta-, Synthetic	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Tocopherals, Gamma-, Synthetic.	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Tragacanth Gum	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Triacetin	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Triammonium Citrate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Tricalcium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Triethyl Citrate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Tripotassium Citrate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Tripotassium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Trisodium Citrate	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
	Trisodium Diphos- phate	Maximum Levels Under Consideration at Step 3.	Yes	HHS/FDA
	Trisodium Orthophosphate	Maximum Levels Under Consideration at Step 5.	Yes	HHS/FDA
	Xanthan Gum	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA
(Food Additives and Contaminants) Ref. ALINORM 97/12 and 97/12A.	Xylitol	Maximum Levels Under Consideration at Step 5/8.	Yes	HHS/FDA

Contaminants

A contaminant means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food or as a result of environmental contamination. The term contaminant does not include insect fragments, rodent hairs, and other extraneous matter.

The Codex maximum level (ML) for a contaminant or naturally occurring toxicant in a food or feed commodity is the maximum concentration of that substance recommended by the Codex Alimentarius Commission to be legally permitted in that commodity. The ML is intended to ensure free movement of food in international trade while protecting the health of the consumer.

The General Standard for Contaminants and Toxins in Foods will establish maximum levels for contaminants in foods based on the following considerations: toxicological data, human exposure estimates, availability of analytical procedures, fair trade and technological implications, regional variations, risk assessment, and risk management.

The criteria for inclusion of a maximum level for a contaminant in a food are: (a) consumption of the contaminated food presents a significant risk to consumers; and (b) the existence of actual problems in trade of food. The contaminants currently being examined to determine whether they meet these criteria for inclusion in the Codex General Standard for Contaminants and Toxins are listed below.

Codex committee	Standard	Status of consideration	U.S. participation/agenda	Responsible agency
(CCFAC) Ref. ALINORM 97/12	Arsenic	Position Paper to be revised for discussion during the 1998 CCFAC.	Yes	HHS/FDA
	Cadmium	Position Paper to be revised for discussion during the 1998 CCFAC.	Yes	HHS/FDA
(CCFAC) Ref. ALINORM 97/12	Lead	Forwarded draft maximum levels to the Commission at Step 5 with recommendation for adoption.	Yes	HHS/FDA

Codex committee	Standard	Status of consideration	U.S. participation/agenda	Responsible agency
	Patulin	29th CCFAC requested additional information. Position Paper will be revised for discussion during 1998 CFAC.	Yes	HHS/FDA
	Tin	29th CCFAC requested additional information. Position Paper will be revised for discussion during 1998 CCCAC.	Yes	HHS/FDA
	Aflatoxin M_1	29th CCFAC maintained draft maximum levels in milk at Step 7.	Yes	HHS/FDA
	Aflatoxins in Raw Peanuts	Draft Codex Guideline Levels and Sampling Plans for Total Aflatoxins in raw shelled peanuts at Step 7.	Yes	HHS/FDA

Codex Committee on Pesticide Residues

The Codex Committee on Pesticide Residues recommends to the Codex Alimentarius Commission establishment of maximum limits for pesticide residues for specific food items or in groups of food. A Codex Maximum Limit for Pesticide Residues (MRLP) is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. Foods derived from commodities that comply with the respective MRLPs are intended to be toxicologically acceptable, that is, consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI*, should indicate that foods complying with Codex MRLPs are safe for human consumption.

Codex MRLPs are primarily intended to apply in international trade and are derived from reviews conducted by the Joint Meeting on Pesticide Residues (JMPR) following:

(a) Review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices (GAP). Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices, and

(b) Toxicological assessment of the pesticide and its residue.

MRLs recommended for advancement to steps 5 or 8 by the 28th and 29th CCPRs will be considered by the 22nd Session of the Codex Alimentarius Commission in June 1997.

*Acceptable Daily Intake (ADI) of a chemical is the daily intake which, during an entire lifetime, appears to be without appreciable risk to the health of the consumer on the basis of all the known facts at the time of the evaluation of the chemical by the Joint FAO/WHO Meeting on Pesticide Residues. It is expressed in milligrams of the chemical per kilogram of body weight.

Codex committee	Standard	Status of consideration	US Participation/ agenda	Responsible agency
Pesticide Residues (considered at the 28th and 29th CCPRs (Annex II to ALINORMS 97/42 and 97/42A).	Aldicarb	MRLs under consideration at Steps 5 and 5/8 and CXL deletions.	Yes	EPA
	Aldrin/dieldrin	EMRLs at Step 8	Yes	EPA
	Azinphos-methyl	MRLs under consideration at Steps 5/8 and 8 and CXL deletions.	Yes	EPA
Pesticide Residues (considered at the 28th and 29th Session of the Codex Committee on Pesticide Residues (Annex II to ALINORMS 97/24 and 97/24A).	Bentazone	MRLs under consideration at Step 8.	Yes	EPA
	Bifenthrin	MRLs under consideration at Step 8.	Yes	EPA
	Bromide Ion	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Bromopropylate	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Buprofezin	MRLs under consideration at Step 8.	Yes	EPA
	Captan	Temporary CXLs deleted	Yes	EPA
	Cartap	CXL deletions (all)	Yes	EPA
	Chlormequat	CXL deletions	Yes	EPA
	Chlorothalonil	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Chlorpyrifosmethyl	MRLs under consideration at Step 5.	Yes	EPA

Codex committee	Standard	Status of consideration	US Participation/ agenda	Responsible agency
	Clethodim	MRLs under consideration at Step 5.	Yes	EPA
	Cycloxydim	MRLs under consideration at Step 8.	Yes	EPA
	DDT	MRLs under consideration at Step 8 and CXL deletion.	Yes	EPA
Pesticide Residues (considered at the 28th and 29th Session of the Codex Committee on Pesticide Residues (Annex II to ALINORMS 97/24 and 97/24A).	Diazinon	MRLs under consideration at Steps 5/8 and 8 and CXL deletions.	Yes	EPA
	Dichlorvos	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Dicloran	CXL deletions	Yes	EPA
	Dicofol	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Dimethoate	MRLs under consideration at Step 8.	Yes	EPA
	Diquat	MRLs under consideration at Step 5 and CXL deletions.	Yes	EPA
	Dithianon	MRLs under consideration at Step 8.	Yes	EPA
	Dithiocarbamates	MRLs under consideration at Step 5 and CXL deletions.	Yes	EPA
	Endrin	EMRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Ethephon	MRLs under consideration at Steps 5, 5/8 and 8.	Yes	EPA
	Ethion	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
Pesticide Residues (considered at the 28th and 29th Sesssion of the Codex Committee on Pesticide Residues (Annex II to ALINORMS 97/24 and 97/24A).	Ethofenprox	MRLs under consideration at Step 8.	Yes	PA
	Ethoxyquin	CXL deletion	Yes	EPA
	Etrimfos	CXL deletions (all)	Yes	EPA
	Fenarimol	MRLs under consideration at Step 5 and 5/8.	Yes	EPA
	Fenbutatin Oxide	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Fenpropathrin	MRLs under consideration at Step 8.	Yes	EPA
	Fenpropimorph	MRLs under consideration at Step 5.	Yes	EPA
	Fenthion	MRLs under consideration at Steps 5 and 5/8 and CXL deletions.	Yes	EPA
	Fentin	CXL deletion	Yes	EPA
	Flucythrinate	CXL deletion	Yes	EPA
	Flusilazole	MRLs under consideration at Step 8.	Yes	EPA
	Folpet	MRLs under consideration at Step 8 and CXL deletion.	Yes	EPA
	Glufosinate-ammonium	MRLs under consideration at Steps 5/8 and 8.	Yes	EPA
Pesticide Residues (considered at the 28th and 29th Session of the Codex Committee on Pesticide Residues (Annex II to ALINORMS 97/24 and 97/24A).	Glyphosate	MRLs under consideration at Step 5/8 and CXL deletions.	Yes	EPA
	Hexythiazox	MRLs under consideration at Step 8.	Yes	EPA
	Imazalil	MRL under consideration at Step 5/8.	Yes	EPA

Codex committee	Standard	Status of consideration	US Participation/ agenda	Responsible agency
	Iprodione	MRLs under consideration at Step 5, 5/8 and 8 and CXL deletions.	Yes	EPA
	Isofenphos	CXL deletions (all)	Yes	EPA
	Methacrifos	CXL deletions (all)	Yes	EPA
	Methamidophos	MRLs under consideration at Steps 5 and 8 and CXL deletion.	Yes	EPA
	Methidathion	MRLs under consideration at Step 8 and CXL deletion.	Yes	EPA
	Monocrotophos	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Myclobutanil	MRL under consideration at Step 8.	Yes	EPA
	Parathion	MRLs under consideration at Step 8 and CXL deletion.	Yes	EPA
	Parathion-methyl	MRLs under consideration at Steps 5/8 and CXL deletion.	Yes	EPA
Pesticide Residues (considered at the 28th and 29th Session of the Codex Committee on Pesticide Residues (Annex II to ALINORMS 97/24 and 97/24A)	Penconazole	MRLs under consideration at Step 5/8 and 8.	Yes	EPA
	Phosalone	CXL deletions	Yes	EPA
	Pirimiphosmethyl	MRLs under consideration at Step 8.	Yes	EPA
	Profenofos	MRLs under consideration at Steps 5/8 and 8.	Yes	EPA
	Propiconazole	MRLs under consideration at Steps 5/8 and 8 and CXL deletion.	Yes	EPA
	Pyrazophos	MRLs under consideration at step 8.	Yes	EPA
	Quintozene	CXL deletion	Yes	EPA
	Tebuconazole	MRLs under consideration at Step 5/8.	Yes	EPA
	Tolclofos-methyl	MRLs under consideration at Step 5/8.	Yes	EPA
	Tecnazene	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Triadimefon	MRLs under consideration at Step 8 and CXL deletions.	Yes	EPA
	Triadimenol	MRLs under consideration at Step 8.	Yes	EPA
	Triazophos	MRL under consideration at Step 8.	Yes	EPA
	Trichlorfon	CXL deletions (all)	Yes	EPA

Codex Committee on Methods of Analysis and Sampling

The Codex Committee on Methods of Analysis and Sampling:

(a) Defines the criteria appropriate to Codex Methods of Analysis and Sampling;

(b) Serves as a coordinating body for Codex with other international groups working in methods of analysis and sampling and quality assurance systems for laboratories;

(c) Specifies, on the basis of final recommendations submitted to it by the other bodies referred to in (b) above, Reference Methods of Analysis and Sampling appropriate to Codex Standards which are generally applicable to a number of foods;

(d) Considers, amends, if necessary, and endorses, as appropriate, methods of analysis and sampling proposed by Codex (Commodity) Committees, except that methods of analysis and sampling for residues of pesticides or veterinary drugs in food, the assessment of micro-biological quality and safety in food, and the assessment of specifications for food additives do not fall within the terms of reference of this Committee;

(e) Elaborates sampling plans and procedures, as may be required;

(f) Considers specific sampling and analysis problems submitted to it by the Commission or any of its Committees; and

(g) Defines procedures, protocols, guidelines or related texts for the assessment of food laboratory proficiency, as well as quality assurance systems for laboratories.

The following matters will be brought to the attention of the 22nd Session of the Codex Alimentarius Commission in June 1997, for adoption:

► Analytical Terminology for Codex Use;

► Guidelines for the Assessment of the Competence of Testing Laboratories Involved in the Import and Export Control of Food; and

► Revised Terms of Reference for the Committee.*

The Committee is continuing work on:

► Proposed Draft Codex General Guidelines on Sampling;

► Criteria for evaluating acceptable methods of analysis for Codex purposes;

* Not in Step procedure.

► Harmonization of test results corrected for recovery factors;

► Harmonization of analytical terminology in accordance with international standards;—Report of Inter-Agency Meeting on ''limits;''

► Measurement uncertainty; and

► Report of the Inter-Agency Meeting; and

► Endorsement of methods of analysis for Codex purposes.

The Committee agreed to propose the following new work:

► In-house method validation.

The reference documents are ALINORM 97/23 and 97/23a.

RESPONSIBLE AGENCY: HHS/FDA USDA/AMS

U.S. PARTICIPATION: Yes

Codex Committee on Food Import and Export Inspection and Certification Systems

The Codex Committee on Food Import and Export Certification and Inspection Systems is charged with developing principles and guidelines for food import and export inspection and certification systems. Included in the charge are application of measures by competent authorities to provide assurance that foods comply with essential food safety and quality requirements. Recognition of quality assurance systems through the development of guidelines will help ensure that foods conform to the essential requirements. Draft guidelines to be considered by the Codex Alimentarius Commission at its Twenty-second session in June can be found in ALINORMS 97.30 and 30A.

To be considered at Step 8:

► Guidelines for the Exchange of Information Between Countries on Rejections of Imported Food

► Draft Guidelines for the Design, Operation, Assessment and Accreditation of Food Import and Export Inspection and Certification Systems

In addition, the Committee agreed:

► to append the Criteria for a Generic Certificate for the Export of Food and Food Products and the Model Certificate to its report in order to facilitate Commission discussions as to the need for further consideration by CCFICS of this matter from the different perspectives of Codex commodity committees.

► that a discussion paper on issues relating to the process of judgment of equivalence be prepared for circulation and comment prior to its next session.

► with regard to elaboration of guidelines on Food Import Control Systems that the delegations of Mexico and the United States should further develop a discussion paper for review at the Committee's next session.

► that the United States should revise the proposed Draft Guidelines for the Development of Agreements Regarding Food Import and Export Inspection and Certification Systems for circulation and comment at Step 3 prior to the Committee's Sixth Session based on discussion and comments received.

RESPONSIBLE AGENCY: HHS/FDA, USDA/FSIS

U.S. PARTICIPATION: Yes

Codex Committee on General Principles

The Codex Committee on General Principles deals with rules and procedures referred to it by the Codex Alimentarius Commission. None of the following recommendations for changing the rules of procedure for Codex are in the Step Procedure. The reference document is ALINORM 97/33.

The Committee recommended the following matters for adoption by the 22nd Session of the Codex Alimentarius Commission:

► Amendment to the Rules of Procedure (Rules II and IX to provide for the appointment of Members of the Commission as Coordinators and to confirm their attendance as observers at sessions of the Executive Committee.)

► Addition of an Appendix to the Procedural Manual entitled ''General Decisions of the Commission.'' The proposed Appendix to the Procedural Manual to include: Four Statements of Principle on the Role of Science in the Codex Decision-Making Process and the extent to which other factors are taken into account and Four Statements of Principle relating to the Role of Food Safety Risk Assessment

► Revision of the following sections of the Procedural Manual:

Definitions
Guidelines for Codex Committees
Guidelines for the Inclusion of Specific Provisions in Codex Standards
Criteria for the Establishment of Work Priorities
Relations between Commodity Committees and General Subject Committees—Section K

► Proposed specific recommendations in order to clarify the status of ''advisory'' codes, Guidelines and related texts

The committee also recommended that the Code of Principles concerning Milk and Milk Products be redrafted as a standard and recommended that the Draft Guidelines for Codex Contact Points and National Codex Committees prepared by CCASIA be circulated to other Regional Coordinating Committees.

RESPONSIBLE AGENCY: USDA/FSIS, HHS/FDA

U.S. PARTICIPATION: Yes

Codex Committee on Food Labelling

The Codex Committee on Food Labelling is responsible for drafting provisions on labelling applicable to all foods and to address issues assigned by the Codex Alimentarius Commission. The following draft guidelines are being considered by the Codex Alimentarius Commission at their June 1997 meeting. The guidelines and other documents listed below are located in ALINORMS 97/22 and 92/22A.

To be considered at Step 8:

► Draft Guidelines for Use of Nutrition Claims

► Draft General Guidelines for Use of the term ''Halal'' (foods permitted under Islamic Law).

To be considered at Step 5 of the Accelerated Procedure:

► Proposed Draft Amendment to the Labelling Section of the Standard for Quick Frozen Fish Sticks, Fish Portions and Fish Fillets—Breaded or in Batter

To be considered at Step 5:

► Draft Guidelines for Labelling Foods that can cause Hypersensitivity (Proposed Draft Amendment to the General Standard for the Labelling of Prepackaged Foods)

The committee is continuing to work on:

► Draft Guidelines for the Production, Processing, Labelling and Marketing of Organically Produced Foods at Step 6

► Draft Recommendations for the Labelling of Foods Obtained through Biotechnology at Step 3

► Review of General Guidelines for Nutrition Labelling including consideration of expanding the list of nutrients required to be declared to include saturated fat, sodium, sugars, and fiber whenever nutrition labelling is used.

► Review of Guidelines for Use of Health Claims including circulating for government comment the sections on health claims previously removed form the guidelines.

RESPONSIBLE AGENCY: HHS/FDA, USDA/FSIS

U.S. PARTICIPATION: Yes

Codex Committee on Food Hygiene

The Food Hygiene Committee drafts basic provisions on food hygiene for all foods. The term ''hygiene'' also includes, where applicable, microbiological specifications for food and associated methodology.

The following matters will be considered by the Codex Alimentarius Commission at its Twenty-second session in June 1997. Information about the Codes and Guidelines can be found in ALINORMS 97/13 and 13A.

To be considered at Step 8:

► Draft Revised International Code of Practice—General Principles of Food Hygiene

► Draft Revised Guidelines for the Application of the Hazard Analysis Critical Control Point (HACCP) System

► Draft Revised Principles for the Establishment and Application of Microbiological Criteria for Foods

In addition, the committee requested approval to initiate development of the following when necessary:

► Code of Hygienic Practice for Milk and Milk Products

► Guidance on the hygienic recycling of processing water in food processing plants

► Guidance on the application of microbiological risk evaluation to international trade

► Revision of the standard wording for Food Hygiene Provisions (Procedural Manual)

► Risk-based guidance for the use of HACCP-like systems in small business, with special reference to developing countries

► Recommendations for the management of microbiological hazards for foods in international trade

The Commission is invited to advise FAO and WHO to consider the establishment of an international advisory body addressing the microbiological aspects of food safety and provide scientific advice in the form of formal microbiological risk assessments.

Other matters to be discussed at the 30th Committee Session in October 1997 include:

► Proposed Draft Code of Practice for Refrigerated Packaged Foods with Extended Shelf-Life
► Principles and Guidelines for the Conduct of Microbiological Risk Assessment
► Recommendations for the Control of Listeria monocytogenes in Foods
► Code of Hygienic Practice for Uncured/Unripened Cheese and Ripened Soft Cheese
► Code of Hygienic Practice for the Transport of Foods in Bulk
► Code of Hygienic Practice for Bottled Waters (other than Mineral Water)
► Consideration of a technical paper (to be prepared by CCFFP) on residual chlorine in frozen shrimp and prawns

RESPONSIBLE AGENCY: USDA/FSIS, USDC/NOAA, HHS/FDA
U.S. PARTICIPATION: Yes

Codex Committee on Fresh Fruits and Vegetables

The Codex Committee on Fresh Fruits and Vegetables was established in June 1988. The Committee is responsible for elaborating world-wide standards and codes of practice for fresh fruits and vegetables. Several of the standards listed below are contained in ALINORM 97/35.

The sixth session of the Committee recommended that the following standards and codes of practice be considered for adoption by the Twenty-second Session of the Codex Alimentarius Commission in June, 1997, at Step 8:

► Draft Standard for Banana; and
► Draft Standard for Mangosteen

The Committee also recommended initiation or continuation of work in the following areas:

► Draft Standard for Limes (at Step 5);
► Draft Standard for Pummelo (at Step 5);
► Draft Standard for Guava (at Step 5);
► Draft Standard for Chayote (at Step 5);
► Code of Practice for the Quality Inspection and Certification of Fresh Fruits and Vegetables (at Step 5);
► Draft Standard for Oranges (at Step 3);
► Draft Standard for Asparagus (at Step 3);
► Draft Revised Standard for Pineapple (at Step 3);
► Draft Standard for Mexican Limes (at Step 1);
► Draft Standard for Grapefruit (at Step 1);
► Draft Standard for Longan (at Step 1);
► Draft Standard for Ginger (at Step 1);
► Preparation of a paper on the Objective Indices of Maturity in Commercial Transactions of Fruits and Vegetables (at Step 1); and,
► Document concerning the Application of Quality Tolerances at Import (at Step 1)

RESPONSIBLE AGENCY: USDA/AMS
U.S. PARTICIPATION: Yes

Codex Committee on Nutrition and Foods for Special Dietary Uses

The Committee on Nutrition and Foods for Special Dietary Uses is responsible for studying nutritional problems referred by the Codex Alimentarius Commission. The Committee also drafts provisions on nutritional aspects for all foods and develops guidelines, general principles, and standards for foods for special dietary uses.

The reference document for the following matters is ALINORM 97/26. The Twentieth Session of the Committee recommended that the following documents be considered by the Twenty-Second Session of the Codex Alimentarius Commission in June 1997:

► Draft guidelines on the procedure for the Table of Conditions for Claims and Nutrient Contents, to be included in the Draft Guidelines for Use of Health and Nutrition Claims at Step 8;
► Proposed Draft Standard for Food Grade Sale at Steps 5 and 8;
► Proposed Draft Amendment to the Standard for Infant Formula; Vitamin B12, at Step 5 of the accelerated procedure;
► Proposal to amend the Terms of Reference of the Committee;
► Proposed Draft Revised Standard for Gluten-Free Foods at Step 5;
► Proposed Draft Guidelines for Vitamin and Mineral Supplements at Step 5; and
► Proposal to discontinue work on Proposed Draft Guidelines on the Inclusion of Nutrition Provisions on Nutritional Quality in Food Standards.

In addition to the above documents being circulated for comment prior to their consideration by the Commission, the following documents are open for comment for consideration at the next Committee meeting in March, 1998:

► Part B of the Table of Conditions for Claims for nutrient contents, to be included in the Draft Guidelines for Use of Health and Nutrition Claims, at Step 6;
► Proposed Draft Revised Standard for Cereal-Based Foods for Infants and Young Children at Step 3.

RESPONSIBLE AGENCY: HHS/FDA
U.S. PARTICIPATION: Yes

Codex Committee on Fish and Fishery Products

The Fish and Fishery Products Committee is responsible for elaborating standards for fresh and frozen fish, crustaceans, and mollusks.

The following draft guideline will be considered for adoption by the Codex Alimentarius Committee at its meeting in June. The guideline is contained in ALINORM 97/18.

To be considered at Step 5:

► Proposed Draft Guidelines for the Sensory Evaluation of Fish and Shellfish

The committee is continuing work on draft revised codes of practice for Frozen Fish, Minced Fish, Fresh Fish, Frozen Shrimps and Prawns, Molluscan Shellfish, Salted Fish, and Smoked Fish at Step 3.

In addition, it is working on a Proposed Draft Code of Practice for the Products of Aquaculture at Step 3 and a draft section on training for the Proposed Guidelines for the Sensory Evaluation of Fish and Shellfish at Step 3.

RESPONSIBLE AGENCY: HHS/FDA, USDC/NOAA/NMFS
U.S. PARTICIPATION: Yes

Codex Committee on Milk and Milk Products

The Codex Committee on Milk and Milk Products is responsible for establishing international codes and standards for milk and milk products. The following revised standards and draft revised codes of principles will be considered for adoption of the Codex Alimentarius Commission in June 1997. The standards listed below are contained in ALINORM 97/11.

To be considered at Step 8:

► Draft Revised Standard for Butter
► Draft Revised Standard for Milkfat Products
► Draft Revised Standard for Evaporated Milks
► Draft Revised Standard for Sweetened Condensed Milk
► Draft Revised Standard for Milk and Cream Powders
► Draft Revised Standard for Cheese
► Draft Revised Standard for Whey Cheese
► Draft Revised Standard for Cheeses in Brine

To be considered at Step 5:

► Draft Revised Code of Principles Concerning Milk and Milk Products

In addition, the committee requested approval to initiate elaboration of standards for Dairy Spreads and Mozzarella Cheese and a Model Export Certificate for Milk Products.

It also recommended the withdrawal of Cheese Standards for Danablu, Gruyere, Gudbrandsdalsost, Norvegia, Esrom, certain Blue Veined Cheeses and Cream Cheese (pending the inclusion in the Standard for Unripened Cheese Including Fresh Cheese).

RESPONSIBLE AGENCY: USDA/AMS, HHS/FDA
U.S. PARTICIPATION: Yes

Codex Committee on Fats and Oils

The Codex Committee on Fats and Oils is responsible for elaborating standards for fats and oils of animal, vegetable, and marine origin.

The reference document is ALINORM 97/17. The Fifteenth Session of the Committee recommended the following be adopted by the Commission in June 1997:

► Draft Standard for Named Animal Fats at Step 8;
► Draft Standard for Edible Fats and Oils Not Covered by Individual Standards at Step 8;
► Draft Revised Code of Practice for the Storage and Transport of Fats and Oils in Bulk at Step 8;

In addition, the Commission is invited to consider the decision of the Committee to discontinue work on the revision and revoke the current Standard for Specified Vegetable Fat products and Specified Animal and Vegetable Fat products. The Commission is also invited to consider whether work should proceed in converting the European Regional Standard for mayonnaise into a world-wide standard.

RESPONSIBLE AGENCY: HHS/FDA
U.S. PARTICIPATION: Yes

Codex Committee on Cocoa Products and Chocolate

The Codex Committee on Cocoa Products and Chocolate held 15 sessions. The last meeting, at which the original program of work was completed, was held in 1982. The Committee elaborated world-wide standards for cocoa products and chocolate.

The Commission in 1991 decided to embark on a program of work to update and revise all of the standards.

The revisions were to include updating of the sections on food hygiene and food labeling and removal from the standards of all non-essential details. The standards, when updated and revised, should contain only those provisions that are necessary to protect consumer health and prevent fraud.

Provisions of an advisory nature reflecting quality factors and criteria typically used in trade to define or describe the quality of the product are to be removed from the standard. These guidance provisions are intended to assist users of the Codex standard when making international purchases and are, therefore, not subject to formal acceptance by users of the standard.

The Twenty-first Session of the Commission endorsed the recommendation of the forty-second session of the Executive Committee to initiate the revision of the Cocoa Products and Chocolate Standards.

The Swiss Secretariat prepared updated versions of the Standards and requested government comments in CL 1995/28 CPC. The technical contents of the standards were not amended and comments were requested from governments on amendments.

The amended standards for chocolate and chocolate products were considered at Step 4 by the Sixteenth Session of the Committee, October 1996. The Committee returned the Proposed Draft Revised Standard for Chocolate and Chocolate Products to Step 3 for further consideration.

Proposed Draft Revised Standards for Cocoa Butter, Cocoa (Cacao) Nib, Cocoa (Cacao) Mass, Cocoa Press Cake and Cocoa Dust (Cocoa Fines) for use in the manufacture of Cocoa and Chocolate products, and for Cocoa Powders (Cacaos) and Dry Cocoa-Sugar Mixture will be considered at the Seventeenth Session of the Committee tentatively scheduled for the Fall of 1998.

RESPONSIBLE AGENCY: HHS/FDA
U.S. PARTICIPATION: Yes

Codex Committee on Processed Fruits and Vegetables

During its eighteen sessions, the United States-hosted Codex Committee on Processed Fruits and Vegetables (CCPFV) elaborated 37 standards for various types of processed fruits and vegetables, including dried products (prunes), canned products (except juices), and jams and jellies. The most recent session of the CCPFV was held in 1986, after which the CCPFV adjourned *sine die.*

In keeping with the Commission's charge to update and revise Codex standards, the United States Secretariat, with assistance from the Codex Secretariat in Rome, has prepared proposed draft revised standards for the 37 standards covered by the CCPFV. These proposed drafts are for circulation for government comment and consideration at the nineteenth session on the CCPFV. This next session is tentatively scheduled for March 1998.

The following Proposed Draft Revised Standards are expected to be considered at the 19th Session of the Committee at Step 3 of the Codex process:

► Proposed Draft Revised Standard for Canned Tomatoes
► Proposed Draft Revised Standard for Canned Peaches
► Proposed Draft Revised Standard for Canned Grapefruit
► Proposed Draft Revised Standard for Canned Green Beans and Wax Beans
► Proposed Draft Revised Standard for Canned Applesauce
► Proposed Draft Revised Standard for Canned Sweet Corn
► Proposed Draft Revised Standard for Edible Fungi and Fungus Products
► Proposed Draft Revised Standard for Edible Dried Fungi
► Proposed Draft Revised Standard for Fresh Fungus ''Chanterelle''
► Proposed Draft Revised Standard for Canned Pineapple
► Proposed Draft Revised Standard for Canned Asparagus
► Proposed Draft Revised Standard for Processed Tomato Concentrates
► Proposed Draft Revised Standard for Canned Green Peas
► Proposed Draft Revised Standard for Canned Plums
► Proposed Draft Revised Standard for Canned Raspberries
► Proposed Draft Revised Standard for Canned Pears
► Proposed Draft Revised Standard for Canned Strawberries
► Proposed Draft Revised Standard for Table Olives
► Proposed Draft Revised Standard for Raisins
► Proposed Draft Revised Standard for Canned Mandarin Oranges
► Proposed Draft Revised Standard for Canned Fruit Cocktail
► Proposed Draft Revised Standard for Jams (Fruit Preserves) and Jellies
► Proposed Draft Revised Standard for Citrus Marmalade
► Proposed Draft Revised Standard for Canned Mature Processed Peas
► Proposed Draft Revised Standard for Canned Tropical Fruit Salad
► Proposed Draft Revised Standard for Pickled Cucumbers
► Proposed Draft Revised Standard for Canned Carrots
► Proposed Draft Revised Standard for Canned Apricots
► Proposed Draft Revised Standard for Dried Apricots
► Proposed Draft Revised Standard for Unshelled Pistachio Nuts
► Proposed Draft Revised Standard for Dates
► Proposed Draft Revised Standard for Canned Palmito
► Proposed Draft Revised Standard for Canned Chestnuts and Chestnut Puree
► Proposed Draft Revised Standard for Canned Mangoes
► Proposed Draft Revised Standard for Mango Chutney
► Proposed Draft Revised Standard for Grated Desiccated Coconut

RESPONSIBLE AGENCY: HHS/FDA, USDA/AMS
U.S. PARTICIPATION: Yes

Certain Codex Commodity Committees

Several Codex Alimentarius Commodity Committees have adjourned sine die. The following Committees fall into this category:

► *Cereals, Pulses and Legumes**
Responsible Agency: HHS/FDA, USDA/GIPSA
U.S. Participation: Yes
► *Edible Ices*
Responsible Agency: HHS/FDA
U.S. Participation: Yes
► *Meat Hygiene**
Responsible Agency: USDA/FSIS
U.S. Participation: Yes
► *Processed Meat and Poultry Products**
Responsible Agency: USDA/FSIS
U.S. Participation: Yes
► *Sugars*
Responsible Agency: HHS/FDA
U.S. Participation: Yes
► *Soups and Broths**
Responsible Agency: USDA/FSIS
U.S. Participation: Yes
► *Vegetable Proteins**
Responsible Agency: HHS/FDA, USDA/ARS
U.S. Participation: Yes

*There is no planned activity for these Committees in the next year.

A brief report on activities of the Codex Committee on Edible Ices and the Codex Committee on Sugars follows:

Edible Ices

The Committee on Edible Ices is responsible for elaborating standards for all types of edible ices, including mixes and powders used for their manufacture. The Forty-third Session of the Executive Committee in June 1996 recommended that the Codex Standard for Edible Ices and Mixed Ices be revoked. It was reported that there was no need for a standard as there was not a significant international trade. The Executive Committee further recommended that the Codex Committee on Edible Ices be abolished. The Twenty-second Session of the Codex Alimentarius Commission will decide the issues in June 1997.

RESPONSIBLE Agency: HHS/FDA
U.S. PARTICIPATION: Yes

Sugars

The Codex Committee on Sugars is responsible for elaborating world-wide standards for all types of sugars and sugar products. The Committee has been adjourned since 1974. At the direction of the Codex Alimentarius Commission, the Secretariat of the Host Government (the United Kingdom) was asked to examine the existing Codex Standards relating to Sugars and the Codex Standard for Honey. During the Nineteenth session of the Codex Alimentarius Commission, the Commission agreed that existing Codex Standards should be reviewed in order to simplify them. Those documents were revised and circulated to member governments (see CL 1995/5–S) for comments. The objective of the revision is to focus the standards only on public health, food safety, and consumer protection. The Twenty-first session of the Commission noted that substantial late comments were received and agreed that further revision of the Draft Standards should be carried out by

correspondence. The Secretariat has prepared revised Draft Standards and circulated them for government comments at Step 6 in document CL 1996/1–S.

To be considered at Step 8:

► Draft Revised Standard for Sugar

► Draft Revised Standard for Honey

RESPONSIBLE Agency: HHS/FDA
U.S. PARTICIPATION: Yes

Joint U.N.E.C.E. Codex Alimentarius Groups of Experts

Two groups of experts dealt with specific commodities much as the Codex Commodity Committees do. The Joint Groups of Experts have completed their main tasks and have adjourned. They could be called to meet again if the Codex Alimentarius Commission so decides. These Groups are:

► Standardization of Quick Frozen Foods; and

► Standardization of Fruit Juices.

There are no standards from either group being considered by the Twenty-second session of the Commission in June, 1997.

RESPONSIBLE Agency: HHS/FDA
U.S. PARTICIPATION: Yes

Codex Committee for Natural Mineral Waters

The Codex Committee for Natural Mineral Waters (CCNMW) is responsible for elaborating standards for natural mineral water products. The following draft standard will be considered by the Codex Alimentarius Commission at its June meeting. Information about the standard and new committee work can be found in ALINORM 97/20.

To be considered at Step 8:

► Draft Revised Standard for Natural Mineral Waters

In addition, the committee requested approval to initiate development of a general standard applicable to bottled/packaged waters other than natural mineral waters.

RESPONSIBLE Agency: HHS/FDA
U.S. PARTICIPATION: Yes

FAO/WHO Regional Coordinating Committees

The Codex Alimentarius Commission is made up of an Executive Committee, as well as approximately 25 subsidiary bodies. Included in these subsidiary bodies are several coordinating committees.

There are currently five Regional Coordinating Committees:

—Coordinating Committee for Africa
—Coordinating Committee for Asia
—Coordinating Committee for Europe
—Coordinating Committee for Latin America and the Caribbean
—Coordinating Committee for North America and the South-West Pacific

The United States participates as an active member of the Coordinating Committee for North America and the South-West Pacific, and is informed of the other coordinating committees through meeting documents, final reports, and representation at meetings.

Each regional committee:

—defines the problems and needs of the region concerning food standards and food control;
—promotes within the committee contacts for the mutual exchange of information on proposed regulatory initiatives and problems arising from food control and stimulates the strengthening of food control infrastructures;
—recommends to the Commission the development of world-wide standards for products of interest to the region, including products considered by the committee to have an international market potential in the future; and
—exercises a general coordinating role for the region and such other functions as may be entrusted to it by the Commission.

Codex Coordinating Committee for North America and the South—West Pacific

The Coordinating Committee is responsible for defining problems and needs concerning food standards and food control of all Codex member countries of the regions.

The Fourth Session of the Committee addressed the following matters of interest to the Commission. Information about their deliberations can be found in ALINORM 97/32.

► Suggested that consideration be given to a further consultation on risk communication mechanisms and methodologies;

► Supported the current alignment of Codex membership of the region and more active collaboration between Codex and APEC; and

► Agreed to bring concerns regarding the length and procedures of the Codex Alimentarius Commission and the timely distribution of Codex documents to the attention of the Executive Committee.

In addition, the Committee identified main objectives and priorities related to the identification of Codex Standards and related texts which have a major impact in the Region and discussed papers on Dietary Modeling and Guidelines for the Development of Agreements Regarding Food Import and Export Inspection and Certification Systems.

AGENCY RESPONSIBLE: USDA/FSIS
U.S. PARTICIPATION: Yes

Appendix 1—US. Codex Alimentarius Officials Steering Committee Members

Mr. Thomas J. Billy, Administrator, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 331–E, Jamie L. Whitten Federal Bldg., 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone: (202) 720–7025, Fax: (202) 205–0158

Mr. Michael V. Dunn, Assistant Secretary, Marketing and Regulatory Programs, U.S. Department of Agriculture, Room 228–W, Jamie L. Whitten Federal Bldg., 1400 Independence Avenue, SW, Washington, DC 20250, Phone #: (202) 720–4256, Fax #: (202) 720–5775

Dr. Lynn R. Goldman, Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, SW (7101), 637 East Tower, Washington, DC 20460, Phone #: (202) 260–2902, Fax #: (202) 260–1847

Ms. Penny Fenner-Crisp, Deputy Director, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, Phone #: (202) 260–0947, Fax #: (202) 260–1847

Mr. William Schultz, Deputy Commissioner for Policy, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, Phone #: (301) 827–3360, Fax #: (301) 594–6777

Dr. Fred R. Shank, Director, Center for Food Safety and Applied Nutrition (HFS–1), Food and Drug Administration, Room 6815, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4850, Fax #: (202) 205–5025

Ms. Linda R. Horton, Director, International Policy, Office of the Commissioner, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, Phone #: (301) 827–3344, Fax #: (301) 443–6906

Mr. August Schumacher, Jr., Administrator, Foreign Agricultural Service, U.S. Department of Agriculture, Room 5071, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–3935, Fax #: (202) 690–2159

Codex Committee Chairpersons

Mr. Steven N. Tanner, Director, Technical Services Division, Grain Inspection, Packers & Stockyards Administration, U.S. Department of Agriculture, 10383 N. Executive Hills Blvd., Kansas City, MO 64153–1394, Phone #: (816) 891–0401, Fax #: (816) 891–0478—Cereals, Pulses and Legumes (adjourned Sine Die)

Dr. I. Kaye Wachsmuth, Acting Deputy Administrator, Office of Public Health and Science, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 341–E, Jamie L. Whitten Federal Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–2644, Fax #: (202) 690–2980—Food Hygiene

Mr. James Rodeheaver, Chief, Processed Product Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0709, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–4693, Fax #: (202) 690–1527—Processed Fruits and Vegetables

Dr. Stephen F. Sundlof, Director, Center for Veterinary Drugs in Foods Medicine, Food and Drug Administration, 7500 Standish Place (HFV–1), Rockville, MD 20855, Phone #: (301) 594–1740, Fax #: (301) 594–1830—Residues of Veterinary Drugs in Food

Listing of U.S. Delegates and Alternate Delegates, Worldwide General Subject Codex Committees

Codex Committee on Residues of Veterinary Drugs in Foods

(Host Government—United States)

U.S. Delegate—Dr. Robert C. Livingston, Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine (HFV–100), Food and Drug Administration, 7500 Standish Place, Rockville, MD 20855, Phone #: (301) 594–1620, Fax #: (301) 594–2297

Alternate Delegate—Dr. Pat Basu, Director, Chemistry and Toxicology Division, Office

of Public Health and Science, Food Safety and Inspection Service, U.S. Department of Agriculture, 6912 Franklin Court, 1099 14th Street, NW, Washington, DC 20250–3700, Phone #: (202) 501–7319, Fax: (202) 501–7639

Codex Committee on Food Additives and Contaminants

(Host Government—The Netherlands)

U.S. Delegate—Dr. Alan Rulis, Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, (HFS–200), Washington, DC 20204, Phone #: (202) 418–3100, Fax #: (202) 418–3131

Alternate Delegate—Dr. Terry C. Troxell, Director, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, (HFS–456), Washington, DC 20204, Phone #: (202) 205–5321, Fax #: (202) 205–4422

Codex Committee on Pesticide Residues

(Host Government—The Netherlands)

U.S. Delegate—Dr. Richard Schmitt, Deputy Director, Special Review and Registration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 1921 Jefferson Davis Highway, Mail Code (7502C), Room 712, CM–2, Arlington, VA 22204, Phone #: (703) 305–6352, Fax #: (703) 305–5512

Alternate Delegate—Dr. Richard Parry, Jr., Assistant Administrator, Cooperative Interactions, Agricultural Research Service, U.S. Department of Agriculture, Room 358–A, Jamie L. Whitten Federal Bldg., Washington, DC 20250–3700, Phone #: (202) 720–3973, Fax #: (202) 720–5427

Codex Committee on Methods of Analysis and Sampling

(Host Government—Hungary)

U.S. Delegate—Dr. William Horwitz, Scientific Advisor, Center for Food Safety and Applied, Nutrition (HFS–500), Food and Drug Administration, Room 3832, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4346, Fax #: (202) 401–7740

Alternate Delegate—Mr. William Franks, Director, Science and Technology Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3507, South Agriculture Building 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–5231, Fax #: (202) 720–6496

Codex Committee on Food Import and Export Certification and Inspection Systems

(Host Government—Australia)

Delegate—Dr. Fred R. Shank, Director, Center for Food Safety and Applied Nutrition (HFS–1), Food and Drug Administration, Room 6815, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–4850,Fax #: (202) 205–5025

Alternate Delegate—Mr. Mark Manis, Director, International Policy Development Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 4434, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–6400, Fax #: (202) 720–7990

Codex Committee on General Principles

(Host Government—France)

Delegate—**Note:** A member of the Steering Committee heads the delegation to meetings of the General Principles Committee.

Codex Committee on Food Labelling

(Host Government—Canada)

Delegate—Dr. F. Edward Scarbrough, Director, Office of Food Labeling Center for Food Safety and Applied Nutrition (HFS–150), Food and Drug Administration, 200 C Street, SW, Room 1832, Washington, DC 20204, Phone #: (202) 205–4561, Fax #: (202) 205–4594

Alternate Delegate—Mr. Robert Post, Deputy Director, Facilities, Equipment, Labeling & Compounds Review Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court Building, Room 327, Washington, DC 20250–3700, Phone #: (202) 418–8900, Fax #: (202) 418–8834

Codex Committee on Food Hygiene

(Host Government—United States)

Acting Delegate—Mr. E. Spencer Garrett, Director, National Seafood Inspection Laboratory, National Marine Fisheries, 705 Convent Street, Pascagoulla, MS 39568–1207, Phone #: (601) 769–8964, Fax #: (601) 762–7144

Alternate Delegate—VACANT

Worldwide Commodity Codex Committees

Codex Committee on Fresh Fruits and Vegetables

(Host Government—Mexico)

Delegate—Mr. David Priester, International Standards Coordinator, FPB, Fruit & Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–2184, Fax #: (202) 720–0016

Alternate Delegate—Mr. Larry B. Lace, Branch Chief, Fresh Products Branch, Fruits and Vegetables Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2049, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–5870, Fax #: (202) 720–0393

Codex Committee on Nutrition and Foods for Special Dietary Uses

(Host Government—Germany)

Delegate—Dr. Elizabeth Yetley, Acting Director, Office of Special Nutritionals, Center for Food Safety and Applied Nutrition, FDA, 200 C Street, SW (HFS–450), Washington, DC 20204, Phone #: (202) 205–4168, Fax #: (202) 205–5295

Alternate Delegate—Dr. Robert J. Moore, Senior Regulatory Scientist, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–456), Washington, DC 20204, Phone #: (202) 205–4605, Fax #: (202) 260–8957

Codex Committee on Fish and Fishery Products

(Host Government—Norway)

Delegate—Mr. Philip C. Spiller, Director, Office of Seafood (HFS–400) VERB, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 418–3133, Fax #: (202) 418–3198

Alternate Delegate—Mr. Samuel W. McKeen, Director, Office of Trade and Industry Services, National Oceanic and Atmospheric Administration, NMFS, 1335 East-West Highway, Room 6490, Silver Spring, MD 20910, Phone #: (301) 713–2351, Fax #: (301) 713–1081

Codex Committee on Cereals, Pulses and Legumes

(Host Government—United States)

Delegate—Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate—Mr. David Shipman, Deputy Administrator, Grain Inspection Packers and Stockyards Administration, U.S. Department of Agriculture, Room 1092, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–9170, Fax #: (202) 720–1015

Codex Committee on Milk and Milk Products

(Host Government—New Zealand)

Delegate—Mr. Duane Spomer, Chief, Dairy Standardization Branch, U.S. Department of Agriculture, Agricultural Marketing Service, Room 2750, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–9382, Fax #: (202) 720–2643

Alternate Delegate—Dr. John C. Mowbray, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW, (HFS–306), Washington, DC 20204, Phone #: (202) 205–1731, Fax #: (202) 205–4422

Codex Committee on Fats and Oils

(Host Government—United Kingdom)

Delegate—Mr. Charles W. Cooper, Director, International Activities, Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate—Dr. Dwayne Buxton, National Program Leader for Oilseeds and Bioscience, Agricultural Research Service, Room 212, Bldg. 005, BARC West, Beltsville, MD 20705, Phone #: (301) 504–5321, Fax #: (301) 504–5467

Codex Committee on Processed Fruits and Vegetables

(Host Government—United States)

U.S. Delegate—Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0717, South Agriculture Building, 1400 Independence Avenue, SW, Washington, DC 20250–3700, Phone #: (202) 720–5021, Fax #: (202) 690–1527

Alternate Delegate—Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Worldwide Commodity Codex Committees

Codex Committee on Cocoa Products and Chocolate

(Host Government—Switzerland)

Delegate—Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate—Dr. Michelle Smith, Food Technologist, Office of Food Labeling, Center for Food Safety and Applied Nutrition (HFS–158), 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5099, Fax #: (202) 205–4594

Codex Committee on Sugars

(Host Government—United Kingdom)

Delegate—Dr. Thomas J. Army, Area Director, Mid-South Area, USDA/ Agricultural Research Center, P.O. Box 225, Stoneville, MS 38776–0225, Phone #: (601) 686–5265, Fax #: (601) 626–5259

Alternate Delegate—Dr. Dennis M. Keefe, Office of Premarket Approval, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–206), Washington, DC 20204, Phone #: (202) 418–3113, Fax #: (202) 418–3131

Codex Committee on Edible Ices [1]

(Host Government—Sweden)

Delegate—Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate—VACANT

Codex Committee on Soups and Broths [1]

(Host Government—Switzerland)

Delegate—Mr. Charles Edwards, Director, Facilities, Equipment, Labeling & Compounds Review Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court Building, Room 329, 1255 22nd Street, NW, Washington, DC 20250–3700, Phone #: (202) 418–8900, Fax #: (202) 418–8834

Alternate Delegate—Mr. Robert Post, Deputy Director, Facilities, Equipment, Labeling & Compounds Review Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court Building, Room 327, Washington, DC 20250–3700, Phone #: (202) 418–8900, Fax #: (202) 418–8834

Codex Committee on Vegetable Proteins [1]

(Host Government—Canada)

U.S. Delegate—Dr. Wilda H. Martinez, Associate Deputy Administrator, Aqua Products and Human Nutrition Sciences, U.S. Department of Agriculture, Agricultural Research Service, Room 107, B–005, Beltsville, MD 20705, Phone #: (301) 504–6275, Fax #: (301) 504–6699

Alternate Delegate—Ms. Elizabeth J. Campbell, Director, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition (HFS–155), Food and Drug Administration, 200 C Street, SW, Washington, DC 20204, Phone #: (202) 205–5229, Fax #: (202) 205–4594

Codex Committee on Meat Hygiene [1]

(Host Government—New Zealand)

Delegate—Dr. John Prucha, Assistant Deputy Administrator, International and Domestic Policy, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 350–E, Jamie L. Whitten Federal Bldg., Washington, DC 20250–3700, Phone #: (202) 720–3473, Fax #: (202) 690–3856

Alternate Delegate—Dr. Richard Mikita, Special Assistant, International Activities, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 344–E, Jamie L. Whitten Federal Bldg., Washington, DC 20250–3700, Phone #: (202) 720–0290, Fax #: (202) 690–0766

Codex Committee on Processed Meat and Poultry Products [1]

(Host Government—Denmark)

U.S. Delegate—Mr. Daniel Engeljohn, Branch Chief, Standards Development Branch, Inspection Methods Development Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 405, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700, Phone #: (202) 205–0210, Fax #: (202) 205–0080

Alternate Delegate—Mr. Charles Edwards, Director, Facilities, Equipment, Labeling & Compounds Review Division, Office of Policy, Program Development, and Evaluation, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court Building, Room 329, 1255 22nd Street, NW., Washington, DC 20250–3700, Phone #: (202) 418–8900, Fax #: (202) 418–8834

Codex Committee on Natural Mineral Waters

(Host Government—Switzerland)

U.S. Delegate—Dr. Terry C. Troxell, Director, Division of Programs and Enforcement Policy, Center for Food Safety & Applied Nutrition (HFS–305), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5321, Fax #: (202) 205–4422

Alternate Delegate—Ms. Shellee A. Davis, Division of Programs and Enforcement Policy, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 200 C Street, SW (HFS–306), Washington, DC 20204, Phone #: (202) 205–4681, Fax #: (202) 205–4422

Joint U.N.E.C.E. Codex Alimentarius Groups of Experts

Joint ECE/Codex Alimentarius Group of Experts on Standardization of Quick Frozen Foods [1]

U.S. Delegate—Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0717, South Agriculture Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700, Phone #: (202) 720–5021, Fax #: (202) 690–1527

Alternate Delegate—Mr. Charles W. Cooper, Director, International Activities Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Joint ECE/Codex Alimentarius Group of Experts on Standardization of Fruit Juices [1]

U.S. Delegate—Mr. Charles W. Cooper, Director, International Activities, Staff, Center for Food Safety and Applied Nutrition, Room 5823 (HFS–585), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, Phone #: (202) 205–5042, Fax #: (202) 401–7739

Alternate Delegate—Mr. Richard B. Boyd, Senior Marketing Specialist, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 0717, Agriculture South Building, 1400 Independence Avenue, SW., Washington, DC 20250–3700, Phone #: (202) 720–5021, Fax #: (202) 690–1527

Subsidiary Bodies of the Codex Alimentarius

There are five regional coordinating committees:

Coordinating Committee for Africa
Coordinating Committee for Asia
Coordinating Committee for Europe
Coordinating Committee for Latin America and the Caribbean, and
Coordinating Committee for North America and the South-West Pacific

Contact—Ms. Rhonda Bond, Executive Officer for Codex Alimentarius, Food Safety and Inspection Service, U.S. Department of Agriculture, West End Court, Room 311, 1255 22nd Street, NW., Washington, DC 20250–3700, Phone #: (202) 418–8841, Fax #: (202) 418–8865.

[1] Adjourned sine die. The main tasks of these Committees are completed. However, the committees may be called to meet again if required.

APPENDIX 2.—TIMETABLE OF CODEX SESSIONS

[June 1996 through June 1998]

1996:		
CX 702–43 Executive Committee of the Codex Alimentarius Commission (43rd Session).	4–7 June	Geneva.
CX 708–16 Codex Committee on Cocoa Products and Chocolate (16th Session)	30 Sept.–2 Oct.	Thun, Switzerland.
CX 719–5 Codex Committee on Natural Mineral Waters (5th Session)	3–5 October	Thun, Switzerland.
CX 707–12 Codex Regional Coordinating Committee for Africa (12th Session)	TBA	Harare.
CX 720–2 Codex Committee on Nutrition and Food for Special Dietary Uses (20th Session).	7–11 October	Bonn Bad-Godesberg.
CX–712–29 Codex Committee on Food Hygiene (29th Session)	21–25 October	Washington, DC.
CX–730–10 Codex Committee on Residues of Veterinary Drugs in Foods (10th Session).	20 October–1 November	San Jose, Costa Rica.
CX–709–11 Codex Committee on Fats and Oils (15th Session)	4–8 November	London.
CX–716–12 Codex Committee on General Principles Principles (12th Session)	25–28 November	Paris.
1997:		
CX 713–19 Codex Committee on Processed Fruits and Vegetables (19th Session)	3–7 February	Washington, DC.
CX 733–5 Codex Committee on Food Import and Export Inspection and Certification Systems (5th Session).	17–21 February	Sydney.
CX 725–10 Codex Regional Coordinating Committee for Latin America and the Caribbean (10th Session).	25–28 February	Montevideo.
CX 715–21 Codex Committee on Methods of Analysis and Sampling (21st Session)	10–14 March	Budapest.
CX 711–29 Codex Committee on Food Additives and Contaminants (29th Session)	17–21 March	The Hague.
CX 718–29 Codex Committee on Pesticide Residues (29th Session)	7–12 April	The Hague.
CX 714–25 Codex Committee on Food Labelling (25th Session)	15–18 April	Ottawa.
CX 702–44 Executive Committee of the Codex Alimentarius Commission (44th Session).	19–20 June	Geneva.
CX 701–22 CODEX ALIMENTARIUS COMMISSION (44th Session)	23–28 June	Geneva.
CX 731–7 Codex Committee on Fresh Fruits and Vegetables (7th Session)	8–12 September	Mexico City.
CX 712–30 Codex Committee on Food Hygiene (30th Session)	20–24 October	Washington, DC.
CX 727–11 Codex Regional Coordinating Committee for Asia (11th Session)	16–19 December	Chiang Rai.
1998:		
CX 711–30 Codex Committee on Food Additives and Contaminants (30th Session)	9–13 March	The Hague.
CX 733–6 Codex Committee on Food Import and Export Certification and Inspection (6th Session).	16–21 March	TBA.
CX 713–20 Codex Committee on Processed Fruits and Vegetables (19th Session)	16–20 March	Washington, DC.
CX 722–23 Codex Committee on Fish and Fishery Products (23rd Session)	30–3 April	Bergen.
CX 718–30 Codex Committee on Pesticide Residues (30th Session)	20–25 April	The Hague.
CX–730–11 Codex Committee on Residues of Veterinary Drugs in Foods (11th Session).	27 April–1 May	Washington, DC.
CX 719–21 Codex Regional Coordinating Committee for Europe (21st Session)	5–8 May	TBA.
CX 714–26 Codex Committee on Food Labelling (26th Session)	May-98–May-98	Ottawa.
CX 703–3 Codex Committee on Milk and Milk Products (3rd Session)	25–29 May	TBA.
CX 702–45 Executive Committee of the Codex Alimentarius Commission (45th Session).	3–5 June	Rome.

Appendix 3—Definitions for the Purpose of Codex Alimentarius

Words and phrases have specific meanings when used by the Codex Alimentarius. For the purposes of Codex, the following definitions apply:

1. *Food* means any substance, whether processed, semi-processed or raw, which is intended for human consumption, and includes drink, chewing gum, and any substance which has been used in the manufacture, preparation or treatment of ''food'' but does not include cosmetics or tobacco or substances used only as drugs.

2. *Food hygiene* comprises conditions and measures necessary for the production, processing, storage and distribution of food designed to ensure a safe, sound, wholesome product fit for human consumption.

3. *Food additive* means any substance not normally consumed as a food by itself and not normally used as a typical ingredient of the food, whether or not it has nutritive value, the intentional addition of which to food for a technological (including organoleptic) purpose in the manufacture, processing, preparation, treatment, packing, packaging, transport, or holding of such food results, or may be reasonably expected to result, (directly or indirectly) in it or its by-products becoming a component of or otherwise affecting the characteristics of such foods. The food additive term does not include ''contaminants'' or substances added to food for maintaining or improving nutritional qualities.

4. *Contaminant* means any substance not intentionally added to food, which is present in such food as a result of the production (including operations carried out in crop husbandry, animal husbandry, and veterinary medicine), manufacture, processing, preparation, treatment, packing, packaging, transport or holding of such food or as a result of environmental contamination. The term does not include insect fragments, rodent hairs and other extraneous matters.

5. *Pesticide* means any substance intended for preventing, destroying, attracting, repelling, or controlling any pest including unwanted species of plants or animals during the production, storage, transport, distribution and processing of food, agricultural commodities, or animal feeds or which may be administered to animals for the control of ectoparasites. The term includes substances intended for use as a plant-growth regulator, defoliant, desiccant, fruit thinning agent, or sprouting inhibitor and substances applied to crops either before of after harvest to protect the commodity from deterioration during storage and transport. The term pesticides excludes fertilizers, plant and animal nutrients, food additives, and animal drugs.

6. *Pesticide residue* means any specified substance in food, agricultural commodities, or animal feed resulting from the use of a pesticide. The term includes any derivatives of a pesticide, such as conversion products, metabolites, reaction products, and impurities considered to be of toxological significance.

7. *Good Agricultural Practice in the Use of Pesticides (GAP)* includes the nationally authorized safe uses of pesticides under actual conditions necessary for effective and reliable pest control. It encompasses a range of levels of pesticide applications up to the highest authorized use, applied in a manner

which leaves a residue which is the smallest amount practicable.

Authorized safe uses are determined at the national level and include nationally registered or recommended uses, which take into account public and occupational health and environmental safety considerations.

Actual conditions include any stage in the production, storage, transport, distribution and processing of food commodities and animal feed.

8. *Codex Maximum Limit for Pesticide Residues (MRLP)* is the maximum concentration of a pesticide residue (expressed as mg/kg), recommended by the Codex Alimentarius Commission to be legally permitted in or on food commodities and animal feeds. MRLPs are based on their toxological affects and on GAP data and foods derived from commodities that comply with the respective MRLPs are intended to be toxologically acceptable.

Codex MRLPs, which are primarily intended to apply in international trade, are derived from reviews conducted by the JMPR following:

(a) toxological assessment of the pesticide and its residue, and

(b) review of residue data from supervised trials and supervised uses including those reflecting national good agricultural practices. Data from supervised trials conducted at the highest nationally recommended, authorized, or registered uses are included in the review. In order to accommodate variations in national pest control requirements, Codex MRLPs take into account the higher levels shown to arise in such supervised trials, which are considered to represent effective pest control practices.

Consideration of the various dietary residue intake estimates and determinations both at the national and international level in comparison with the ADI, should indicate that foods complying with Codex MRLPs are safe for human consumption.

9. *Veterinary Drug* means any substance applied or administered to any food-producing animal, such as meat or milk-producing animals, poultry, fish or bees, whether used for therapeutic, prophylactic or diagnostic purposes or for modification of physiological functions or behavior.

10. *Residues of Veterinary Drugs* include the parent compounds and/or their metabolites in any edible portion of the animal product, and include residues of associated impurities of the veterinary drug concerned.

11. *Codex Maximum Limit for Residues of Veterinary Drugs (MRLVD)* is the maximum concentration of residue resulting from the use of a veterinary drug (expressed in mg/kg or µg/kg on a fresh weight basis) that is recommended by the Codex Alimentarius Commission to be legally permitted or recognized as acceptable in or on food.

An MRLVD is based on the type and amount of residue considered to be without any toxological hazard for human health as expressed by the Acceptable Daily Intake (ADI), or on the basis of a temporary ADI that utilizes an additional safety factor. An MRLVD also takes into account other relevant public health risks as well as food technological aspects.

When establishing an MRLVD, consideration is also given to residues that occur in food of plant origin and/or the environment. Furthermore, the MRLVD may be reduced to be consistent with good practices in the use of veterinary drugs and to the extent that practical and analytical methods are available.

12. *Good Practice in the Use of Veterinary Drugs* (GPVD) is the official recommended or authorized usage including withdrawal periods approved by national authorities, of veterinary drugs under practicable conditions.

13. *Processing Aid* means any substance or material, not including apparatus or utensils, not consumed as a food ingredient by itself, intentionally used in the processing of raw materials, foods or its ingredients, to fulfill a certain technological purpose during treatment or processing and which may result in the non-intentional but unavoidable presence of residues or derivatives in the final product.

Appendix 4—Uniform Procedure for the Elaboration of Codex Standards and Related Texts

Part 1

Steps 1, 2 and 3

(1) The Commission decides, taking into account the ''Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies,'' to elaborate a Worldwide Codex Standard and also decides which subsidiary body or other body should undertake the work. A decision to elaborate a Worldwide Codex Standard may also be taken by subsidiary bodies of the Commission in accordance with the above-mentioned criteria, subject to subsequent approval by the Commission or its Executive Committee at the earliest possible opportunity. In the case of Codex Regional Standards, the Commission shall base its decision on the proposal of the majority of members belonging to a given region or group of countries submitted at a session of the Codex Alimentarius Commission.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5 [1]

The proposed draft standard is submitted through the Secretariat to the Commission or to the Executive Committee with a view to its adoption as a draft standard. When making any decision at this step, the Commission or the Executive Committee will give due consideration to any comments that may be submitted by any of its members regarding the implications which the proposed draft standard or any provisions of the standard may have for their economic interests. In the case of Regional Standards, all members of the Commission may present their comments, take part in the debate and propose amendments, but only the majority of the Members of the region or group of countries concerned attending the session can decide to amend or adopt the draft. When making any decisions at this step, the members of the region or group of countries concerned will give due consideration to any comments that may be submitted by any of the members of the Commission regarding the implications which the proposed draft standard or any provisions of the proposed draft standard may have for their economic interests.

Step 6

The draft standard is sent by the Secretariat to all members and interested international organizations for comment on all aspects, including possible implications of the draft standard for their economic interests.

Step 7

The comments received are sent by the Secretariat to the subsidiary body or other body concerned, which has the power to consider such comments and amend the draft standard.

Step 8

The draft standard is submitted through the Secretariat to the Commission together with any written proposals received from members and interested international organizations for amendments at Step 8 with a view to its adoption as a Codex Standard. In the case of Regional standards, all members and interested international organizations may present their comments, take part in the debate and propose amendments but only the majority of members of the region or group of countries concerned attending the session can decide to amend and adopt the draft.

[1] Without prejudice to any decision that may be taken by the Commission at Step 5, the proposed draft standard may be sent by the Secretariat for government comment prior to its consideration at Step 5, when, in the opinion of the subsidiary body or other body concerned, the time between the relevant session of the Commission and the subsequent session of the subsidiary or other body concerned requires such actions in order to advance the work.

Appendix 4—Uniform Accelerated Procedure for the Elaboration of Codex Standards and Related Texts

Part 2

Steps 1, 2 and 3

(1) The Commission or the Executive Committee between Commission sessions, on the basis of a two-thirds majority of votes cast, taking into account the ''Criteria for the Establishment of Work Priorities and for the Establishment of Subsidiary Bodies'', shall identify those standards which shall be the subject of an accelerated elaboration process. The identification of such standards may also be made by subsidiary bodies of the Commission, on the basis of a two-thirds majority of votes cast, subject to confirmation at the earliest opportunity by the Commission or its Executive Committee by a two-thirds majority of votes cast.

(2) The Secretariat arranges for the preparation of a proposed draft standard. In the case of Maximum Limits for Residues of Pesticides or Veterinary Drugs, the Secretariat distributes the recommendations for maximum limits, when available from the Joint Meetings of the FAO Panel of Experts on Pesticide Residues in Food and the Environment and the WHO Panel of Experts on Pesticide Residues (JMPR), or the Joint FAO/WHO Expert Committee on Food Additives (JECFA). In the cases of milk and milk products or individual standards for cheeses, the Secretariat distributes the recommendations of the International Dairy Federation (IDF).

(3) The proposed draft standard is sent to Members of the Commission and interested international organizations for comment on all aspects including possible implications of the proposed draft standard for their economic interests. When standards are subject to an accelerated procedure, this fact shall be notified to the Members of the Commission and the interested international organizations.

Step 4

The comments received are sent by the Secretariat to the subsidiary body or other body concerned which has the power to consider such comments and to amend the proposed draft standard.

Step 5

In the case of standards identified as being subject to an accelerated elaboration procedure, the draft standard is submitted through the Secretariat to the Commission together with any written proposals received from Members and interested international organizations for amendments with a view to its adoption as a Codex standard. In taking any decision at this step, the Commission will give due consideration to any comments that may be submitted by any of its Members regarding the implications which the proposed draft standard or any provisions thereof may have for their economic interests.

Appendix 5—Nature of Codex Standards

Codex standards contain requirements for food aimed at ensuring for the consumer a sound, wholesome food product free from adulteration, and correctly labelled. A Codex standard for any food or foods should be drawn up in accordance with the Format for Codex Commodity Standards and contain, as appropriate, the criteria listed therein.

Format For Codex Commodity Standards Including Standards Elaborated Under the Code of Principles Concerning Milk and Milk Products

Introduction

The format is also intended for use as a guide by the subsidiary bodies of the Codex Alimentarius Commission in presenting their standards, with the object of achieving, as far as possible, a uniform presentation of commodity standards. The format also indicates the statements which should be included in standards as appropriate under the relevant headings of the standard. The sections of the format required to be completed for a standard are only those provisions that are appropriate to an international standard for the food in question.

Name of the Standard
Scope
Description
Essential Composition and Quality Factors
Food Additives
Contaminants
Hygiene
Weights and Measures
Labelling
Methods of Analysis and Sampling

Format for Codex Standards

Name of the Standard

The name of the standard should be clear and as concise as possible. It should usually be the common name by which the food covered by the standard is known or, if more than one food is dealt with in the standard, by a generic name covering them all. If a fully informative title is inordinately long, a subtitle could be added.

Scope

This section should contain a clear, concise statement as to the food or foods to which the standard is applicable unless the name of the standard clearly and concisely identifies the food or foods. A generic standard covering more than one specific product should clearly identify the specific products to which the standard applies.

Description

This section should contain a definition of the product or products with an indication, where appropriate, of the raw materials from which the product or products are derived and any necessary references to processes of manufacture. The description may also include references to types and styles of product and to type of pack. The description may also include additional definitions when these additional definitions are required to clarify the meaning of the standard.

Essential Composition and Quality Factors

This section should contain all quantitative and other requirements as to composition including, where necessary, identity characteristics, provisions on packing media and requirements as to compulsory and optional ingredients. It should also include quality factors which are essential for the designation, definition, or composition of the product concerned. Such factors could include the quality of the raw material, with the object of protecting the health of the consumer, provisions on taste, odor, color, and texture which may be apprehended by the senses, and basic quality criteria for the finished products, with the object of preventing fraud. This section may refer to tolerances for defects, such as blemishes or imperfect material, but this information should be contained in appendix to the standard or in another advisory text.

Food Additives

This section should contain the names of the additives permitted and, where appropriate, the maximum amount permitted in the food. It should be prepared in accordance with guidance given on pages 93 to 96 of the Codex Procedural Manual and may take the following form:

''The following provisions in respect of food additives and their specifications as contained in section _____ of the Codex Alimentarius are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.:

''*Name of additive, maximum level* (in percentage or mg/kg).''

Contaminants

(a) *Pesticide Residues:* This section should include, by reference, any levels for pesticide residues that have been established by the Codex Committee on Pesticide Residues for the product concerned.

(b) *Other Contaminants:* In addition, this section should contain the names of other contaminants and where appropriate the maximum level permitted in the food, and the text to appear in the standard may take the following form:

''The following provisions in respect of contaminants, other than pesticide residues, are subject to endorsement [have been endorsed] by the Codex Committee on Food Additives and Contaminants.''

A tabulation should then follow, viz.:

''*Name of contaminant, maximum level* (in percentage or mg/kg).''

Hygiene

Any specific mandatory hygiene provisions considered necessary should be included in this section. They should be prepared in accordance with the guidance given on pages 96 to 98 of the Codex Procedural Manual. Reference should also be made to applicable codes of hygienic practice. Any parts of such codes, including in particular any end-product specifications, should be set out in the standard, if it is considered necessary that they should be made mandatory. The following statement should also appear:

''The following provisions in respect of the food hygiene of the product are subject to endorsement [have been endorsed] by the Codex Committee on Food Hygiene.''

Weights and Measures

This section should include all provisions, other than labelling provisions, relating to

weights and measures, e.g. where appropriate, fill of container, weight, measure or count of units determined by an appropriate method of sampling and analysis. Weights and measures should be expressed in S.I. units. In the case of standards which include provisions for the sale of products in standardized amounts, e.g. multiples of 100 grams, S.I. units should be used, but this would not preclude additional statements in the standards of these standardized amounts in approximately similar amounts in other systems of weights and measures.

Labelling

This section should include all the labelling provisions contained in the standard and should be prepared in accordance with the guidance given on pages 91 to 93 of the Codex Procedural Manual. Provisions should be included by reference to the General Standard for the Labelling of Prepackaged Foods. The section may also contain provisions which are exemptions from, additions to, or which are necessary for the interpretation of the General Standard in respect of the product concerned provided that these can be justified fully. The following statement should also appear:

''The following provisions in respect of the labelling of this product are subject to endorsement [have been endorsed] by the Codex Committee on Food Labelling.''

Methods of Analysis and Sampling

This section should include, either specifically or by reference, all methods of analysis and sampling considered necessary and should be prepared in accordance with the guidance given on pages 99 to 102 of the Codex Procedural Manual. If two or more methods have been proved to be equivalent by the Codex Committee on Methods of Analysis and Sampling, these could be regarded as alternative and included in this section either specifically or by reference. The following statement should also appear:

''The methods of analysis and sampling described hereunder are to be endorsed [have been endorsed] by the Codex Committee on Methods of Analysis and Sampling.''

[FR Doc. 97–13410 Filed 5–22–97; 8:45 am]
BILLING CODE 3410–DM–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 23, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On November 1, 22, December 20, 1996, February 14, March 7, 28 and April 4, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 56511, 59401, 67306, 62 FR 6946, 10519, 14883 and 16135) of proposed additions to the Procurement List.

The Following Comments Pertain to the Envelope, Translucent (7530–01–354–3983+2)

Comments were received from one of two current contractors for these envelopes. The contractor indicated that it has been a longtime supplier of the envelopes, and that production of them for the Government is the anchor business of one department of the plant where the contractor produces the envelopes. Without this anchor business, the contractor speculated that the department would be closed and its employees discharged. The contractor also noted that it recently modified a production machine to make the envelopes in a more efficient manner, and that these efficiencies and the contractor's investment would be lost if the envelopes are added to the Procurement List.

The contractor is a very large corporation, and the impact on its sales of losing this business is insignificant. The Committee is not adding the total Government requirement for one of the three types of these envelopes to the Procurement List, so some of the business will remain available for competitive procurement from this contractor. For this reason, the likelihood of the contractor's department being closed is lessened. Given the size of the contractor's operations, the Committee considers it unlikely that any affected employees could not be employed elsewhere in the plant's operation. The contractor will be able to use its modified equipment to produce these envelopes for its commercial business and the Government business left open to competition, so the Procurement List addition will not cause the loss of this investment. Moreover, if the modified equipment reduces production costs and those savings are reflected in the contractor's prices to the Government, the Committee's pricing system will assure the similar savings are reflected in the prices charged the Government by the nonprofit agency.

The Following Comments Pertain to Folder, Zebley Claim (7530–00–000–0430/2)

Comments were received from the current contractor in response to a request for sales data. A Member of Congress also wrote to request a review of the contractor's contentions. The contractor claimed that the Committee's Procurement List additions have disproportionately affected the company, that the company has lost millions of dollars in sales and many jobs as a result of the additions, and that the company has not fully recovered from the losses.

The contract value for these zebley claim folders represents less than one percent of the contractor's 1996 annual sales. The Committee last added an item to the Procurement List where the contractor was the current contractor in January 1994. The contractor's sales have continued to grow significantly since that time. The contractor did not provide any details on the jobs it claims were lost because of Procurement List additions. Consequently, the Committee has concluded that the current addition will not have a severe adverse impact on the contractor or its work force.

The Following Comments Pertain to Janitorial/Custodial, Mare Island Naval Shipyard, Vallejo, CA

Comments were received from the previous contractor for the service when it submitted its sales data to the Committee. The contractor noted that it has been greatly affected by base closures, as indicated by its net income figures for the past three years. Removal of this service from competition, according to the contractor, would hinder its ability to stay in business while making the transition from dependence on Government work.

Despite the reduction in the contractor's business in recent years, this service represents only a small percentage of the contractor's remaining total sales. As a result, the Committee does not believe the adverse impact will be severe, even when the Committee's 1994 action in adding to the Procurement List an even smaller contract where the firm was the current contractor is taken into account. While the contractor's sales have declined since 1994, the firm has not shown that it will inevitably suffer grievous financial harm as a result of the Committee's action, which will create jobs for people with severe disabilities who would likely otherwise be unemployed, and will restore

employment opportunities at a nonprofit agency which lost all of its contracts under the Committee's program due to earlier Government downsizing.

The Following Comments Pertain to Laundry Service, Basewide, USAF Academy, Colorado Springs, CO

Comments were received from the current contractor for the laundry service. The contractor claimed that addition of the service would create a severe financial hardship for the company as the loss would be hard to recoup in the local market, where prices have been severely depressed due to competition from large firms located in a nearby large metropolitan area. The contractor indicated that it is still recovering from a 1992 loss of another contract at the same Government installation to a large company. The contractor also noted that several years ago it reorganized its operation to serve the local Government market, and as a result Government contracts have become a large part of its business.

The Committee's principal indicator of adverse impact on a contractor is the percentage of the contractor's sales which would be lost if a commodity or service were added to the Procurement List. In this case, the percentage is well below the level that the Committee normally considers to be severe adverse impact. Even if the contractor's dependence on the local Government market and possible residual effects of the 1992 loss are considered, the Committee does not believe that the impact of this Procurement List addition on the contractor rises to the level of severe adverse impact. The contractor's decision to concentrate on the local Government market was a business decision for which the contractor must be prepared to bear the consequences. The contractor has not demonstrated that loss of this contract will specifically harm the company in an irreparable way. As the Procurement List addition will create jobs for people with severe disabilities, a group with an unemployment rate over 65 percent, the Committee feels that any potential ill effects for the contractor are outweighed by this creation of jobs.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodities and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Office and Miscellaneous Supplies (Requirements for the Defense Supply Service—Washington for the following locations: Park Center #4, 4501 Ford Avenue, Alexandria, Virginia; Skyline #3, 5109 Leesburg Pike, Alexandria, Virginia; Rosslyn, 1401 Wilson Boulevard, Arlington, Virginia)

Envelope, Translucent, 7530–01–354–2327, 7530–01–354–3982 (Fort Worth, TX depot only), 7530–01–354–3983

Folder, Zebley Claim, 7530–00–000–0430, 7530–00–000–0432

Scourer, Copper, M.R. 505

Bath Puff, M.R. 566

Master Baster, M.R. 802

Towels, Seasonal, M.R. 1009

Services

Grounds Maintenance, Basewide, Lackland Air Force Base, Texas

Grounds Maintenance, U.S. Army Reserve Center, Parkersburg, West Virginia

Janitorial/Custodial, Mare Island Naval Shipyard, Vallejo, California

Laundry Service, Basewide, United States Air Force Academy, Colorado Springs, Colorado

Laundry Service, U.S. Air Force Academy, Cadet Dining Hall, Colorado Springs, Colorado

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–13629 Filed 5–22–97; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 23, 1997.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodity and services.

3. The action will result in authorizing small entities to furnish the

commodity and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodity and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodity

Head Lantern, 6230–01–387–1399, NPA: The Greater Hartford Easter Seal Rehabilitation Center, Inc. Windsor, Connecticut

Services

Grounds Maintenance, Wheeler Army Airfield (improved grounds and landscaped areas), Oahu, Hawaii, NPA: Lanakila Rehabilitation Center Honolulu, Hawaii

Grounds Maintenance, Anthony F. Eafrati USARC, Weirton, West Virginia, NPA: Hancock County Sheltered Workshop Weirton, West Virginia

Library Services, Basewide, Tinker Air Force Base, Oklahoma, NPA: Oklahoma County Council for Mentally Retarded Citizens, Inc. Oklahoma City, Oklahoma

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–13630 Filed 5–22–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

Census 2000 Dress Rehearsal

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before July 22, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Robert W. Marx, Bureau of the Census, DMD Room 2031 Building 3, Washington, DC 20233–0001, telephone (301) 457–2131.

SUPPLEMENTARY INFORMATION:

I. Abstract

The objective of the Census 2000 Dress Rehearsal is to provide an operational demonstration of procedures and systems planned for use in Census 2000. From the dress rehearsal we will produce prototype redistricting products (Public Law 94–171) as well as other 100 percent and sample data products. The dress rehearsal will include some procedures and systems that have not been demonstrated operationally in any prior field or processing activity because they are needed to meet new requirements.

The dress rehearsal is a full-scale demonstration of all data collection and processing systems planned for Census 2000. New procedures being considered for Census 2000, such as user friendly forms easily available in many locations, multiple contacts with each household, digital capture of forms, and statistical estimation techniques have all been tested individually in earlier operations. The dress rehearsal will provide a census-like environment to demonstrate, simultaneously, the efficacy of these procedures planned for use in Census 2000.

The Census Bureau also plans to have an unprecedented partnership effort for the Census 2000 Dress Rehearsal and Census 2000. The Bureau plans to work closely with state, local, and tribal governments, community organizations, and others to conduct a wide range of census activities.

The key to any dress rehearsal is making it as much like the real thing as possible. The three dress rehearsal sites were chosen for just that reason. These sites will allow for a thorough demonstration of our procedures and methods for Census 2000.

Sites and Features

Sacramento, California

This site consists of the city of Sacramento, which had a resident population of 369,365 and 153,362 total housing units according to the 1990 census. The Census Bureau's official 1994 population estimate showed an increase in the city's population to 373,964.

Sacramento contains a great diversity among the racial and ethnic groups, including significant African American, Hispanic, and Asian and Pacific Islander populations. This will allow us to demonstrate Census 2000 methods designed to reduce the differential in the count and produce an accurate census for all components of the population. Sacramento is a primary media market, which will allow us to implement a prototype of the Census 2000 advertising program. The site represents the size of typical urban Local Census Offices (LCOs) planned for Census 2000 and will allow us to understand the effectiveness of census operations and systems in this environment.

Columbia, South Carolina

This site contains the city of Columbia in its entirety, including a small portion in Lexington County, the town of Irmo in its entirety, which is in Richland and Lexington Counties; and the following contiguous counties in north central South Carolina:

Chester, Chesterfield, Darlington, Fairfield, Kershaw, Lancaster, Lee, Marlboro, Newberry, Richland, Union.

The 1990 census found that the 11 counties comprising the Columbia site had a resident population of 650,035 and 251,874 total housing units. Our 1995 official population estimate showed an increase in the population of the 11 counties to 666,534.

This site exhibits the characteristics of a small city-suburban-rural area, and contains living situations and socioeconomic characteristics that we do not find in a predominately urban environment. The Columbia, South Carolina site provides our only opportunity to demonstrate procedures for developing our address list in an area containing both city style (house number/street name) and non-city style (rural route and box number) addresses. The site offers a mix of difficult and presumably cooperative areas in a suburban and rural setting. In addition, the relatively high proportion of African Americans in this site allows a demonstration of methods designed to reduce the differential in the count for this population group and produce an accurate census for all components of the population.

Menominee American Indian Reservation, Wisconsin

The Menominee American Indian Reservation is located in northeastern Wisconsin. Based on the 1990 census, the Menominee American Indian Reservation had a resident population of 3,397 and 1,176 total housing units. Menominee County, which includes the entirety of the reservation, had a 1990 resident population of 3,890 and 1,742 housing units. (The Menominee American Indian Reservation and Menominee County share the same outer boundary, but the reservation does not include all territory within the county; the dress rehearsal will include the entire county, however.) The Census Bureau's 1995 official population estimate for Menominee County showed an increase in the county's population to 4,601.

Conducting the dress rehearsal on an American Indian reservation allows the Census Bureau to demonstrate Census 2000 methodologies for reducing the differential in the count among this component of the population. The Menominee American Indian Reservation has a high proportion of American Indians living on the reservation and was recommended by the Census Advisory Committee on the American Indian and Alaska Native Populations.

II. Method of Collection

The Census 2000 Dress Rehearsal will conduct a complete census in the three dress rehearsal sites. In areas containing city style addresses, we will mail the following independent mailing pieces: an advance letter, an original questionnaire with postage-paid return envelope, a reminder card, and a replacement questionnaire with postage-paid return envelope. In areas containing non-city style addresses, enumerators will deliver a questionnaire to each household, to be returned in a postage-paid envelope. Households in these areas also will receive an advance letter before questionnaire delivery and a reminder card following questionnaire delivery. In all areas of the sites, we will visit and collect information from a sample of households that did not return a questionnaire by mail or report their census information by other means, such as by telephone. We will also conduct a reinterview of a small portion of respondents during nonresponse follow-up.

III. Data

OMB Number: Not available.

Form Numbers: Short Form: DX–1, DX–1(S).

Long Form: DX–2, DX–2(S).

Enumerator Forms: DX–1E, DX–2E.

Household Follow-up: DX–1(HF).

Be Counted Forms: DX–10, DX–10(S), DX–10(C), DX–10(M), DX–10(V), DX–10(T).

Individual Census Questionnaires: DX–15A, DX–15B, DX–20A, DX–20A(S), DX–20B, DX–20B(S).

Military Census Report: DX–21.

Letters/Cards/Notices: DX–5(L), DX–5(L)(S), DX–9, DX–1E(S), DX–2E(S), DX–1F, DX–26, DX–28, DX–31.

Reinterview: DX–806.

Type of Review: Regular Submission.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 450,000 households (approx.) (Short Form: 83% Long Form: 17%) Reinterview: 3,000 households.

Estimated Time Per Response: Short Form: 10 minutes.

Long Form: 38 minutes.

Reinterview: 5 minutes.

Estimated Total Annual Burden Hours:

Short Form: 62,250 hours.

Long Form: 48,450 hours.

Reinterview: 250 hours.

Total: 110,950 hours.

Estimated Total Annual Cost: The only cost to respondents is that of their time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C. Sections 141 and 193.

IV. Request for Comments

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

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–13547 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Information Systems Technical Advisory Committee; Notice of Closed Meeting

A meeting of the Information Systems Technical Advisory Committee (ISTAC) will be held June 17 & 18, 1997, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M–2, 14th Street between Pennsylvania Avenue and Constitution Avenue, NW., Washington, DC. The ISTAC advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to information systems equipment and technology.

The Committee will meet only in Executive Session to discuss matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on October 10, 1995, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b (c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information, contact Lee Ann Carpenter on (202) 482–2583.

Dated: May 20, 1997.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 97–13617 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 885]

Expansion of Foreign Trade Zone 168 Dallas/Fort Worth, Texas, Area Fort Worth, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Dallas/Fort Worth Maquila Trade Development Corporation, grantee of Foreign-Trade Zone No. 168, for authority to expand its general-purpose zone to include a site at the Mercantile Center, Fort Worth (Tarrant County), Texas, within the Dallas/Fort Worth Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on April 3, 1996 (Docket 27–96, 61 FR 17875, 4/23/96);

Whereas notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now Therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 8th day of May 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 97–13665 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 886]

Expansion of Foreign-Trade Zone 168 Dallas/Fort Worth, Texas, Area Carrollton, TX

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Dallas/Fort Worth Maquila Trade Development Corporation, grantee of Foreign-Trade Zone No. 168, for authority to expand its general-purpose zone to include a site at the Frankford Trade Center, Carrollton (Denton County), Texas, adjacent to the Dallas/Fort Worth Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on May 30, 1996 (Docket 47–96, 61 FR 29531, 6/11/96);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 8th day of May 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 97–13666 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 889]

Expansion of Foreign-Trade Zone 165, Midland, Texas, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the City of Midland, Texas, grantee of Foreign-Trade Zone No. 165, for authority to expand its general-purpose zone to include a site at the Pecos County Airport Industrial Park, Fort Stockton (Pecos County), Texas, adjacent to the Midland International Airport (a U.S. Customs user-fee airport) filed by the Foreign-Trade Zones (FTZ) Board on May 29, 1996 (Docket 46–96, 61 FR 29530, 6/11/96);

Whereas, notice inviting public comment was given in the **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 13th day of May 1997.

Jeffrey P. Bialos,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 97–13668 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 40–97]

Foreign-Trade Zone 137—Washington Dulles International Airport, Virginia; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by Washington Dulles Foreign Trade Zone, Inc., grantee of FTZ 137, requesting authority to expand its zone in Loudoun County, Virginia, within the Washington, DC, 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 May 8, 1997.

FTZ 137 was approved on April 17, 1987 (Board Order 350, 52 F.R. 13489, 4/23/87). The zone project currently consists of the following sites (250 acres): *Site 1*—within the Washington Dulles International Airport complex, Fairfax and Loudoun Counties; and, *Site 2*—warehouse facility, 110 Terminal Drive, Sterling.

This application is requesting authority to expand the general-purpose zone to include an additional site (proposed *Site 3*—161 acres)—located near the intersection of Routes 606 and 621, Loudoun County, two miles west of Washington Dulles International Airport. The site is being developed as an industrial park by Hazout, S.A., the owner of the property. No 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 22, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to August 6, 1997).

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

Trade Zone Services Corporation, 600 West Service Road, Suite 307A, Washington Dulles International Airport, Washington, DC 20041

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 13, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–13664 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 887]

Expansion of Foreign-Trade Zone 20 Hampton Roads, Virginia, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Virginia Port Authority, grantee of Foreign-Trade Zone 20, for authority to expand Foreign-Trade Zone 20 to include ten additional sites in the Hampton Roads and Front Royal, Virginia, areas, was filed by the Board on April 15, 1996 (FTZ Docket 30–96, 61 FR 18380, 4/25/97); and,

Whereas, notice inviting public comment was given in **Federal Register** and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, Therefore, the Board hereby orders:

The application to expand FTZ 20 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 8th day of May 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 97–13667 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–813]

Notice of Court Decision: Canned Pineapple Fruit From Thailand

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

SUMMARY: On March 18, 1997, the United States Court of International Trade (CIT) affirmed the Department of Commerce's results of redetermination pursuant to remand of the final determination of sales at less than fair value in the investigation of canned pineapple fruit from Thailand. *Thai Public Pineapple Co.* v. *United States,* Slip Op. 97–32.

EFFECTIVE DATE: May 23, 1997.

FOR FURTHER INFORMATION CONTACT: Gabriel Adler at (202) 482–1442 or Kris Campbell at (202) 482–3813, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: On June 5, 1995, the Department of Commerce (the Department) published its final affirmative antidumping determination (final determination) in the less-than-fair-value (LTFV) investigation of canned pineapple fruit from Thailand. 60 FR 36775. On July 18, 1995, the Department published an amended final determination and antidumping duty order on canned pineapple fruit from Thailand. 60 FR 36775. In the final determination, for three Thai respondents, the Department used the pineapple fruit cost allocations from each company's normal accounting system because each company's allocation methodology was consistent with Thai generally accepted accounting principles (''GAAP'') and reasonably reflected the actual production costs incurred during the period of investigation. For the fourth respondent, Dole, the Department relied upon an average of the fruit cost allocation percentages normally used by the other three because, although Dole's allocation methodology was consistent with Thai GAAP, it did not reasonably reflect the costs associated with production of canned pineapple fruit (''CPF''). The Department did not use the alternative fruit cost methodologies submitted by respondents, which were based on the relative weight of fresh pineapple fruit in CPF and other products.

The respondents sued, arguing, inter alia, that the Court of Appeals for the Federal Circuit's (CAFC) decision in *IPSCO, Inc.* v. *United States,* 965 F.2d 1056 (Fed. Cir. 1992) (''*IPSCO*''), mandates the use of a weight-based cost allocation methodology.

On November 8, 1996, the U.S. Court of International Trade (CIT) remanded the case to the Department with instructions either to accept the weight-based methodologies for allocation of costs submitted by the respondents, or to rely on another ''non-output price-based cost allocation methodology.'' Slip Op. 96–182. The CIT held that the Department's reliance on the allocations of costs in the respondents' normal accounting systems was ''arbitrary, capricious, not based on substantial evidence and contrary to law'' because, according to the CIT, these allocations were ''unreliable and distortive of actual costs.'' *Id.* at 19. The CIT then held that the CAFC in *IPSCO* had held that only a weight-based allocation of costs is permitted under the antidumping statute. *Id.* at 28–29.

On February 4, 1997, the Department filed its remand with the CIT. In the remand, the Department stated that although it respectfully disagreed with the CIT's decision, it had nonetheless complied with the CIT's instructions and had revised its determination to reflect the weight-based fruit cost allocation methodologies submitted by the respondents. On March 18, 1997, the CIT affirmed the Department's remand determination. Slip. Op. 97–32.

We note that in its decision in *Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990), the CAFC held that, pursuant to 19 U.S.C. § 1516a(e), the Department must publish notice of a court decision which is not ''in harmony'' with a Department determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. The CIT opinions in *Thai Public Pineapple Co.* v. *United States* on November 8, 1996, and March 18, 1997, constitute a decision not in harmony with the Department's final determination. Publication of this notice fulfills the ''*Timken*'' requirement.

Absent an appeal, or, if appealed, upon a ''conclusive'' court decision affirming the CIT's opinion, the

Department will amend the amended final LTFV determination to reflect the margins in the Department's redetermination on remand filed with the CIT on February 4, 1997. Liquidation of entries continues to be suspended pending the expiration of the period of appeal, or, if the CIT's decision is appealed, pending a ''conclusive'' court decision, or, where applicable, pending the final results of the first administrative review.

Dated: May 14, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–13669 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–028]

Roller Chain, Other Than Bicycle, From Japan: Termination of Antidumping Duty Administrative Reviews

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

ACTION: Notice of termination of antidumping duty administrative reviews.

SUMMARY: In response to requests made by the American Chain Association (petitioner), the Department of Commerce (the Department) initiated reviews for various respondents in the antidumping proceeding of roller chain, other than bicycle, for the periods April 1, 1981 through March 31, 1983; April 1, 1983 through March 31, 1984; April 1, 1984 through March 31, 1985; April 1, 1985 through March 31, 1986; April 1, 1987 through March 31, 1988; April 1, 1988 through March 31, 1989; April 1, 1989 through March 31, 1990; and April 1, 1991 through March 31, 1992. On May 6, 1997, petitioner filed withdrawals of its review requests with regard to certain respondents for which the above-cited review results are still pending. Because there were no requests for review from the respondents affected by this termination notice, we are now terminating these reviews.

EFFECTIVE DATE: May 23, 1997.

FOR FURTHER INFORMATION CONTACT: Matthew Blaskovich, AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–5831.

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1973, the Department published in the **Federal Register** (38 FR 9226) the antidumping duty finding on roller chain, other than bicycle, from Japan. In accordance with 19 CFR 353.22(c), we published in the **Federal Register** notices of initiation of administrative reviews for the periods April 1, 1981 through March 31, 1983 (51 FR 2747, January 21, 1986); April 1, 1983 through March 31, 1984 and April 1, 1984 through March 31, 1985 (51 FR 24883, July 9, 1986); April 1, 1985 through March 31, 1986 (51 FR 18475, May 20, 1986); April 1, 1987 through March 31, 1988 (53 FR 18324, May 23, 1988); April 1, 1988 through March 31, 1989 (54 FR 22465, May 24, 1989); April 1, 1989 through March 31, 1990 55 FR 22366, June 1, 1990); and April 1, 1991 through March 31, 1992 (57 FR 21769, May 22, 1992). Although the Department has issued final results for most of the companies reviewed for these periods, reviews are still incomplete with regard to the following companies: Daido Kogyo Co., Ltd., Enuma Chain Manufacturing Co., Ltd. or Daido Tsusho Co., Ltd. (formerly known as Meisei Trading Co., Ltd.), and Izumi Chain. On May 6, 1997, petitioner withdrew its requests for review for the above-cited review periods, with the exception of the 1981 through 1983 period, regarding Daido Kogyo Co., Ltd., Enuma Chain Manufacturing Co., Ltd. or Daido Tsusho Co., Ltd. In addition, on May 16, 1997, petitioner withdrew its request for review for the period October 1, 1982 through March 31, 1983 for the company Izumi Chain. There were no requests for review from other interested parties, and completion of these reviews would place an administrative burden on the Department. Therefore, although petitioner's request was not filed in a timely manner, in accordance with CFR 353.22(a)(5), the Department finds it reasonable to extend the time limit for accepting the withdrawal request. We are, therefore terminating the above-cited administrative reviews for the companies Daido Kogyo Co., Ltd., Enuma Chain Manufacturing Co., Ltd. or Daido Tsusho Co., Ltd., and Izumi Chain.

This termination notice is in accordance with section 751(a)(1) of the Act and 19 CFR 353.22(a)(5).

Dated: May 19, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–13663 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Business Development Mission to Belfast and Londonderry (Derry), Northern Ireland, October 13–17, 1997

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice serves to inform the public of a trade and investment mission to Belfast and Londonderry, Northern Ireland to be held October 13–17, 1997; provides interested U.S. firms with the opportunity to submit an application to participate in the mission; sets forth objectives, procedures, and selection review criteria for the mission; and requests applications. The recruitment and selection of private sector participants in the mission will be conducted in accordance with the Statement of Policy Governing Department of Commerce Overseas Trade Missions announced by Secretary Daley on March 3, 1997 and reflected herein.

DATES: Applications should be received by July 30, 1997. The Mission is scheduled for October 13–17, 1997. Applications received after that date will be considered only if space and scheduling constraints permit.

ADDRESSES: Requests for and submission of applications: Applications are available from Virginia Manuel, Senior Advisor and Project Manager, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Room 3868, telephone: 202–482–5853 and facsimile: 202–482–5444, Washington, D.C. 20230. An original and two copies of the required application materials should be sent to the Project Manager at the above address. Applications sent by facsimile must be immediately followed by submission of the original application.

SUPPLEMENTARY INFORMATION:

Mission Description

The U.S. Department of Commerce, International Trade Administration (ITA) will organize a business development mission to Northern Ireland (NI), October 13–17, 1997. The delegation, which will be led by a senior Departmental official, will be comprised

of 10–15 U.S. company executives from three industry sectors: electronics, environmental technologies, and medical technologies.

The business purpose of the mission is the promotion of U.S. trade and investment interests in Northern Ireland, and in the European Union. The present state of the Northern Ireland economy and the ready access to the $7.8 trillion European market provides strong and growing markets for U.S. products and services.

The itinerary of the mission will include stops in Belfast and Londonderry (Derry), the largest and second largest cities, respectively, and the two major industrial centers in Northern Ireland.

The private sector participants will be offered: (1) One-on-one pre-screened business appointments; (2) expert market briefings with senior U.K. (Northern Ireland) Government officials and development authorities; (3) site visits to U.S. companies operating in Northern Ireland; and, (4) logistical support, transportation in Belfast and Londonderry, and ground tours of the two cities.

Mission Goals

The goals of the mission are to increase U.S. exports and to promote trade and investment in Northern Ireland through strategic alliances, joint ventures, and other partnerships between U.S. and Northern Ireland companies.

Participation Criteria

A maximum of 15 companies will be selected to participate in the mission. Participants must fall into one of the three sectors of environmental technologies, medical technologies, and electronics identified for the mission, and must be U.S. companies providing U.S. origin goods and/or services that are export-ready. Participant executives ideally will be at the level of president or vice president. Each firm participating in this mission will have been recruited by U.S. DOC in Washington and reviewed by our U.S. Embassy in London, our commercial representative in Belfast, and Northern Ireland's Industrial Development Board (IDB) for: (1) Consistency of the company's goals with the scope, nature and desired outcome of the mission (as described herein); (2) relevance of the company's sector to the mission; (3) past, present, or prospective business activity in the U.K., Ireland, or Europe; (4) diversity of company size, type, location, demographics and traditional under-representation in business; and, (5) timeliness of completed application by company (including payment of participation fee).

An applicant's partisan political activities (including political contributions) are entirely irrelevant to selection of mission participants.

Endorsements/Referrals

Third parties may nominate or endorse potential applicants, but companies that are nominated or endorsed must themselves submit an application in order to be eligible for consideration. Referrals from political organizations will not be considered.

Costs

The fee to participate in the mission is $1800. The participation fee does not cover the participant's travel, lodging or other personal expenses.

Authority: 15 U.S.C. 1512.

Dated: May 19, 1997.

Franklin Vargo,

Acting Assistant Secretary for Market Access and Compliance, International Trade Administration.

[FR Doc. 97–13662 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Public Meeting To Gather Information for an Assessment of the State-of-Knowledge of the Properties of Possible SF_6 Replacement Gases

AGENCY: National Institute of Standards and Technology, Commerce Department.

ACTION: Notice of meeting.

SUMMARY: Notice of public meeting to gather information for an assessment of the state-of-knowledge of the properties of possible sulfur hexafluoride (SF_6) replacement gases.

DATES: The meeting will be on Wednesday, June 18, 1997 from 9:00 am until 1:00 pm.

ADDRESSES: The meeting will be held in Lecture Room B at the National Institute of Standards and Technology, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: James Olthoff, 301–975–2431.

SUPPLEMENTARY INFORMATION: The National Institute of Standards and Technology is in the process of evaluating available data on the properties of dielectric gases and mixtures, in order to assess the potential use of these gases or mixtures in high-voltage applications which currently utilize sulfur hexafluoride. The end purpose of this investigation is to provide a thorough assessment of the state-of-knowledge of the properties of possible SF_6-replacement gases. This report is intended for use by high voltage equipment manufacturers, electric utilities, and the Environmental Protection Agency in making decisions about the future use of SF_6 by the electric-power industry. The purpose of the meeting is to gather information from informed individuals from within equipment manufacturing companies, electric utilities, gas companies, and academia. Four major areas will be discussed during the meeting: (1) Possible ''drop-in'' gases or mixtures that could substitute for SF_6 in existing equipment; (2) the identification of gases or gas mixtures that may be likely candidates for use in further designs of high voltage equipment; (3) the identification of gases which have potentially useful dielectric properties, but for which insufficient data is currently available to allow a decision as to their practical use; and (4) areas of research required for the development of environmentally acceptable alternatives to pure SF_6 use. A draft copy of the NIST report will be provided to participants, upon request. The tentative meeting schedule is as follows.

9:00 a.m. Introduction
9:20 a.m. Possible universal application ''drop-in'' gas mixtures
10:00 a.m. Likely gases for arc interruption and high voltage insulation
11:00 a.m. Future Research and Development: Continue search for substitutes
11:40 a.m. Comments, input, further discussion

Input from the discussions may be incorporated into the NIST final report prior to its publication.

Dated: May 16, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–13565 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Approval of the Ohio Coastal Management Program

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of the National Oceanic and Atmospheric Administration,

National Ocean Service's approval of the Ohio Coastal Management Program pursuant to the Coastal Zone Management Act of 1972, as amended 16 U.S.C. 1451 *et seq.*

SUMMARY: Notice is hereby given that the National Oceanic and Atmospheric Administration (NOAA) approved the Ohio Coastal Management Program (OCMP) on May 16, 1997, pursuant to the provisions of section 306 of the Federal Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1455 (CZMA). The OCMP is described in the Ohio Coastal Management Program and Final Environmental Impact Statement (P/FEIS) published on April 11, 1997.

Ohio is the 31st state to receive Federal approval of its coastal management program. Ohio submitted a proposed coastal program to NOAA in 1996. Upon reaching a preliminary decision that the program met the requirements of the CZMA, and in order to meet its responsibilities under the National Environmental Policy Act, NOAA published the Ohio Coastal Management Program and Draft Environmental Impact Statement (P/DEIS) for public review on September 6, 1996. NOAA published the P/FEIS including public comments on the P/DEIS and responses to those comments on April 11, 1997. NOAA has also fulfilled its responsibilities under the Endangered Species Act through consultations with the U.S. Fish and Wildlife Service.

The OCMP is the culmination of several years of development by the State of Ohio, interest groups, the general public, Federal agencies, and in consultation with NOAA. The OCMP consists of numerous state policies on diverse coastal management issues which are prescribed by statute and other legal mechanisms and made enforceable under state law. The OCMP will improve the decision making process for determining appropriate coastal land and water uses in light of resource consideration and increase public awareness of coastal resources and processes. The OCMP will increase long term protection of the state's coastal resources, while providing for sustainable economic development.

NOAA approval of the OCMP makes the state eligible for federal financial assistance for program administration and enhancement under sections 306, 306A, 308 and 309 of the CZMA (16 U.S.C. Secs. 1455, 1455a, 1456a, and 1456b). Ohio has submitted an application for $804,000 in FY 1997 Federal CZMA funds which are available to Ohio. These funds will generally be used to assist the state in administering the various state authorities included in the OCMP, as well as be used to fund local management efforts.

NOAA approval of the OCMP also makes operational, as of the date of this **Federal Register** notice, the CZMA federal consistency requirement with respect to the OCMP (16 U.S.C. 1456; 15 CFR part 930). Therefore, as of today, direct federal activities occurring within or outside the Ohio Coastal Zone must be consistent to the maximum extent practicable with the enforceable policies of the OCMP. In addition, activities within or outside the Ohio Coastal Zone requiring a federal license or permit listed in the P/FEIS, and federal financial assistance to state agencies and local governments that are reasonably likely to affect any land or water use or natural resource of the Ohio Coastal Zone must be consistent with the enforceable policies of the OCMP.

Chapter 5 of the P/FEIS identifies the enforceable policies of the Ohio program. Chapter 7 of the P/FEIS identifies federally licensed or permitted activities subject to the federal consistency requirements. Chapters 4 and 7 and Appendix Q of the P/FEIS, as well as the CZMA regulations at 15 CFR part 930, provide specific procedures to be used in the Federal/State coordination process.

ADDRESSES: For further information please contact Diana Olinger at (301) 713–3113, ext. 168; or via fax at (301) 713–4009; or via the Internet at <dolinger@coasts.nos.noaa.gov>.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: May 19, 1997.

David L. Evans,

Deputy Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

[FR Doc. 97–13553 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Tuesday, June 10, 1997. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Director of the National Institute of Standards and Technology. The purpose of this meeting is to begin the review process of the 1997 Award applicants to be recommended as Award winners. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene June 10, 1997, at 8:00 a.m. and adjourn at 2:00 p.m. on June 10, 1997. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 10, 1997, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, Public Law 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: May 16, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–13566 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 050597D]

Marine Mammals; Permit No. 963 (P532B)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Scientific research permit amendment.

SUMMARY: Notice is hereby given that a request for amendment of scientific research permit no. 963 submitted by Dr. Randall W. Davis, Department of Marine Biology, Texas A&M University, P.O. Box 1675, Galveston, TX 77553–1675 [Co-investigators: Dr. Michael A. Castellini, and Dr. Terrie M. Williams] has been granted to increase the number of Steller sea lion pups and add adult male sea lions to the take authority.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221).

SUPPLEMENTARY INFORMATION: On March 13, 1997, notice was published in the **Federal Register** (62 FR 11846) that an amendment of permit no. 963, issued (60 FR 31450), had been requested by the above-named organization. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Issuance of this amendment, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: May 15, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–13675 Filed 5–22–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 62 FR 19311.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m., Tuesday, May 27, 1997.

CHANGES IN THE MEETING: The Commodity Futures Trading Commission has changed the closed meeting to discuss Adjudicatory Matters to 2:00 p.m., Thursday, May 29, 1997.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–13772 Filed 5–21–97; 11:28 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Proposed Collection; Comment Request

AGENCY: Air Force Medical Operations Agency (AFMOA)–DOD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Air Force Medical Operations Agency, Family Advocacy Division, announces the proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 22, 1997.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to HQ AFMOA/SGOF, 8901 18th Street, Suite 1, Brooks Air Force Base TX 78235–5217, ATTN: Mr. George Fetterman.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call the Family Advocacy Program, (210) 536–2032.

Title, Associated Form, and OMB Number: Request for Family Member Educational Information, Air Force Form 1466A, OMB Number 0701–0122.

Needs and Uses: The information collection requirement is necessary to evaluate family members' needs for any special medical or educational services; to assist in making CONUS/OCONUS assignment recommendations; and to code and re-enroll eligible family members into the Exceptional Family Member Program.

Affected Public: Individuals or households; state or local governments; federal agencies or employees.

Annual Burden Hours: 9625.

Number of Respondents: 38,500.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: Respondents are dependents and students who may require medical or education services. The form is used to obtain family information needed to evaluate and document the need of military family members for special medical and educational services. Information is collected prior to new assignments. Data is needed to ensure proper medical and educational needs are available at new assignments. Failure to respond could preclude processing assignment.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–13556 Filed 5–22–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Prepare an Environmental Impact Statement for Minuteman III System Dismantlement Based out of Grand Forks Air Force Base, ND

In accordance with the 1995 Base Closure and Realignment Commission recommendations, the United States Air Force Space Command (AFSPC) is issuing this notice to advise the public that the Air Force intends to prepare an Environmental Impact Statement (EIS) to assess potential environmental impacts of the dismantlement of the Minuteman (MM) III missile system based at Grand Forks Air Force Base, North Dakota.

Scoping meetings are planned in the towns of Langdon and Cooperstown,

North Dakota for the purpose of identifying environmental concerns that need to be addressed in the EIS. Notice of the times and locations of the meetings will be made available to the community using the local news media. The schedule for the scoping meetings is as follows:

Date	Location	Time
June 10, 1997	Cavalier County Courthouse, Meeting Rm, 901 3rd Street Langdon, ND 58249	7:00–10:00 p.m.
June 11, 1997	Griggs County Central High School, 12th & Foster, Cooperstown, ND 58425	7:00–10:00 p.m.

The purpose of these meetings is to identify the environmental issues and concerns that should be analyzed in developing the EIS. Public input and comments are solicited concerning the environmental aspects of the proposed program. To assure the Air Force will have sufficient time to fully consider public inputs on issues, written comments should be mailed to ensure receipt no later than July 15, 1997.

Please direct written comments or requests for further information concerning the MM III system dismantlement EIS to: Lt Col Nancy L. Speake, USAF, P.E., HQ AFCEE/ECM, 3207 North Road, Brooks Air Force Base, TX 78235–5363, (210) 536–3069.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 97–13627 Filed 5–22–97; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare an Environmental Impact Statement for the Enhancement of the Capability of the Pacific Missile Range Facility, Kauai, HI To Conduct Missile Defense Testing and Training Activities

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 as implemented in the Council on Environmental Quality regulations (40 CFR parts 1500–1508), the Department of the Navy announces its intent to prepare an Environmental Impact Statement (EIS) for the enhancement of the capability of the Pacific Missile Range Facility (PMRF), Kauai, Hawaii to conduct missile defense testing and training activities. Agencies invited to cooperate in the preparation of this EIS include the Department of the Army, Department of the Air Force, Ballistic Missile Defense Organization, Coast Guard, Department of the Interior, Department of Energy, Federal Aviation Administration, and the State of Hawaii.

The 42,000-square-mile range, located on the west and north side of Kauai and in the adjacent ocean area, is currently operated as a missile test and training facility by the Navy. Congress has directed the Navy to develop a Theater Ballistic Missile Defense Program (TBMD). Implementing the program at PMRF is in accordance with the Senate Report 103–321 on the 1995 Defense Appropriations Bill, which designated PMRF as ''the primary test range for the completion of Navy (TBMD) flight tests.''

The proposed action is to enhance the capability of PMRF to allow testing and training for the Navy's TBMD program and for the overall DoD Theater Missile Defense (TMD) program. The no-action alternative is the continuation of PMRF's current activities in support of existing DoD test and training programs. This EIS will examine environmental impacts of developing and operating potential launch sites and tracking stations/areas. Areas being considered for the launch and/or instrumentation sites include: (1) Kauai and the Hawaiian Islands, (2) other Pacific land-based support locations, and (3) ocean areas within and outside U.S. territorial waters.

The distances between PMRF and some of the locations under consideration may exceed limitations in current international agreements related to distances for target missile flights, but they will not exceed distances to the anticipated areas of operations. Any testing would comply with current U.S. policy concerning compliance with treaties and international agreements.

In accordance with Hawaii Revised Statutes (HRS) Chapter 343, the Governor of Hawaii has determined that an EIS is required. Since the State and Federal actions and decisions are interconnected, the analyses will be documented in a single joint EIS. The decisions to be made by the State of Hawaii are: (1) Whether to revise the existing restrictive easement with the Navy to extend the easement term from January 1, 2003 to December 31, 2030, and (2) Whether to extend and/or revise other Navy leases and concur with or grant approvals as may be required for Navy use of lands in the Northwestern Hawaiian chain, to support the enhancement of PMRF to facilitate development and testing of TMD systems.

The objective of the EIS is to describe and evaluate environmental impacts of existing activities at the range (the no-action alternative), describe the alternatives for enhancing the range for purposes of testing TBMD systems, and evaluate the environmental impacts from various enhancement alternatives. Environmental resource areas that will be addressed in the EIS include air quality; biological resources, including threatened and endangered species; cultural resources; geology and soils; hazardous materials and waste; health and safety; land use; noise; socioeconomics; transportation, including airspace; utilities; visual and aesthetic resources; and water quality.

The Navy will host four scoping meetings to solicit input on significant issues that should be addressed in the EIS. Each scoping meeting will provide opportunities for clarification of the EIS and alternatives and solicit input from representatives of government agencies and interested individuals. The Navy will set up information stations at these scoping meetings. Each information station will be attended by a Navy representative who will be available to answer questions from meeting attendees. Comments will be entered into the official record via written comment sheets available at each meeting. Written comments will also be accepted via mail or fax. Regardless of the commenting method chosen, all comments will receive the same attention and consideration during EIS preparation.

The four public scoping meetings will be held at the following times and locations: (1) June 17 from 4:00–8:00 pm at the Waimea Neighborhood Center, Waimea, Kauai; (2) June 19 from 4:00–8:00 pm at the Kilauea Neighborhood Center, Kilauea, Kauai; (3) June 21 from 1:00–4:00 pm at the Wilcox Elementary School Cafeteria, Lihue, Kauai; and (4) June 23 from 4:00–8:00 pm at the US Army Reserve Center Assembly Hall, Room 101, Ft. Schafter Flats, Ft. Schafter, Oahu.

ADDRESSES: Agencies and the public are encouraged to provide written comments. To be most helpful, comments should clearly describe specific issues or topics that the EIS

should address. Please mail written comments to: Vida Mossman, Pacific Missile Range Facility, P.O. Box 128, Kekaha, Kauai, Hawaii, 96752–0128, or send by facsimile at (808) 335–4660. Please postmark comments by June 23, 1997.

FOR FURTHER INFORMATION CONTACT: Additional information concerning this notice may be obtained by contacting Vida Mossman, Pacific Missile Range Facility, P.O. Box 128, Kekaha, Kauai, Hawaii, 96752–0128, telephone (808) 335–4740.

Dated: May 20, 1997.

D. E. Koenig,

LCDR, JAG, USN, Federal Register Liaison Officer.

[FR Doc. 97–13639 Filed 5–22–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Government-Owned Inventions; Availability for Licensing

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are made available for licensing by the Department of the Navy.

Copies of patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for $3.00 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.95 each ($10.95 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the copies of patent applications sold to avoid premature disclosure.

The following patents and patent applications are available for licensing:

Patent 5,459,754: SERIAL BIT PATTERN RECOGNIZER SYSTEM; filed 2l September 1994; patented 17 October 1995.//Patent 5,479,094: POLARIZATION INSENSITIVE CURRENT AND MAGNETIC FIELD OPTIC SENSOR; filed 24 April 1995; patented 26 December 1995.//Patent 5,528,611: REPETITIVELY Q-SWITCHED LASER PUMPED BY LASER DIODES AND Q-SWITCHED WITH AN INTRACAVITY VARIABLE SPEED MOVING APERTURE; filed 16 February 1995; patented 18 June 1996.//Patent 5,528,612: LASER WITH MULTIPLE GAIN ELEMENTS; filed 19 November 1993; patented 18 June 1996.//Patent 5,530,711: LOW THRESHOLD DIODE-PUMPED TUNABLE DYE LASER; filed 1 September 1994; patented 25 June 1996.//Patent 5,530,778: DIRECTION FINDING APPARATUS USING TUNABLE FIBER OPTIC DELAY LINE; filed 23 February 1995; patented 25 June 1996.//Patent 5,532,589: SUBSURFACE EXAMINATION OF NON-FERROUS MATERIAL FOR DETECTING CORROSION BY MEASURING MAGNETIC TRACTION; filed 24 May 1995; patented 2 July 1996.//Patent 5,532,700: PREPROCESSOR AND ADAPTIVE BEAMFORMER FOR ACTIVE SIGNALS OF ARBITRARY WAVEFORM; filed 16 March 1995; patented 2 July 1996.//Patent 5,537,624: DATA REPACKING CIRCUIT HAVING TOGGLE BUFFER FOR TRANSFERRING DIGITAL DATA FROM P1Q1 BUS WIDTH TO P2Q2 BUS WIDTH; filed 12 February 1991; patented 16 July 1996.//Patent 5,537,646: APPARATUS INITIALIZED FOR SELECTED DEVICE BASED UPON TIMING, INTERRUPT, AND DMA CONTROL COMMANDS WITHIN CONFIGURATION DATA PASSED FROM PROCESSOR TO TRANSFER DATA TO SELECTED DEVICE; filed 19 November 1992; patented 16 July 1996.//Patent 5,538,925: SI3N4 REINFORCED MONOCLINIC BAO.AL2O3.2SIO2 AND SRO.AL2032SIO2 CERAMIC COMPOSITES; filed 14 August 1995; patented 23 July 1996.//Patent 5,539,411: MULTISTATIC RADAR SIGNATURE MEASUREMENT APPARATUS; filed 17 November 1995; patented 23 July 1996.//Patent 5,539,786: DIGITAL CIRCUIT FOR GENERATING A CLOCK SIGNAL; filed 31 July 1995; patented 23 July 1996.//Patent 5,539,960: CYLINDRICAL CONVEX DOORKNOB TERMINATION; filed 22 December 1987; patented 30 July 1996.//Patent 5,540,218: RESPIRATORY SYSTEM PARTICULARLY SUITED FOR AIRCREW USE; filed 5 December 1994; patented 30 July 1996.//Patent 5,541,946: LASER WITH MULTIPLE GAIN ELEMENTS PUMPED BY A SINGLE EXCITATION SOURCE; filed 31 October 1994; patented 30 July 1996.//Patent 5,543,204: BI-DIRECTIONALLY CORRUGATED SANDWICH CONSTRUCTION; filed 5 January 1995; patented 6 August 1996.//Patent 5,543,910: PASSIVE SUBMARINE RANGE FINDING DEVICE AND METHOD; filed 19 December 1994; patented 6 August 1996.//Patent 5,544,199: NON-ADAPTIVE PHASE-DIFFERENCE INTERFERENCE FILTER; filed 11 June 1991; patented 6 August 1996.//Patent 5,544,524: APPARATUS AND METHOD FOR PREDICTING FLOW CHARACTERISTICS; filed 20 July 1995; patented 13 August 1996.//Patent 5,545,517: SELECTIVE METAL ION DETECTION USING A PHOTOLUMINESCENT INDICATOR BINDING TO A MACROMOLECULE-METAL ION COMPLEX; filed 15 March 1994; patented 13 August 1996.//Patent 5,546,241: PROJECTOR SLIDES FOR NIGHT VISION TRAINING; filed 25 August 1994; patented 13 August 1996.//Patent 5,549,065: WATER VEHICLE AND A DIRECTIONAL CONTROL DEVICE THEREFOR; filed 27 March 1995; patented 27 August 1996.//Patent 5,549,991: ALUMINUM PERMANGANATE BATTERY; filed 30 November 1993; patented 27 August 1996.//Patent 5,550,425: NEGATIVE ELECTRON AFFINITY SPARK PLUG; filed 27 January 1995; patented 27 August 1996.//Patent 5,550,759: ADAPTIVE PARAMETER KERNEL PROCESSOR; filed 7 August 1995; patented 27 August 1996.//Patent 5,550,789: WATER TURBULENCE DETECTOR; filed 17 September 1971; patented 27 August 1996.//Patent 5,550,791: COMPOSITE HYDROPHONE ARRAY ASSEMBLY AND SHADING; filed 2 August 1995; patented 27 August 1996.//Patent 5,550,951: METRICS FOR SPECIFYING AND/OR TESTING NEURAL NETWORKS; filed 18 March 1993; patented 27 August 1996.//Patent 5,551,349: INTERNAL CONDUIT VEHICLE; filed 29 June 1995; patented 3 September 1996.//Patent 5,551,363: UNDERWATER VEHICLE AND A COMBINATION DIRECTIONAL CONTROL AND CABLE INTERCONNECT MEANS; filed 27 March 1995; patented 3 September 1996.//Patent 5,551,364: UNDERWATER VEHICLE AND COMBINATION DIRECTIONAL CONTROL AND CABLE INTERCONNECT DEVICE; filed 27 March 1995; patented 3 September 1996.//Patent 5,551,365: WATER VEHICLE AND A DIRECTIONAL CONTROL MEANS THEREFOR; filed 27 March 1995; patented 3 September 1996.//Patent 5,551,369: DUALCAVITATING HYDROFOIL STRUCTURES; filed 31 March 1995; patented 3 September 1996.//Patent 5,551,641: NON-PULPABLES COLLECTION CHAMBER WITH REMOVABLE BASKET FOR SOLID WASTE PULPERS; filed 30 September 1994; patented 3 September 1996.//Patent 5,551,875: LAND BASED SUBMARINE WEAPONS SYSTEM SIMULATOR WITH CONTROL PANEL TESTER AND TRAINER; filed 3 October 1994; patented 3 September 1996.//

Patent 5,552,456: DRAG REDUCING RAPID SOLVATING SLURRY CONCENTRATE AND PREPARATION; filed 26 August 1974; patented 3 September 1996.//Patent 5,552,505: HIGH TEMPERATURE COPOLYMERS FROM INORGANIC-ORGANIC HYBRID POLYMERS AND MULTI-ETHYNYLBENZENES; filed 3 March 1995; patented 3 September 1996.// Patent 5,552,787: MEASUREMENT OF TOPOGRAPHY USING POLARIMETRIC SYNTHETIC APERTURE RADAR (SAR); filed 10 October 1995; patented 3 September 1996.//Patent 5,552,993: AUDIO INFORMATION APPARATUS FOR PROVIDING POSITION INFORMATION; filed 5 December 1994; patented 3 September 1996.//Patent 5,553,176: SINGLE IN-LINE FIBER-OPTIC ROTARY JOINT; filed 14 July 1995; patented 3 September 1996.// Patent 5,553,280: METHOD FOR PROVIDING CRITICAL TIME REACTIVE MANAGEMENT OF DATABASE TRANSACTIONS FOR SYSTEMS PROCESS; filed 17 August 1994; patented 3 September 1996.// Patent 5,553,871: FLUIDTIGHT DOOR GASKET; filed 12 May 1994; patented 10 September 1996.//Patent 5,554,214: WATER ABLATIVE COATING FOR VEHICLE DRAG REDUCTION; filed 3 September 1976; patented 10 September 1996.//Patent 5,555,532: METHOD AND APPARATUS FOR TARGET IMAGING WITH SIDELOOKING SONAR; filed 23 May 1984; patented 10 September 1996.//Patent 5,557,556: POWER PLANT SIMULATION FOR WATERBORNE VESSEL COMPUTER-ASSISTED DESIGN AND EVALUATION; filed 30 September 1994; patented 17 September 1996.// Patent 5,559,480: STRIPLINE-TO-WAVEGUIDE TRANSITION; filed 22 August 1983; patented 24 September 1996.//Patent 5,559,754: SEDIMENT CLASSIFICATION SYSTEM; filed 14 April 1994; patented 24 September 1996.//Patent 5,560,960: POLYMERIZED PHOSPHOLIPID MEMBRANE MEDIATED SYNTHESIS OF METAL NANOPARTICLES; filed 4 November 1994; patented 1 October 1996.//Patent 5,561,276: TWO-PHASE-FLOW MUFFLER IN A ROTATING SHAFT; filed 30 October 1995; patented 1 October 1996.//Patent 5,561,418: LEAK DETECTOR FOR CONDUCTIVE LIQUID BOILER; filed 22 September 1994; patented 1 October 1996.//Patent 5,561,546: METHOD AND APPARATUS FOR IMPROVING THE SENSITIVITY OF OPTICAL MODULATORS; filed 17 March 1995; patented 1 October 1996./ /Patent 5,561,640: MULTI-SECTION SONAR ARRAY CABLE; filed 22 May 1995; patented1 October 1996.//Patent 5,561,667: SYSTOLIC MULTIPLE CHANNEL BAND-PARTITIONED NOISE CANCELLER; filed 21 June 1991; patented 1 October 1996.//Patent 5,561,794: EARLY COMMIT OPTIMISTIC PROJECTION-BASED COMPUTER DATABASE PROTOCOL; filed 28 April 1994; patented 1 October 1996.//Patent 5,562,065: ELASTOMERIC PUMP; filed 11 August 1995; patented 8 October 1996.//Patent 5,563,181: SILOXANE UNSATURATED HYDROCARBON BASED THERMOSETTING POLYMERS; filed 9 May 1995; patented 8 October 1996.// Patent 5,563,845: SYSTEM AND METHOD FOR ACOUSTICALLY IMAGING AN UNDERGROUND TANK; filed 7 November 1995; patented 8 October 1996.//Patent 5,565,133: HIGH CONCENTRATION SLURRY FORMULATION AND APPLICATION; filed 16 February 1973; patented 15 October 1996.//Patent 5,565,360: BIOLUMINESCENT BIOASSAY SYSTEM; filed 11 October 1994; patented 15 October 1996.//Patent 5,565,716: VARIABLE RESISTANCE, LIQUID-COOLED LOAD BANK; filed 1 March 1995; patented 15 October 1996./ /Patent 5,566,132: ACOUSTIC TRANSDUCER; filed 11 December 1995; patented 15 October 1996.//Patent 5,566,135: DIGITAL TRANSDUCER; filed 11 July 1995; patented 15 October 1996.//Patent 5,566,908: AIR-LAUNCHABLE GLIDING SONOBUOY; filed 30 January 1995; patented 22 October 1996.//Patent 5,567,551: METHOD FOR PREPARATION OF MASK FOR ION BEAM LITHOGRAPHY; filed 4 April 1994; patented 22 October 1996.// Patent 5,568,049: FIBER OPTIC FARADAY FLUX TRANSFORMER SENSOR AND SYSTEM; filed 22 October 1993; patented 22 October 1996.//Patent 5,568,130: FIRE DETECTOR; filed 30 September 1994; patented 22 October 1996.//Patent 5,568,447: INTERFACE MODULE FOR A TOWED ARRAY; filed 8 December 1995; patented 22 October 1996.//Patent 5,568,450: SYSTEM AND PROCESSOR FOR REAL-TIME EXTRACTION OF OCEAN BOTTOM PROPERTIES; filed 18 October 1994; patented 22 October 1996.//Patent 5,568,496: LASER OPTICS PROTECTIVE DEVICE; filed 30 November 1994; patented 22 October 1996.//Patent 5,568,578: GRADIENT INDEX ROD COLLIMATION LENS DEVICES FOR ENHANCING OPTICAL FIBER LINE PERFORMANCE WHERE THE BEAM THEREOF CROSSES A GAP IN THE LINE; filed 14 December 1994; patented 22 October 1996.//Patent 5,568,781: INDUCED FLOW UNDERSEA VEHICLE MOTOR COOLING JACKET; filed 17 February 1995; patented 29 October 1996.//Patent 5,568,782: BI-MODAL ELASTOMERIC EJECTOR; filed 31 July 1995; patented 29 October 1996.//Patent 5,569,111: PERMANENT MAGNET TORQUE/ FORCE TRANSFER APPARATUS; filed 11 October 1994; patented 29 October 1996.//Patent 5,569,432: METHOD FOR MAKING A VIBRATION DAMPENER OF AN ELECTRORHEOLOGICAL MATERIAL; filed 14 April 1995; patented 29 October 1996.//Patent 5,571,314: FORMULATION AND PREPARATION OF A GEL SYSTEM FOR THE PROMOTION OF RAPID SOLVATION IN AQUEOUS SYSTEMS; filed 24 August 1973; patented 5 November 1996.//Patent 5,571,759: CRB2–NBB2 CERAMICS MATERIALS; filed 31 October 1995; patented 5 November 1996.//Patent 5,572,320: FLUID SAMPLER UTILIZING OPTICAL NEAR-FIELD IMAGING; filed 17 November 1994; patented 5 November 1996.//Patent 5,572,487: HIGH PRESSURE, HIGH FREQUENCY RECIPROCAL TRANSDUCER; filed 24 January 1995; patented 5 November 1996.//Patent 5,573,344: HIGH DAMPING COMPOSITE JOINT FOR MECHANICAL VIBRATION AND ACOUSTIC ENERGY DISSIPATION; filed 17 October 1994; patented 12 November 1996.//Patent 5,573,986: ELECTROMAGNETIC WINDOW; filed 13 March 1996; patented 12 November 1996.//Patent 5,574,125: ENERGETIC NITRO PREPOLYMER; filed 23 May 1985; patented 12 November 1996.// Patent 5,574,126: ENERGETIC FLUORONITRO PREPOLYMER; filed 23 May 1985; patented 12 November 1996./ /Patent 5,574,248: ENERGETIC COMPOSITIONS CONTAINING NO-VOLATILE SOLVENTS; filed 28 March 1996; patented 12 November 1996.// Patent 5,574,699: FIBER OPTIC LEVER TOWED ARRAY; filed 31 October 1983; patented 12 November 1996.//Patent 5,574,739: POLARIZATION-STABLE PULSED LASER; filed 12 May 1995; patented 12 November 1996.//Patent 5,574,820: RADIATION HARDENING OF PURE SILICA CORE OPTICAL FIBERS AND THEIR METHOD OF MAKING BY ULTRA-HIGH-DOSE GAMMA RAY PRE-IRRADIATION; filed 30 June 1995; patented 12 November 1996.// Patent 5,574,961: PHASE-SEPARATED MATERIAL; filed 16 January 1985; patented 12 November 1996.//Patent 5,575,442: GUIDED WING FOR AIRCRAFT FLYING AT HIGH ANGLES OF ATTACK; filed 19 January 1995; patented 19 November 1996.// Patent 5,577,942: STATION KEEPING BUOY SYSTEM; filed 28 July 1995; patented 26 November 1996.//Patent

5,578,351: LIQUID CRYSTAL COMPOSITION AND ALIGNMENT LAYER; filed 20 January 1995; patented 26 November 1996.//Patent 5,578,534: METHOD OF PRODUCING SL3N4 REINFORCED MONOCLINIC BAO-AL203–2S102 AND SRO-AL203–2S102 CERAMIC COMPOSITES; filed 29 March 1996; patented 26 November 1996.//Patent 5,578,751: OCEANOGRAPHIC SENSOR SUITE WET WELL SYSTEM; filed 8 December 1995; patented 26 November 1996.// Patent 5,580,125: CINEMA BOOSTER SEAT/REFRESHMENT CENTER; filed 15 August 1995; patented 3 December 1996.//Patent 5,581,154: RESISTIVE-WALL KLYSTRON AMPLIFIER; filed 10 April 1995; patented 3 December 1996./ /Patent 5,581,258: PORTABLE ANTENNA CONTROLLER; filed 7 June 1995; patented 3 December 1996.// Patent 5,581,490: CONTACT MANAGEMENT MODEL ASSESSMENT SYSTEM FOR CONTACT TRACKING IN THE PRESENCE OF MODEL UNCERTAINTY AND NOISE; filed 9 December 1994; patented 3 December 1996.//Patent 5,581,516: LOW POWER TRANSMITTER PROVIDING SELECTABLE WAVEFORM GENERATION; filed 7 July 1995; patented 3 December 1996.//Patent 5,582,124: HYBRID FRAMING SYSTEM FOR VESSELS; filed 26 July 1995; patented 10 December 1996.//Patent 5,584,740: THIN-FILM EDGE FIELD EMITTER DEVICE AND METHOD OF MANUFACTURE THEREFOR; filed 11 October 1994; patented 17 December 1996.//Patent 5,585,640: GLASS MATRIX DOPED WITH ACTIVATED LUMINESCENT NANOCRYSTALLINE PARTICLES; filed 11 January 1995; patented 17 December 1996.//Patent 5,585,800: LOCATION-CORRECTOR FOR REMOVING SUN-INDUCED EFFECTS IN THE GLOBAL POSITIONING SYSTEM; filed 2 June 1995; patented 17 December 1996.// Patent 5,586,824: METHOD OF MEASURING THE THERMAL CONDUCTIVITY OF MICROSCOPIC GRAPHITE FIBERS; filed 14 June 1994; patented 24 December 1996.//Patent 5,587,210: GROWING AND RELEASING DIAMONDS; filed 28 June 1994; patented 24 December 1996.//Patent 5,587,829: METHOD AND APPARATUS FOR SIGNAL FILTERING; filed 29 August 1994; patented 24 December 1996.//Patent 5,588,188: SWAGED CABLE SWIVEL HOOK ASSEMBLY AND SWIVEL HOOK THEREFOR; filed 20 November 1995; patented 31 December 1996.//Patent 5,590,281: ASYNCHRONOUS BIDIRECTIONAL APPLICATION PROGRAM PROCESSES INTERFACE FOR A DISTRIBUTED HETEROGENEOUS MULTIPROCESSOR SYSTEM; filed 28 October 1991; patented 31 December 1996.//Patent application 06/181,303: DUAL MODE WARHEAD; filed 25 August 1980.// Patent application 06/186,888: SHOCK SENSING DUAL MODE WARHEAD; filed 27 August 1980.//Patent application 08/492,270: COHERENT RF PULSE WIDTH MODIFICATION DEVICE USING ACOUSTO-OPTIC TECHNOLOGY; filed 3 June 1995.// Patent application 08/504,233: REMOVABLE AIR MANDREL; filed 19 July 1995.//Patent application 08/ 521,742: SMART ACTUATOR FOR ACTIVE SURFACE CONTROL; filed 31 August 1995.//Patent application 08/ 540,378: IN-SITU MONITORING AND FEEDBACK CONTROL OF METALORGANIC PRECURSOR DELIVERY; filed 6 October 1995.// Patent application 08/591,182: CONFIGURABLE PORT ASSEMBLY; filed 16 January 1996.//Patent application 08/594,559: ERBIUM-DOPED LOW PHONON HOSTS AS SOURCES OF FLUORESCENT EMISSION; filed 30 January 1996.// Patent application 08/624,734: DASHPOT FOR POWER CYLINDER; filed 26 March 1996.//Patent application 08/627,764: HIERARCHICAL TARGET INTERCEPT FUZZY CONTROLLER WITH FORBIDDEN ZONE; filed 1 April 1996.//Patent application 08/635,417: SITE AND WORKSPACES LAYOUT PROCESS EMPLOYING MDS AND A PDI FORMULA IN WHICH DENSITY IS BASED ON AREA OF CIRCUMSCRIBING-CONVEX-HULLS; filed 28 March 1996.//Patent application 08/635,418: SITE AND WORKPLACE LAYOUT PROCESS EMPLOYING MDS AND A PDI FORMULA IN WHICH DENSITY IS CALCULATED USING MEASURED SPAN OF CIRCUMSCRIBING-CONVEX HULLS; filed 28 March 1996.//Patent application 08/635,419: SITE AND WORKSPACE LAYOUT PROCESS EMPLOYING MDS AND A PDI FORMULA IN WHICH DENSITY IS CALCULATED USING A UNIT LATTICE SUPERPOSED OVER CIRCUMSCRIBING-CONVEX-HULLS; filed 28 March 1996.//Patent application 08/636,998: SELF-SEALING MIXING VALVE; filed 17 April 1996.//Patent application 08/640,578: REDUCED NOISE DISK VALVE ASSEMBLY; filed 28 April 1996.// Patent application 08/640,579: ACOUSTIC RECEIVER ARRAY ASSEMBLY; filed 28 April 1996.// Patent application 08/640,580: VARIABLE-SPEED ROTATING DRIVE; filed 28 April 1996.//Patent application 08/641,019: METHOD FOR DETERMINING THE APPROXIMATE RESONANCE FREQUENCY OF A STRUCTURE SURROUNDED BY A COMPRESSIBLE FLUID; filed 14 April 1996.//Patent application 08/641,049: METHOD APPARATUS FOR NON-INVASIVE DETECTION AND ANALYSIS OF TURBULENT FLOW IN A PATIENT'S BLOOD VESSELS; filed 23 April 1996.//Patent application 08/ 641,134: CONTROL FIN ASSEMBLY FOR A WATER VEHICLE; filed 22 April 1996.//Patent application 08/641,325: COOLED FIXTURE FOR HIGH TEMPERATURE ACCELEROMETER MEASUREMENTS; filed 28 April 1996./ /Patent application 08/646,416: NEURAL NETWORK BASED CONTACT STATE ESTIMATOR; filed 7 May 1996./ /Patent application 08/649,834: FIN ASSEMBLY FOR A VEHICLE; filed 1 May 1996.//Patent application 08/ 649,860: UNDERWATER SENSING DEVICE FOR OCEAN FLOOR CONTACT; filed 10 May 1996.//Patent application 08/649,862: PASSIVE INTRUSION DETECTION SYSTEM; filed 10 May 1996.//Patent application 08/649,971: MARINE PROPULSION SYSTEM FOR UNDERWATER VEHICLES; filed 1 May 1996.//Patent application 08/649,972: DIGITAL DATA RETRIEVING, ORGANIZING AND DISPLAY SYSTEM; filed 1 May 1996./ /Patent application 08/655,102: SUPPORT BASE FOR SUBMARINE ANTENNA MAST; filed 29 May 1996./ /Patent application 08/655,103: PROJECTILE LAUNCHER; filed 29 May 1996.//Patent application 08/655,104: OMNIDIRECTIONAL ULTRASONIC MICROPROBE HYDROPHONE; filed 29 May 1996.//Patent application 08/ 656,116: ACOUSTIC RECEIVER ASSEMBLY; filed 14 May 1996.//Patent application 08/668,031: SURFACE LAYER COMPRISING MICRO-FABRICATED TILES FOR ELECTROMAGNETIC CONTROL OF FLUID TURBULENCE IN SEA WATER; filed 14 June 1996.//Patent application 08/668,605: ARTICULATED FIN; filed 3 June 1996.//Patent application 08/ 668,609: SIMULATED SUSPENDED MINE RETRIEVAL SYSTEM; filed 20 May 1996.//Patent application 08/ 672,771: METHOD FOR PRODUCING CORE/CLAD GLASS OPTICAL FIBER PREFORMS USING HOT ISOSTATIC PRESSING; filed 28 June 1996.//Patent application 08/677,205: METHOD FOR DETECTING ACOUSTIC SIGNALS FROM AN UNDERWATER SOURCE; filed 9 July 1996.//Patent application 08/682,876: ROLLER-TYPE ELECTRIC MOTOR; filed 3 July 1996.//Patent application 08/682,898: ADHESIVE SHEAR STRENGTH TEST APPARATUS; filed 1 July 1996.//Patent application 08/682,900: TOWED

ARRAY ACOUSTIC PROJECTOR SHADING DEVICE; filed 17 June 1996.//Patent application 08/687,064: TORPEDO SIGNAL PROCESSOR; filed 8 July 1996.//Patent application 08/687,880: INORGANIC ARYLACETYLENIC MONOMERS; filed 26 July 1996.//Patent application 08/695,840: FLUIDIC DEVICE CONTROLLED BY REMOTELY LOCATED ACOUSTIC ENERGY SOURCE; filed 5 August 1996.//Patent application 08/695,842: TRAWLING SONAR SYSTEM; filed 5 August 1996.//Patent application 08/695,843: MECHANICAL DEVICES AND EQUIPMENT; filed 5 August 1996.//Patent application 08/695,844: RETRACTABLE SENSOR ARRAY SYSTEM; filed 7 August 1996.//Patent application 08/696,586: FLEXIBLE FERRITE LOADED LOOP ANTENNA ASSEMBLY; filed 24 July 1996.//Patent application 08/696,587: FUEL DELIVERY SYSTEM; filed 24 July 1996.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of Naval Research (Code OOCC), Arlington, VA 22217–5660, telephone (703) 696–4001.

Dated: May 20, 1997.

D.E. Koenig, Jr.,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 97–13640 Filed 5–22–97; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Intent To Establish the Beryllium Rule Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of intent to establish a Beryllium Rule Advisory Committee.

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), and title 41, Code of Federal Regulations (CFR), subpart 101–6, Final Rule on Federal Advisory Committee Management, I hereby certify the Beryllium Rule Advisory Committee is necessary and in the public interest in connection with the performance of the duties imposed on the Department of Energy (DOE) by law. This notice of intent follows consultation with the Committee Management Secretariat of the General Services Administration, pursuant to 41 CFR subpart 101–6.10.

The purpose of the committee is to provide the Secretary of Energy with advice, information, and recommendations on the development of a notice of proposed rulemaking for beryllium. The committee will provide an organized forum for a diverse set of interested stakeholders and technically adept individuals to conduct an in-depth assessment of beryllium-related issues.

The committee will include DOE employees and contractor employees with expertise in beryllium operations, representatives from health professions, physicians, other Federal agencies, private industries (both national and international), and academic institutions who have expertise in the health effects, exposure monitoring, appropriate controls and medical monitoring for beryllium. Committee membership will reflect a balance of disciplines and diverse interests, experiences and points of view. This committee has been determined to be essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon DOE. The committee will operate in accordance with the provisions of the Federal Advisory Committee Act, the DOE Organization Act (Public Law 95–91), and rules and regulations issued in implementation of those acts. All meetings of this committee will be noticed ahead of time in the **Federal Register**.

Further information regarding this advisory committee may be obtained from Mr. C. Rick Jones, Director, Office of Worker Protection Programs and Hazards Management, EH–52, 270CC, 19901 Germantown Road, Germantown, MD, 20874–1290; e-mail: rick.jones@eh.doe.gov; telephone: 301–903–6061.

Issued in Washington, DC on May 20, 1997.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 97–13623 Filed 5–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket Nos. EA–149 and EA–150]

Applications to Export Electric Energy; PacifiCorp

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of applications.

SUMMARY: PacifiCorp, a public utility, has submitted applications to export electric energy to Mexico and Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before June 23, 1997.

ADDRESS: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–5883 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. § 824a(e)).

On May 8, 1997, PacifiCorp filed two applications with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Mexico (Docket EA–149) and Canada (Docket EA–150) pursuant to section 202(e) of the FPA. Specifically, PacifiCorp has proposed to transmit to Mexico and Canada electric energy excess to its system or purchased from electric utilities and other suppliers within the U.S.

PacifiCorp would arrange for the exported energy to be transmitted to Mexico over the international transmission facilities owned by San Diego Gas and Electric, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electracidad. PacifiCorp would arrange for the exported energy to be transmitted to Canada over the international facilities owned by Basin Electric, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power and Vermont Electric Transmission Company. Each of the transmission facilities, as more fully described in these applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any persons desiring to become a party to these proceedings or to be heard by filing comments or protests to these applications should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures

(18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Comments on PacifiCorp's request to export to Mexico should be clearly marked with Docket EA–149. Comments on TEMI's request to export to Canada should be clearly marked with Docket EA–150. Additional copies are to be filed directly with: Brian D. Sickels, Vice President, PacifiCorp, 700 N.E. Multnomah Street, Suite 1600, Portland, Oregon 97232.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on May 19, 1997.

Anthony J. Como,

Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 97–13619 Filed 5–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Docket Nos. EA–151 and EA–152]

Applications to Export Electric Energy; Tractebel Energy Marketing, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of applications.

SUMMARY: Tractebel Energy Marketing, Inc. (TEMI), a power marketer, has submitted applications to export electric energy to Mexico and Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before June 23, 1997.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–5883 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On May 13, 1997, TEMI filed two applications with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Mexico (Docket EA–151) and Canada (Docket EA–152) as a power marketer, pursuant to section 202(e) of the FPA. Specifically, TEMI has proposed to transmit to Mexico and Canada electric energy purchased from electric utilities and other suppliers within the United States.

TEMI would arrange for the exported energy to be transmitted to Mexico over the international transmission facilities owned by San Diego Gas and Electric, El Paso Electric Company, Central Power and Light Company, and Comision Federal de Electracidad. TEMI would arrange for the exported energy to be transmitted to Canada over the international facilities owned by Basin Electric, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power and Vermont Electric Transmission Company. Each of the transmission facilities, as more fully described in these applications, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

PROCEDURAL MATTERS: Any persons desiring to become a party to these proceedings or to be heard by filing comments or protests to these applications should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Comments on TEMI's request to export to Mexico should be clearly marked with Docket EA–151. Comments on TEMI's request to export to Canada should be clearly marked with Docket EA–152. Additional copies are to be filed directly with: Howard H. Shafferman, Ballard Spahr Andrews & Ingersoll, 601 13th Street, NW, Suite 1000 South, Washington, DC 20005–3807 and William L. Coorsh, Tractebel Energy Marketing, Inc., 1177 West Loop South, Suite 900, Houston, TX 77027.

A final decision will be made on these applications after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed actions will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of these applications will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on May 19, 1997.

Anthony J. Como,

Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 97–13620 Filed 5–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Advisory Committee on Appliance Energy Efficiency Standards

AGENCY: Department of Energy, Office of Energy Efficiency and Renewable Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following advisory committee meeting: Advisory Committee on Appliance Energy Efficiency Standards. The Department will consider the information and comments received at this meeting in preparation of its rulemakings.

DATES: Monday, June 23, 1997, from 9:00 a.m. to 4:30 p.m.

ADDRESSES: Embassy Row Hotel, 2015 Massachusetts Avenue, NW., Washington DC 20036, (202) 265–1600.

FOR FURTHER INFORMATION CONTACT: Kathi Epping, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–7425 OR Sandy Beall, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–7574.

SUPPLEMENTARY INFORMATION:

Purpose of the Committee

The Advisory Committee on Appliance Energy Efficiency Standards was established to provide input on the appliance standards rulemaking process. The Committee serves as the focal point for discussion on the implementation of the procedures, interpretations, and policies set forth in the rule on Procedures for Consideration of New or Revised Energy Conservation Standards for Consumer Products (61 FR 36973 (July 15, 1996)) and on cross cutting analytical issues affecting all product standards.

Tentative Agenda

9:00 am Opening Remarks, Introductions, and Agenda Review
9:30 am Public Comments on agenda
9:35 am Recent Successes (standards, test procedures, workshops)
10:15 am Break
10:30 am Priority Setting Process
11:00 am Subcommittee Reports to the Committee
11:45 am Public Comments on Morning Session
12:00 pm Lunch
1:00 pm Continue Subcommittee Reports
2:45 pm Break
3:00 pm Public Comments
3:30 pm New Business
3:50 pm Action Items and Deliverables for next meeting
4:30 pm Adjourn

Please note this draft agenda is preliminary. The times and agenda items listed are guidelines and are subject to change. A final agenda will be available at the meeting, Monday, June 23, 1997.

Public Participation

The meeting is open to the public. Please notify either Sandy Beall, (202) 586–7574, or Kathi Epping, (202) 586–7425, if you plan to attend the advisory committee meeting. Written statements may be filed either before or after the meeting. In order to have your written comments distributed at the advisory committee meeting, please provide 10 copies to the information contacts previously listed, at least 7 days prior to the meeting. Members of the public who wish to make oral statements should contact the Office of Codes and Standards at the address or telephone numbers listed under contact information. Requests must be received 7 days prior to the meeting, and a reasonable provision will be made to include the presentation in the agenda. Such presentations may be limited to five minutes. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes

Copies of the Committee's charter, minutes of the first Committee meeting held on January 8, 1997, this notice, and other correspondence regarding the Committee may be viewed at the DOE Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–6020 between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. A copy of the Committee meeting transcript will be available in the DOE public reading room approximately 10 days after the meeting. Minutes will also be available 60 days after the meeting by writing to Sandy Beall or Kathi Epping at the address previously listed.

Issued in Washington, DC on May 19, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–13622 Filed 5–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–509–000]

Barnes Transportation Company, Inc.; Notice of Application To Abandon Certificate and Petition for Declaratory Order

May 19, 1997.

Take notice that on May 5, 1997, Barnes Transportation Company, Inc. (Barnes), 14701 Saint Mary's Lane, Houston, Texas 77079, filed an application in Docket No. CP97–509–000, requesting: (1) permission and approval, pursuant to Section 7(b) of the Natural Gas Act, to abandon the certificate issued to Barnes on September 27, 1957, in Docket No. G–7348; [1] and (2) a declaratory order that the primary function of Barnes and its facilities is gathering, and that Barnes' facilities and services are non-jurisdictional, pursuant to Section 1(b) of the Natural Gas Act, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

Barnes states that it owns and operates a 113-mile network of small-diameter (2 to 6-inches), low-pressure (15 to 150 psi) pipelines located entirely within the State of Kentucky. Barnes adds that this network moves gas from 357 wells belonging to Ashland, Inc. (successor-in-interest to United Carbon Company) to 88 delivery points along a mainline pipeline belonging to Columbia Gas Transmission Corporation (successor-in-interest to United Fuel Gas Company). Barnes further states that the Commission found, in its 1957 certificate order, that Barnes is a natural gas company, engaged in the interstate transportation of natural gas. Barnes explains that, the Commission issued a certificate to Barnes based upon the finding that, although individual well lines were engaged in the gathering of gas to a central point, all of the facilities lying downstream from the point of final commingling to the point of delivery into United Fuel Gas Company's pipeline had to be certificated.

Barnes contends that the Commission's 1957 holdings do not comport with the Commission's current policy with respect to the distinction between gathering and transportation. Therefore, Barnes requests that the Commission grant Barnes permission and approval to abandon the certificated facilities and services (i.e., to abandon/rescind the 1957 certificate), and that the Commission issue an order declaring that the primary function of Barnes and its facilities is gathering, and that Barnes' facilities and services are non-jurisdictional.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 9, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

[1] Barnes' application is styled as an application to abandon certificated facilities and services. However, the text of the application makes it clear that Barnes is not seeking permission and approval to abandon the facilities owned and operated by Barnes, or the services that Barnes renders through those facilities. Rather, Barnes is requesting the abandonment of the certificate itself (i.e., that the Commission rescind its 1957 certificate), in addition to the order that Barnes requests, declaring that the primary function of Barnes and its facilities is gathering, and that those facilities and services are non-jurisdictional.

motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application, if no motion to intervene is filed within the time required herein, or if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Barnes to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13562 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–420–000]

CNG Transmission Corporation; Correction to Notice of Request Under Blanket Authorization

May 7, 1997.

The application was originally notice on May 5, 1997, under the Prior Notice Procedure (62 FR 25593, May 9, 1997). Upon review, the facilities involved are not eligible facilities as defined by Section 157.202(b)(2)(i) of the Commission's Regulations. Therefore, the application will be processed under Part 157 Subpart A pursuant to Sections 7 (b) and (c) of the Natural Gas Act (NGA). The application must be supplemented to include the appropriate exhibits in compliance with Sections 157.18 for Section 7(b) and Section 157.14 for Section 7(c).

All interventions or protests to the application must be filed on or before May 28, 1997.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13606 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP85–221–090]

Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

May 19, 1997.

Take notice that on May 13, 1997, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave, N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82–487–000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS–1 providing for the possible sale of 800,000 MMBtu of Frontier's gas storage inventory on an ''in place'' basis to The Western Sugar Company.

Under Subpart (b) of Ordering Paragraph (G) of the Commission's February 13, 1985, Order, Frontier is ''authorized to consummate the proposed sale in place unless the Commission issues an order within 20 days after expiration of such notice period either directing that the sale not take place and setting it for hearing or permitting the sale to go forward and establishing other procedures for resolving the matter. Deliveries of gas sold in place shall be made pursuant to a schedule to be set forth in an exhibit to the executed service agreement.''

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426 a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13563 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–517–000]

NorAm Gas Transmission Company; Notice of Application

May 19, 1997.

Take notice that on May 12, 1997, NorAm Gas Transmission Company (NGT), a subsidiary of NorAm Energy Corporation, whose main office is located at 1600 Smith Street, Houston, Texas 77002, filed an abbreviated application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder (18 CFR 157.7 and 157.18), requesting issuance of a Commission order authorizing NGT to effect the sale and transfer to NorAm field Services Corporation (NFS) of certain existing pipeline and compressor facilities and equipment appurtenant thereto, located in Oklahoma, Texas, Louisiana and Arkansas. NGT's proposal is more fully set forth in the application which is on file with the Commission and open to public inspection.

NGT seeks a determination that once conveyed, these facilities will be gathering facilities exempt from the Commission's jurisdiction.

Specifically, NGT proposes to abandon and transfer to NFS certain gas supply facilities designated as the Oklahoma Facilities, the Texas Facilities, the Louisiana Facilities and the Arkansas Facilities. The Oklahoma Facilities consist of approximately 42 miles of 2-inch to 12-inch diameter pipe. These facilities, designated as Lines ADT–9, 2–T–1, NCT–1, ATE–1 9–1–C, 36 and OT–15, are located in Ellis, Blaine, Kinfisher, Custer, Caddo, Grady, Pittsburgh, Latimer and Haskell Counties Oklahoma. The Texas Facilities consist of a 12-inch diameter segment of Line ST–1, approximately 10 miles in length located in Panola County. The Louisiana Facilities consist of approximately 11 miles of 2-inch to 4-inch diameter pipe designated as Lines RT–1, RT–2 and RM–19 and the 80 h.p. Stonewall Field Compressor Station, located Caddo and DeSoto Parishes. The Arkansas Facilities consist of 45 miles of 2-inch to 6-inch diameter pipe designated as Lines OT–22, OT–20, B–271, B–399, BT–11, BT–2, BT–2–A, B–321, B–137, B–245, B–256, B–429, B–307, BT–11–A, B–274, BT–8, J–13, BT–4, B–349, B–374, and BM–22. NGT proposes to sell these facilities to NFS

for the net book value of the assets at the time of closing.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 6, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and § 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the pretestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein or if the Commission on its own review of the matter, finds that a grant of the certificate for the proposal is required by the public convenience and necessity. If the Commission believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for NGT to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13561 Filed 5–22–97; 8:45 am]

BILLING CODE 8717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG97–13–000]

Northwest Pipeline Corporation; Notice of Filing

May 19, 1997.

Take notice that on May 8, 1997, Northwest Pipeline Corporation (Northwest) filed revisions to its standards of conduct under Order Nos. 497 *et seq.*[1] and Order Nos. 566 *et seq.*[2] Northwest states that it is revising its standards of conduct to incorporate the changes required by Order Nos. 566 *et seq.*

Northwest states that copies of its filing have been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before June 3, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13559 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), FERC Stats. & Regs. 1986–1990 ¶ 30,820 (1988); Order No. 497–A, *order on rehearing*, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986–1990 ¶ 30,868 (1989); Order No. 497–B, *order extending sunset date*, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986–1990 ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date*, 57 FERC 9 (January 2, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,934 (1991), *rehearing denied*, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992), Order No. 497–D, *order on remand and extending sunset date*, 57 FR 58978 (December 14, 1992), FERC Stats. & Regs. 1991–1996 ¶ 30,958 (December 4, 1992); Order No. 497–E, *order on rehearing and extending sunshine date*, 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,987 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification*, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date*, 59 FR 3284 (June 26, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991–1996 ¶ 30,997 (June 17, 1994); Order No. 566–A, *order on rehearing*, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566–B, *order on rehearing*, 59 FR 65707 (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–524–000]

William Natural Gas Company; Notice of Request Under Blanket Authorization

May 19, 1997.

Take notice that on May 15, 1997, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed a request with the Commission in Docket No. CP97–524–000, pursuant to Sections 157.205, 157.212(a), and 157.216(b) of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to install a delivery meter for Western Resources, Inc. (WRI) and to abandon in place by sale to WRI approximately 5.2 miles of the Riverton 2-inch lateral pipeline, domestic meters, and other equipment all located in Cherokee County, Kansas authorized in blanket certificate issued in Docket No. CP82–479–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

WRI proposes to install a new domestic style positive meter setting at the site of WNG's high pressure regulator in Section 30, Township 33 South, Range 25 East, Cherokee County, Kansas. After the new meter is installed, WNG proposes to abandon by sale in place to WRI approximately 5.2 miles of the Riverton 2-inch lateral pipeline (Line FE) beginning in the Northwest Quarter (NW/4) of Section 30, Township 33 South, Range 25 East, and ending in the Northwest Quarter (NW/4) of Section 29, Township 34 South, Range 25 East, Cherokee County, Kansas, the domestic meters, and other equipment. In the past WNG has measured gas on this line through domestic meters.

The total annual volume of gas currently delivered through the thirty-nine (31) domestic meters is 3,103 Dth with a total peak day volume of 34 Dth. WNG states that it does not anticipate any change in delivered volumes as a result of the installation of the new meter setting.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized

effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13560 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of New Docket Prefix DR

May 19, 1997.

Notice is hereby given that a new docket prefix DR has been established for petitions requesting the Commission's approval of changes in depreciation rates made for accounting purposes.

On May 15, 1997, in *MidAmerican Energy Company*, 79 FERC ¶ 61,169 (1997) the Commission clarified that section 302(a) of the Federal Power Act, 16 U.S.C. 825a(a) (1994), requires that public utilities and licensees must file for Commission approval prior to changing depreciation rates for accounting purposes.

In order to properly docket and manage this type of filing and assess Commission resources applicable to this type of work, it is necessary to establish a new docket prefix for petitions seeking the Commission's approval of depreciation rate changes made for accounting purposes only. The new docket prefix will be DRFY–NNNNN, where the FY stands for the fiscal year in which the filing was made and the NNNNN is a sequential number. For example, the first depreciation rate change accounting filing petition made this fiscal year will be assigned DR97–1–000, the second will be the DR97–2–000, etc.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13603 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2000–010]

Power Authority of the State of New York; Notice of Intent To Prepare an Environmental Impact Statement and Hold Public Scoping Meetings on Project Relicensing

May 19, 1997.

Power Authority of the State of New York (NYPA) is the licensee for the St. Lawrence-FDR Power Project, which is located on the St. Lawrence River in St. Lawrence County, New York. The license for the project expires October 31, 2003.

On June 3, 1996, NYPA filed a Notice of Intent to seek a new license to continue to operate and maintain its St. Lawrence-FDR Project.

NYPA, the Federal Energy Regulatory Commission (Commission), the New York State Department of Environmental Conservation (DEC), resource agencies, local governments, non-governmental organizations (NGOs), and many interested members of the public have been conducting a Cooperative Consultation Process (CCP) to identify resource issues to be addressed during the relicensing of the project. The establishment of the CCP Team and the commencement of the Scoping Process for the relicensing were announced in a Notice of Memorandum of Understanding, Formation of Cooperative Consultation Process Team, and Initiation of Scoping Process Associated with Relicensing the St. Lawrence-FDR Power Project, issued May 2, 1996, and published in the **Federal Register** dated May 8, 1996, Volume 61, No. 90, on page 20813. Representatives of the Canadian government, the International Joint Commission, and Mohawk Nation communities have also attended some of the meetings. The Scoping Process will assist the FERC and the DEC in satisfying their requirements under the National Environmental Policy Act of 1969 (NEPA) and Section 401(a)(1) of the Clean Water Act.

Notice of Intent To Prepare an Environmental Impact Statement

The Commission and DEC staffs have determined that relicensing the existing project could constitute a major Federal action significantly affecting the quality of the human environment. Therefore, the staffs intend to prepare an environmental impact statement (EIS) for the relicensing of the St. Lawrence-FDR Project in accordance with NEPA. The DEC is a cooperating agency and is responsible for the issuance of a water quality certificate under the Clean Water Act.

The EIS will consider both site specific and cumulative environmental impacts of the proposed project and reasonable alternatives, and will include an economic and engineering analysis.

A draft EIS will be issued and circulated for review by all interested stakeholders and the public. All comments filed on the draft EIS will be analyzed by the Commission staff and considered in a final EIS.

As part of the relicensing process, the CCP Team has prepared a Scoping Document I (SDI), which provides information on the scoping process, relicensing schedule, background information, environmental issues, and the proposed project and alternatives. The issues contained in SDI are based on agency and public comments at the CCP Team and other meetings.

The purpose of this notice is to: (1) Advise all interested individuals, organizations, and agencies as to the proposed scope of the environmental analysis, including cumulative effects, and to seek additional information pertinent to this analysis; and (2) advise all individuals, organizations, and agencies of their opportunity for comment.

Scoping Process

The staffs' scoping objectives are to:

- Identify significant environmental issues;
- Determine the depth of analysis appropriate to each issue;
- Identify the resource issues not requiring detailed analysis; and
- Identify reasonable project alternatives.

The purpose of the scoping process is to identify significant issues related to the proposed action and to determined what issues should be addressed in the EIS.

Scoping Meetings

The Commission and DEC staffs will conduct one afternoon scoping meeting and three evening scoping meetings. All interested individuals, organizations, and agencies are invited to attend and assist the staff in identifying the scope of environmental issues that should be analyzed in the EIS.

To help focus discussions, SDI will be circulated to enable appropriate federal, state, and local resource agencies, Indian tribes, NGOs, and other interested individuals, organizations, and agencies to participate effectively in and contribute to the scoping process. SDI provides a brief description of the

proposed action, project alternatives, the geographic and temporal scope of a cumulative effects analysis, and a list of preliminary issues. Copies of SDI will also be made available at the meetings.

The afternoon meeting will be held on Tuesday, June 24, 1997 beginning at 2:00 P.M. at St. Joseph's Parish Hall, 30 Bayley Road, Massena, New York.

The first evening meeting will be held on Tuesday, June 24, 1997 beginning at 7:00 P.M. at St. Joseph's Parish Hall, 30 Bayley Road, Massena, New York.

The second evening meeting will be held on Wednesday, June 25, 1997 beginning at 7:00 P.M. at the United Methodist Church, State Route 37 (Lincoln Ave.), Waddington, New York.

The third evening meeting will be held on Thursday, June 26, 1997 beginning at 7:00 P.M. at the Akwesasne Housing Authority Building, State Route 37 (behind the police station), Hogansburg, New York.

At the scoping meetings, the Commission and DEC staffs will: (1) Summarize the environmental issues tentatively identified for analysis in the EIS; (2) solicit from the meeting participants all available information, especially quantified data, on the resources at issue, and (3) encourage statements from experts and the public on issues that should be analyzed in the EIS. Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meetings and to assist the staffs in defining and clarifying the issues to be addressed in the EIS.

Meeting Procedures

The meetings will be recorded by a stenographer. The minutes will become a part of the record of the Commission proceeding on the St. Lawrence-FDR Project. Individuals presenting statements at the meetings will be asked to identify themselves for the record.

Concerned individuals, organizations, and agencies are encouraged to offer verbal comments during the public meetings. Speaking time will be determined before each meeting, based on the number of persons wishing to speak and the approximate amount of time available for the session, but all speakers will be provided at least five minutes to present their views.

Persons choosing not to speak but wishing to express an opinion, as well as speakers unable to summarize their positions within their allotted time, may submit written statements for inclusion in the public record.

Written scoping comments may also be filed with the Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, D.C. 20426, no later than August 25, 1997. All filings should contain an original and 5 copies. Failure to file an original and 5 copies may result in appropriate staff not receiving the benefit of your comments in a timely manner.

All correspondence should clearly show the following caption on the first page: Scoping Comments, St. Lawrence-FDR Power Project, Project No. 2000–010, New York.

All those attending the meeting are urged to refrain from making any communications concerning the merits of the project to any member of the Commission staff outside of the established process for developing the record as stated in the record of the proceeding.

If you would like to participate in the meetings or need general information on the CCP Team and process, as well as the relicensing process, contact any one of the following three individuals:

Mr. Thomas R. Tatham, New York Power Authority, 212–468–6747, 212–468–6272 (fax), EMAIL: Ytathat@IP3GATE. USA.COM

Mr. Keith Silliman, New York Dept. of Environmental Conservation, 518–457–0986, 518–457–3978 (fax), EMAIL: Silliman@ALBANY.NET.

Mr. Thomas Russo, Federal Energy Regulatory Commission, 202–219–2700, 202–219–2634 (fax), EMAIL: Thomas. Russo@FERC.FED.US

Lois D. Cashell,

Secretary.

[FR Doc. 97–13558 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 11603–000 et al.]

Hydroelectric Applications [Indianford Water Power Company, Inc., et al.]; Notice of Applications

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11603–000.

c. *Date filed:* March 28, 1997.

d. *Applicant:* Indianford Water Power Company, Inc.

e. *Name of Project:* Indianford Hydro Project.

f. *Location:* On the Rock River near Fulton, Rock County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 USC 791(a)-825(r).

h. *Applicant Contact:* Mr. Thomas J. Reiss, Indianford Water Power Company, Inc., P.O. Box 553, 319 Hart Street, Watertown, WI 53094, (414) 261–7975.

i. *FERC Contact:* Edward Lee at (202) 219–2809.

j. *Comment Date:* June 27, 1997.

k. *Description of Project:* The proposed project would consist of: (1) an existing 6-foot-high, 332-foot-long concrete gravity dam; (2) an existing 55,793 acre-foot reservoir with a surface area of 10,460 acres; (3) an existing concrete and brick powerhouse containing two 250-kilowatt (kW) generating units for a proposed total installed capacity of 500-kW; (4) a new 100-foot-long transmission line; and (5) appurtenant facilities. The applicant estimates that the average annual generation would be 730,000 kilowatt-hours. No new access road will be needed to conduct the studies. The applicant estimates that the cost of the studies to be conducted under the preliminary permit would be $25,000. All existing project structures are owned by Rock County, Parks & Conservation Commission, 51 Main Street, Janesville, Wisconsin 53545.

l. *Purpose of Project:* Project power would be sold to a local utility.

m. *This notice also consists of the following standard paragraphs:* A5, A7, A9, A10, B, C, and D2.

2a. *Type of Application:* Amendment of Exemption.

b. *Project No.:* 4563–004.

c. *Date Filed:* March 17, 1997.

d. *Applicant:* John R. LeMoyne.

e. *Name of Project:* LeMoyne Power Plant.

f. *Location:* On Riley Creek near the town of Hagerman, Gooding County, Idaho.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. *Applicant Contact:* Mr. John R. LeMoyne 901 A Gridley Island, Hagerman, ID 83332 (208) 837–4887.

i. *FERC Contact:* Robert Gwynn, (202) 219–2764.

j. *Comment Date:* June 26, 1997.

k. *Description of Filing:* LeMoyne Power Plant proposes to remove the fish hatchery ponds from the project's water conveyance system, and replace the existing 50-foot long, 36-inch diameter penstock with a new 530-foot long, 52-inch diameter penstock that would convey water directly from the Riley Creek diversion to the project powerhouse. The project generator would be replaced, increasing the generating capacity from 32 kW to 75 kW.

l. *This paragraph also consists of the following standard paragraphs:* B, C1, and D2.

3a. *Type of Application:* Amendment of License.

b. *Project No:* 2307–040.

c. *Date Filed:* April 2, 1997.

d. *Applicant:* Alaska Electric Light and Power Company.

e. *Name of Project:* Annex Creek and Salmon Creek Project.

f. *Location:* City & Borough of Juneau, Alaska.

g. *Filed Pursuant to:* FERC 18 CFR 4.38 (a)(5).

h. *Applicant Contact:* Susan Tinney, Licensing Coordinator, Alaska Electric Light and Power Company, 5601 Tonsgard Court, Juneau, Alaska 99801, (907)780–2222.

i. *FERC Contact:* J. W. FLINT, (202) 219–2667.

j. *Comment Date:* June 20, 1997.

k. *Description of Amendment:* The licensee proposes to decommission the Upper Salmon Creek power plant and remove two miles of 23kV transmission and communication lines from the upper powerplant to the lower switch yard. The licensaee would also change the point of release of water to meet minimum flow requirements from the upper powerplant to the base of the Salmon Creek dam.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

4a. *Type of Filing:* Request for Extension of Time to Commence Project Construction.

b. *Applicant:* City of Alton, Illinois.

c. *Project No.:* The proposed Mississippi River Lock & Dam No. 26 Hydroelectric Project, FERC No. 3246–028 is to be located on the Mississippi River in St. Charles County, Missouri.

d. *Date Filed:* March 25, 1997.

e. *Pursuant to:* Public Law 104–252.

f. *Applicant Contact:* Daniel W.L. O'Brien, Corporation Counsel, City of Alton, Illinois, 101 East Third Street, Alton, Illinois 62002, (618) 463–3590.

g. *FERC Contact:* Mr. Lynn R. Miles, (202) 219–2671.

h. *Comment Date:* June 26, 1997.

i. *Description of the Requests:* The licensee requests that the existing deadline for the commencement of construction for FERC Project No. 3246 be extended to October 15, 1997. The licensee also requests that the deadlines for complying with articles 101, 403, 404, and standard article 5 be extended to October 15, 1997. The deadline for completion of construction would be extended to October 15, 2001.

j. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

5a. *Type of Application:* Minor New License.

b. *Project No.:* 1994–004.

c. *Date filed:* November 2, 1995.

d. *Applicant:* Heber Light and Power Company.

e. *Name of Project:* Snake Creek.

f. *Location:* Partially within the Uinta National Forest, on Snake Creek, in Wasatch County Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Alden C. Robinson, Sunrise Engineering, Inc., 25 East 500 North, P.O. Box 186, Fillmore, UT 84631 (801) 743–6151.

i. *FERC Contact:* Héctor M. Pérez, (202) 219–2839.

j. *Deadline for comments, recommendations, terms and conditions, and prescriptions:* See paragraph D10 below.

k. *Status of Environmental Analysis:* This application is now ready for environmental analysis at this time—see attached paragraph D10.

l. *Brief Description of Project:* The existing project consists of: (1) A grated penstock inlet; (2) a 16,417-foot-long, 16-inch-diameter penstock; (3) a powerhouse containing one generating unit with an installed capacity of 800 kW; and (4) a 24-foot-long, 12.4–kV transmission line. The proposed project would operate run-of-river, and would generate about 4,300,000 kilowatthours of energy annually.

m. This notice also consists of the following standard paragraph: D10.

n. Available Locations of Application: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E., First Floor, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address shown in item h above.

6a. *Type of Application:* Amendment of License.

b. *Project No:* 11128–004.

c. *Date Filed:* 08/01/96.

d. *Applicant:* Odell Hydroelectric Company.

e. *Name of Project:* Brooklyn Dam Project.

f. *Location:* On the Upper Ammonoosuc River in Northumberland, Coos County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Gregory Cloutier, C/O Powerhouse Systems, Inc., RR 1 Box 2, Jefferson, NH 03583, (603) 586–4506.

i. *FERC Contact:* Mohamad Fayyad, (202) 219–2665.

j. *Comment Date:* June 30, 1997.

k. *Description of Amendment:* Licensee proposes to delete from the license, one of the project's dams, the Red Dam. The Red Dam is an existing structure and located about 0.8 miles upstream from project's main dam and powerhouse, the Brooklyn Dam. The Red Dam does not play any role in the generation of power at the Brooklyn Dam. The licensee states that the Red Dam was included in the license at the request of its owner at the time, the James River Corporation, because of the way the two dams were operated for water flow by Groveton Paper Mill. In 1993, James River Corporation sold the dams and the Groveton Paper Mill to Wausau Papers, who didn't agree with keeping the Red Dam under the license. Since the Red Dam is not needed for the operation of the hydropower facility at the Brooklyn Dam, the licensee is requesting its removal from the license.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

7a. *Type of Application:* Declaration of Intention.

b. *Docket No:* DI97–6.

c. *Date Filed:* 04/28/97.

d. *Applicant:* Calleguas Municipal Water District.

e. *Name of Project:* Las Posas Basin Wellfield No. 1 ASR.

f. *Facility Location:* Just south of and adjacent to Grimes Canyon Road, Moorpark, CA. The area is drained by an unnamed stream bed, which runs along Grimes Canyon Road and flows to Arroyo Las Posas, a tributary to Calleguas Creek.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Thomas Bissonnette, CH2M HILL, 3 Hutton Centre Drive, Suite 200, Santa Ana, Ca 92707, (805) 371–7822.

i. *FERC Contact:* Diane M. Murray, (202) 219–2682.

j. *Comment Date:* June 30, 1997.

k. *Description of Project:* The site will consist of four wells located approximately 600 feet apart. The Metropolitan Water District of Southern California (MWD) will deliver water to the wells through the Santa Susana Tunnel located in Chatsworth, CA. The wells will take advantage of MWD's Seasonal Storage Program and will increase the reliability of its water supply. Each well is approximately 900 feet deep and depth to groundwater is about 500 feet below ground surface. The wells will be used for injection during periods when water supply is available from MWD. The wells will be

used to meet peak and drought conditions as well as during emergencies. Each well pump will be equipped with an induction motor with the appropriate controls for use as a hydro generator during the injection period. Peak power production per well is calculated to be approximately 111 kW under maximum total head and flow conditions. When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* To offset power costs.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

8a. *Type of Application:* Declaration of Intention.

b. *Docket No:* DI97–7.

c. *Date Filed:* 04/28/97.

d. *Applicant:* Calleguas Municipal Water District.

e. *Name of Project:* Fairview ASR Well Facility.

f. *Location:* At the Calleguas Municipal Water District's Fairview Pump Station, 7510 Walnut Canyon Road, approximately ½ mile south of Broadway, CA.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Thomas Bissonnette, CH2M HILL, 3 Hutton Centre Drive, Suite 200, Santa Ana, Ca 92707, (805) 371–7822.

i. *FERC Contact:* Diane M. Murray, (202) 219–2682.

j. *Comment Date:* June 30, 1997.

k. *Description of Project:* The site consists of one well. The Metropolitan Water District of Southern California (MWD) delivers water to the well through the Santa Susana Tunnel located in Chatsworth, CA. The well takes advantage of MWD's Seasonal Storage Program and increases the reliability of its water supply. The well is approximately 900 feet deep and depth to groundwater is about 500 feet below ground surface. The well is used for injection during periods when water supply is available from MWD. The well is used to meet peak and drought conditions as well as during emergencies. The well pump will be equipped with an induction motor with the appropriate controls for use as a hydro generator during the injection period. Peak power production is calculated to be approximately 64 kW under maximum total head and flow conditions.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Purpose of Project:* To offset power costs.

m. *This notice also consists of the following standard paragraphs:* B, C1, and D2.

Standard Paragraphs

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional

copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice (July 11, 1997 for Project No. 1994–004). All reply comments must be filed with the Commission within 105 days from the date of this notice (August 25, 1997 for Project No. 1994-004).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: May 15, 1997, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13605 Filed 5–22–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM93–11–000]

Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992

Issued May 19, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of annual change in the producer price index for finished goods, minus one percent.

SUMMARY: The Commission is issuing the index that oil pipelines must apply to their July 1, 1996–June 30, 1997 rate ceiling levels to compute their rate ceiling levels for the period July 1, 1997 through June 30, 1998, in accordance with 18 CFR 342.3(d). This index, which is the percent change (expressed as a decimal) in the annual average Producer Price Index for Finished Goods from 1995 to 1996, minus one percent, is .016583. Oil pipelines must multiply their July 1, 1996–June 30, 1997 rate ceiling levels by 1.016583 to compute their rate ceiling levels for the period July 1, 1997 through June 30, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle Veloso, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–2008.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours at 888 First Street, N.E., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397 if dialing locally, or 1–800–856–3720 if dialing long distance. To access CIPS, set your communications software to use 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this document will be available on CIPS indefinitely; it can be found in ASCII and WordPerfect 6.1 format. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in the Public Reference Room at 888 First Street, N.E., Washington, DC 20426.

The Commission's regulations include a methodology for oil pipelines to change their rates through use of an index system that establishes ceiling levels for such rates. The index system as set forth at 18 CFR 342.3 is based on the annual change in the Producer Price Index for Finished Goods (PPI–FG), minus one percent. The regulations provide that each year the Commission will publish an index reflecting the final change in the PPI–FG, minus one percent, after the final PPI–FG is made available by the Bureau of Labor Statistics in May of each calendar year.

The annual PPI–FD index figure for 1995 was 127.9 and the annual average PPI–FG index figure for 1996 was 131.3.[1] Thus, the percent change

[1] The final figure for the annual average PPI–FG is published by the Bureau of Labor Statistics in

(expressed as a decimal) in the annual average PPI–FG from 1995 to 1996, minus one percent, is .016583.[2] Oil pipelines must multiply their July 1, 1996–June 30, 1997 rate ceiling levels by 1.016583 to compute their rate ceiling levels for the period July 1, 1997 through June 30, 1998, in accordance with 18 CFR 342.3(d).

To obtain July 1, 1997–June 30, 1998 ceiling levels, pipelines must first calculate their ceiling levels for the January 1, 1995–June 30, 1995 index period, by multiplying their December 31, 1994 rates by 1.002175. Pipelines must then multiply those ceiling levels by 0.996514 to obtain the July 1, 1995–June 30, 1996 ceiling levels, and then multiply those ceiling levels by 1.009124 to obtain the July 1, 1996–June 30, 1997 ceiling levels. Finally, pipelines must multiply the July 1, 1996–June 30, 1997 ceiling levels by 1.016583 to obtain the July 1, 1997–June 30, 1998 ceiling levels. *See Explorer Pipeline Company*, 71 FERC ¶ 61416 n.6 (1995) for an explanation of how ceiling levels must be calculated.

Lois D. Cashell,

Secretary.

[FR Doc. 97–13604 Filed 5–22–97; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Western Area Power Administration

Parker-Davis Project—Proposed Firm Power Charge and Firm and Nonfirm Transmission Service Rate

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed charge and rate adjustment.

SUMMARY: The Western Area Power Administration (Western) is initiating a rate adjustment process for firm power and firm and nonfirm transmission service for the Parker-Davis Project (P–DP). The existing rate schedules were placed into effect on October 1, 1995, under Rate Order WAPA–68 which was approved on a final basis by the Federal Energy Regulatory Commission on April 19, 1996. There is a need to modify the power repayment study (PRS) and rate design for firm power and firm and nonfirm transmission service to provide sufficient revenue to pay all annual costs (including interest expense), plus repayment of required investment within the allowable time period. The charge/rate impacts are detailed in a rate brochure to be distributed to all interested parties. The proposed charges/rates for firm power and firm and nonfirm transmission service are expected to become effective October 1, 1997.

DATES: Submit comments on or before August 21, 1997. The forum dates are:

1. Public information forum, June 10, 1997, 10 a.m., Phoenix, AZ.
2. Public comment forum, July 14, 1997, 10 a.m., Phoenix, AZ.

ADDRESSES: Written comments should be sent to the Western Area Power Administration, Desert Southwest Regional Office, 615 South 43rd Avenue, Phoenix, Arizona 85009–5313. The public forums will be held at the Desert Southwest Regional Office.

FOR FURTHER INFORMATION CONTACT: Mr. J. Tyler Carlson, Regional Manager, (602) 352–2453 or Mr. Anthony H. Montoya, Assistant Regional Manager for Power Marketing, (602) 352–2789.

SUPPLEMENTARY INFORMATION: The proposed Fiscal Year 1998 (FY 1998) Generation Charge for P–DP firm power is based on an Annual Net Expense Allocated to Generation of $5,616,123. The Calculated Capacity Rate for FY 1998 will be $0.90 per kilowatt-month (kW-mo) and the Calculated Energy Rate for FY 1998 will be 2.09 mills/kWh. The proposed firm transmission service rate for FY 1998 will be $16.16 per kilowatt-year (kW-yr) (billed at $1.35 per kW-mo) and the proposed nonfirm transmission service rate for FY 1998 will be 3.07 mills/kWh, based on Annual Net Expenses Allocated to Transmission of $26,306,972. The P–DP proposed rate for transmission service for Salt Lake City Area Integrated Projects (Integrated Projects) power customers is $8.08 per kilowatt-season ($1.35 per kW-mo) which is one-half of the P–DP proposed rate for firm transmission service of $16.16 per kW-yr. The proposed charges/rates reflect an increase in the Annual Net Expenses from $28,521,763 under the currently approved rates to $31,923,095 in the proposed rates.

Since the proposed changes in the PRS, rate design, and charges/rates constitute a major rate adjustment as defined by the procedures for public participation in general rate adjustments, as cited below, both a public information forum and a public comment forum will be held. After review of public comments, Western will recommend proposed rates for approval on an interim basis by the Deputy Secretary of DOE.

Power and transmission rates for the P–DP are established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) and the Reclamation Act of 1902 (43 U.S.C. 388 *et seq.*), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)) and the Act of May 28, 1954 (ch. 241, 68 Stat. 143).

By Amendment No. 3 to Delegation Order No. 0204–108, published November 10, 1993 (58 FR 59716), the Secretary of Energy delegated (1) the authority to develop long-term power and transmission rates on a nonexclusive basis to the Administrator of Western; (2) the authority to confirm, approve, and place such rates into effect on an interim basis to the Deputy Secretary; and (3) the authority to confirm, approve, and place into effect on a final basis, to remand, or to disapprove such rates to FERC. Existing DOE procedures for public participation in power rate adjustments (10 CFR Part 903) became effective on September 18, 1985 (50 FR 37835).

Availability of Information

All brochures, studies, comments, letters, memoranda, and other documents made or kept by Western for the purpose of developing the proposed rates for firm power and firm and nonfirm transmission service are and will be made available for inspection and copying at Western's Desert Southwest Regional Office, located at 615 South 43rd Avenue, Phoenix, AZ 85009–5313.

Determination Under Executive Order 12866

DOE has determined that this is not a significant regulatory action because it does not meet the criteria of Executive Order 12866, 58 FR 51735. Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.;* Council on Environmental Quality Regulations (40 CFR Parts 1500–1508); and DOE NEPA Regulations (10 CFR Part 1021), Western has determined that this action is categorically excluded from the preparation of an environmental assessment or an environmental impact statement.

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mid-May of each year. This figure is publicly available from the Division of Industrial Prices and Price Indexes of the Bureau of Labor Statistics, at (202) 606–7705, and is available in print in August in Table 1 of the annual data supplement to the BLS publication *Producer Price Indexes.*

[2] [131.3 – 127.9]/127.9 = .026583 – .01 = .016583.

Dated: May 14, 1997.

J. M. Shafer,

Administrator.

[FR Doc. 97–13621 Filed 5–22–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5829–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Notice for Stored Pesticides With Canceled or Suspended Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Notification of Stored Pesticides with Canceled or Suspended Registrations Under Section 6(g) of the Federal Insecticide, Fungicide and Rodenticide Act (EPA Form No. 1519.04), OMB Control Number 2070–0109, Expiration Date: 8/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before June 23, 1997.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1519.04.

SUPPLEMENTARY INFORMATION:

Title: Notification of Stored Pesticides with Canceled or Suspended Registrations Under Section 6(g) of the Federal Insecticide, Fungicide and Rodenticide Act (EPA Form No. 1519.04), OMB Control Number 2070–0109.

Expiration Date: 8/31/97. This is a request for extension of a currently approved collection.

Abstract: Section 6(g) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) requires any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any pesticide which has had its registration suspended or canceled under section 6 to notify the Administrator and appropriate State and local officials of: (1) Such possession; (2) the quantity of such pesticide such person possesses, and (3) the place at which such pesticide is stored.

EPA may require affected persons to submit information on the storage of canceled or suspended pesticides through FIFRA section 6 Suspension and/or Cancellation orders or through notices published in the **Federal Register**. The formats, procedures, and identification of persons who must submit FIFRA section 6(g) information will appear in the Suspension/Cancellation Order or **Federal Register** notice itself.

The information required by FIFRA section 6(g) will be used by the Agency for compliance monitoring purposes (identification of areas where large amounts of suspended/canceled products are being stored, inspection targeting to assure adequate storage and compliance with the terms of the cancellation or suspension order, inspections to confirm the adequacy of the registrant's recall plans, etc.), indemnification determinations for emergency suspended and canceled products, the determination of disposal burdens, to aid the FIFRA section 19 recall process, and to aid the Agency in the development of a reimbursement plan for the registrant's costs for the storage of canceled and suspended pesticides which have been recalled under FIFRA section 19. The information submitted is not considered confidential. However, if any records are declared CBI by a respondent, the data will be treated in accordance with the provisions of FIFRA section 10, and by 40 CFR Part 2. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The **Federal Register** notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 3/5/97 (62 FR No 43); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Producer, Exporter Registrant or Applicant, *et. al.* for Pesticides.

Estimated Number of Respondents: 80,250.

Frequency of Response: 1 for both General Use Product, and Restricted Use Product.

Estimated Total Annual Hour Burden: 120,375 hours.

Estimated Total Annualized Cost Burden: No Capital/O&M costs.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No.1519.04 and OMB Control No. 2070–0109 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460.

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: May 19, 1997.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–13653 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5829–7]

Protection of Stratospheric Ozone: Notice of Revocation of Certification of Refrigerant Reclaimers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revocation.

SUMMARY: Through this action EPA is announcing the revocation of certification of nine refrigerant reclaimers previously certified to reclaim refrigerant in accordance with

the regulations promulgated at 40 CFR part 82, subpart F. In addition, EPA is announcing the voluntary withdrawal of certification by two refrigerant reclaimers. The nine refrigerant reclaimers whose certifications were revoked include A.C. Baumgartner/ Somerset located in Chandler, Arizona; CFC Reclamation located in Columbus, Ohio; CFC Reclamation located in Urbana, Illinois; Eco-Dyne of Colorado located in Denver, Colorado; International Central Cooling located in Ronkonkoma, NY; Key Reps, Inc. located in Longwood, Florida; Lofland Environmental, L.L.C. located in Kilgore, Texas; Plains Refrigerant Reclaim Corp. located in Amarillo, Texas; and Tri State Chemical Corp. located in Owings Mills, Maryland. These refrigerant reclaimers were issued letters of revocation on March 7, 1997, that included an explanation of the basis for EPA's decision. The two reclaimers that voluntarily withdrew certification, LaRoche Chemicals, Inc., located in Atlanta, Georgia, and Tozour Trane, located in King of Prussia, Pennsylvania, were issued letters on March 7, 1997, acknowledging the voluntary withdrawal of their certifications.

These eleven reclaimers have either requested to be removed from the list of certified reclaimers or have not complied with the requirements established for refrigerant reclaimers pursuant to section 608 of the Clean Air Act Amendments (the Act). In accordance with those requirements, all certified refrigerant reclaimers must maintain records regarding the amount of refrigerant processed and submit a report of the reclamation activities to EPA on an annual basis. Failure to comply with any of the requirements of 40 CFR part 82 subpart F, including the recordkeeping and reporting requirements, may result in revocation of certification.

EPA sent ten of the reclaimers listed above—A.C. Baumgartner/Somerset; CFC Reclamation of Columbus; CFC Reclamation of Urbana; Eco-Dyne of Colorado; International Central Cooling; Key Reps, Inc.; LaRoche Chemicals, Inc.; Lofland Environmental, L.L.C.; Tozour Trane; and Tri State Chemical Corp—information collection requests issued pursuant to section 114(a) of the Act, in which EPA requested that the reclaimers submit the required annual report regarding reclamation activity. The section 114 request letters sent to Eco-Dyne of Colorado, Key Reps, Inc., Lofland Environmental, L.L.C., and Tri State Chemical Corporation were returned to EPA unopened. Subsequent attempts by EPA to contact those reclaimers by other means were unsuccessful. Eco-Dyne of Colorado, Key Reps, Inc., Lofland Environmental, L.L.C., and Tri State Chemical Corporation have not submitted annual reports regarding reclamation activity for calendar year 1995. Therefore, Eco-Dyne of Colorado, Key Reps, Inc., Lofland Environmental, L.L.C., and Tri State Chemical Corporation are out of compliance with 40 CFR 82.166(h).

The section 114 request letters sent to three of the reclaimers, A.C. Baumgartner/ Somerset, CFC Reclamation of Urbana, and International Central Cooling, were returned to EPA unopened. However, EPA was able to reach those three reclaimers by other means. Those three reclaimers requested to be removed from the list maintained by EPA of certified refrigerant reclaimers. Those three companies have not submitted annual reports regarding reclamation activity for calendar year 1995. Therefore, A.C. Baumgartner/Somerset, CFC Reclamation of Urbana, and International Central Cooling are out of compliance with 40 CFR 82.166(h).

CFC Reclamation of Columbus received the EPA section 114 letter and did not fully respond to the request for information regarding refrigerant reclamation. Instead of a complete response, CFC Reclamation of Columbus sent a response to the section 114 letter requesting to be removed from the list maintained by EPA of certified refrigerant reclaimers. CFC Reclamation of Columbus has not submitted annual reports regarding reclamation activity for calendar year 1995. Therefore, CFC Reclamation of Columbus is out of compliance with 40 CFR 82.166(h).

LaRoche Chemical and Tozour Trane responded completely to the EPA section 114 letter and requested to be removed from the list maintained by EPA of certified refrigerant reclaimers.

EPA has not received an annual report regarding refrigerant reclamation activity for calendar years 1995 or 1996 from Plains Refrigerant Reclaim Corporation as required by 40 CFR 82.166(h). Therefore, Plains Refrigerant Reclaim Corporation is out of compliance with 40 CFR part 82 subpart F. EPA has been unable to locate or contact Plains Refrigerant Reclaim Corporation or its representatives.

In accordance with 40 CFR 82.164(g), EPA revoked the certifications of the nine reclaimers out of compliance with 40 CFR 82.166(h) on March 7, 1997. In addition, EPA issued letters on March 7, 1997, acknowledging the voluntary withdrawal of certification by the two reclaimers that voluntarily withdrew their certifications. In accordance with 40 CFR 82.154(h), class I or class II substances that consist in whole or in part of used refrigerant and that are reclaimed after March 7, 1997, by these eleven reclaimers are prohibited from being sold or offered for sale for use as a refrigerant. However, refrigerant reclaimed as defined at 40 CFR 82.152 by these reclaimers during the period the reclaimers were certified may be sold and offered for sale.

DATE: The eleven reclaimers listed above had their certification as refrigerant reclaimers revoked, effective March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Debbie Ottinger, Program Implementation Branch, Stratospheric Protection Division, Office of Atmospheric Programs, Office of Air and Radiation (6205-J), 401 M Street, SW., Washington, DC 20460, 202/233–9149. The Stratospheric Ozone Information Hotline at 1–800–296–1996 can also be contacted for further information.

Dated: May 16, 197.

Paul M. Stolpman,

Director Office Of Atmospheric Programs.

[FR Doc. 97–13650 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5830–1]

Acid Rain Program: Permits and Permit Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of permits and permit modifications.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is issuing, as a direct final action, Phase I Acid Rain permits and permit modifications including nitrogen oxides (NO_x) compliance plans in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the exemptions are being issued as a direct final action.

DATES: The permits and permit modifications issued in this direct final action will be final on July 2, 1997 or 40 days after publication of a similar notice in a local publication, whichever is later, unless significant, adverse comments are received by June 23, 1997 or 30 days after publication of a similar notice in a local publication, whichever is later. If significant, adverse comments are timely received on any permit or permit modification in this direct final

action, that permit or permit modification will be withdrawn through a notice in the **Federal Register**.

ADDRESSES: *Administrative Records.* The administrative record for the permits, except information protected as confidential, may be viewed during normal operating hours at the following locations: for plants in New York, EPA Region 2, 290 Broadway, New York, NY, 10007–1866; for plants in Florida and South Carolina, EPA Region 4, 100 Alabama St., NW, Atlanta, GA, 30303; for plants Michigan, EPA Region 5, 77 West Jackson Blvd., Chicago, IL, 60604; for plants in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, EPA Region 6, 1445 Ross Ave., Dallas TX, 75202; for plants in Washington, EPA Region 10, 1200 Sixth Avenue (AT–082), Seattle, Washington, 98101.

Comments. Send comments, requests for public hearings, and requests to receive notice of future actions to: for plants in New York, EPA Region 2, Division of Environmental Planning & Protection, Attn: Gerry DeGaetano (address above); for plants in Florida and South Carolina, EPA Region 4, Air, Pesticides and Toxics Management Division, Attn: Scott Davis (address above); for plants in Michigan, EPA Region 5, Air and Radiation Division, Attn: Beth Valenziano (address above); for plants in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, EPA Region 6, Compliance Assurance and Enforcement Division, Attn: Joseph Winkler (address above); for plants in Washington, EPA Region 10, Air and Toxics Division, Attn: Joan Cabreza (address above). Submit comments in duplicate and identify the permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units in the plan. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 or issues not relevant to the permit or the permit modification.

Hearings. To request a public hearing, state the issues proposed to be raised in the hearing. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting a NO_x compliance plan.

FOR FURTHER INFORMATION: For plants in New York, call Gerry DeGaetano, 212–637–4020; for plants in Florida and South Carolina, call Scott Davis, 404–562–9127; for plants in Michigan, call Beth Valenziano, 312–886–2703; for plants in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, call Joseph Winkler, 214–665–7243; for plants in Washington, call Joan Cabreza (206) 553–8505.

SUPPLEMENTARY INFORMATION: Title IV of the Clean Air Act directs EPA to establish a program to reduce the adverse effects of acidic deposition by promulgating rules and issuing permits to emission sources subject to the program. In today's action, EPA is issuing permits and permit modifications that include approval of early election plans for NO_X. The units that are included in the early election plans will be required to meet an actual annual average emissions rate for NO_X of either 0.45 lbs/MMBtu for tangentially-fired boilers or 0.50 lbs/MMBtu for dry bottom wall-fired boilers beginning on January 1, 1997 through December 31, 2007, after which they will be required to meet the applicable emissions limitation under 40 CFR 76.7(a) of 0.40 lbs/MMBtu for tangentially-fired boilers or 0.46 lbs/MMBtu for dry bottom wall-fired boilers. The following is a list of units included in the permits or permit modifications and the limits that they are required to meet:

CR Huntley units 67 and 68 in New York: 0.45 lbs/mmBtu. The designated representative is Thomas H. Baron.

Dunkirk units 1 and 2 in New York: 0.45 lbs/mmBtu. The designated representative is Thomas H. Baron.

Seminole units 1 and 2 in Florida: 0.50 lbs/mmBtu. The designated representative is Michael P. Opalinski.

WS Lee units 1, 2, and 3 in South Carolina: 0.45 lbs/mmBtu for unit 1, 0.50 lbs/mmBtu for units 2 and 3. The designated representative is T.C. McMeekin. (These units were incorrectly identified as Lee units 1, 2, and 3 in North Carolina in the Notice of Permits and Permit Modifications published in the **Federal Register** on April 16, 1997.)

JC Weadock units 7 and 8 in Michigan: 0.45 lbs/mmBtu. The designated representative is Robert A. Fenech.

Flint Creek unit 1 in Arkansas: 0.50 lbs/mmBtu. The designated representative is E. Michael Williams.

Independence units 1 and 2 in Arkansas: 0.45 lbs/mmBtu. The designated representative is Frank F. Gallaher.

White Bluff units 1 and 2 in Arkansas: 0.45 lbs/mmBtu. The designated representative is Frank F. Gallaher.

Big Cajun 2 units 2B1, 2B2, and 2B3 in Louisiana: 0.50 lbs/mmBtu. The designated representative is Gary C. Ellender.

Dolet Hills unit 1 in Louisiana: 0.50 lbs/mmBtu. The designated representative is Paul Turregano.

Rodemacher unit 2 in Louisiana: 0.50 lbs/mmBtu. The designated representative is Paul Turregano.

RS Nelson unit 6 in Louisiana: 0.45 lbs/mmBtu. The designated representative is Frank F. Gallaher.

Escalante unit 1 in New Mexico: 0.45 lbs/mmBtu. The designated representative is Micheal S. McInnes.

Muskogee units 4, 5, and 6 in Oklahoma: 0.45 lbs/mmBtu. The designated representative is David A. Branecky.

Sooner units 1 and 2 in Oklahoma: 0.45 lbs/mmBtu. The designated representative is David A. Branecky.

Coleto Creek unit 1 in Texas: 0.45 lbs/mmBtu. The designated representative is E. Michael Williams.

Oklaunion unit 1 in Texas: 0.50 lbs/mmBtu. The designated representative is E. Michael Williams.

Pirkey unit 1 in Texas: 0.50 lbs/mmBtu. The designated representative is E. Michael Williams.

Welsh units 1, 2, and 3 in Texas: 0.50 lbs/mmBtu. The designated representative is E. Michael Williams.

JK Spruce unit BLR1 in Texas: 0.45 lbs/mmBtu. The designated representative is Cynthia A.S. Levesque.

Limestone units LIM1 and LIM2 in Texas: 0.45 lbs/mmBtu. The designated representative is David G. Tees.

WA Parish units WAP5, WAP6, WAP7, and WAP8: 0.50 lbs/mmBtu for units WAP5 and WAP6, 0.45 lbs/mmBtu for units WAP7 and WAP8. The designated representative is David G. Tees.

Sam Seymour units 1, 2, and 3 in Texas: 0.45 lbs/mmBtu. The designated representative is Dudley Piland.

San Miguel unit SM–1 in Texas: 0.50 lbs/mmBtu. The designated representative is Ronald L. Magel.

Harrington units 061B, 062B, and 063B in Texas: 0.45 lbs/mmBtu. The designated representative is Olon Plunk.

Tolk units 171B and 172B in Texas: 0.45 lbs/mmBtu. The designated representative is Olon Plunk.

Gibbons Creek unit 1 in Texas: 0.45 lbs/mmBtu. The designated representative is William R. Fox.

Big Brown units 1 and 2 in Texas: 0.45 lbs/mmBtu. The designated representative is W.M. Taylor.

Martin Lake units 1, 2, and 3 in Texas: 0.45 lbs/mmBtu. The designated representative is W.M. Taylor.

Monticello units 1, 2, and 3 in Texas: 0.45 lbs/mmBtu for units 1 and 2, 0.50 lbs/mmBtu for unit 3. The designated representative is W.M. Taylor.

Sandow unit 4 in Texas: 0.45 lbs/mmBtu. The designated representative is W.M. Taylor.

Centralia units BW21 and BW22 in Washington: 0.45 lbs/mmBtu. The designated representative is William C. Brauer.

Dated: May 16, 1997.

Janice Wagner,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–13647 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5830–2]

Acid Rain Program: Draft Permits and Permit Modifications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft permits and permit modifications.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is issuing for comment draft Phase I Acid Rain permits and permit modifications including nitrogen oxides (NO_X) compliance plans in accordance with the Acid Rain Program regulations (40 CFR parts 72 and 76). Because the Agency does not anticipate receiving adverse comments, the permits and permit modifications are also being issued as a direct final action in the notice of permits and permit modifications published elsewhere in today's **Federal Register**.

DATES: Comments on the draft permits and permit modifications must be received no later than 30 days after the date of this notice or 30 days after the date of publication of a similar notice in a local newspaper, whichever is later.

ADDRESSES: *Administrative Records.* The administrative record for the permits, except information protected as confidential, may be viewed during normal operating hours at the following locations: For plants in New York, EPA Region 2, 290 Broadway, New York, NY, 10007–1866; for plants in Florida and South Carolina, EPA Region 4, 100 Alabama St., NW, Atlanta, GA, 30303; for plants Michigan, EPA Region 5, 77 West Jackson Blvd., Chicago, IL, 60604; for plants in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, EPA Region 6, 1445 Ross Ave., Dallas, TX, 75202; for plants in Washington, EPA Region 10, 1200 Sixth Avenue (AT–082), Seattle, Washington, 98101.

Comments. Send comments, requests for public hearings, and requests to receive notices of future actions to: For plants in New York, EPA Region 2, Division of Environmental Planning & Protection, Attn: Gerry DeGaetano (address above); for plants in Florida and South Carolina, EPA Region 4, Air, Pesticides and Toxics Management Division, Attn: Scott Davis (address above); for plants in Michigan, EPA Region 5, Air and Radiation Division, Attn: Beth Valenziano (address above); for plants in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, EPA Region 6, Compliance Assurance and Enforcement Division, Attn: Joseph Winkler (address above); for plants in Washington, EPA Region 10, Air and Toxics Division, Attn: Joan Cabreza (address above). Submit comments in duplicate and identify the permit to which the comments apply, the commenter's name, address, and telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of all units in the plan. All timely comments will be considered, except those pertaining to standard provisions under 40 CFR 72.9 or issues not relevant to the permit or the permit modification.

Hearings. To request a public hearing, state the issues proposed to be raised in the hearing. EPA may schedule a hearing if EPA finds that it will contribute to the decision-making process by clarifying significant issues affecting a NO_X compliance plan.

FOR FURTHER INFORMATION: For plants in New York, call Gerry DeGaetano, 212–637–4020; for plants in Florida and South Carolina, call Scott Davis, 404–562–9127; for plants in Michigan, call Beth Valenziano, 312–886–2703; for plants in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, call Joseph Winkler, 214–665–7243; for plants in Washington, call Joan Cabreza (206) 553–8505.

SUPPLEMENTARY INFORMATION: If no significant, adverse comments are timely received, no further activity is contemplated in relation to these draft permits and draft permit modifications and the permits and permit modifications issued as a direct final action in the notice of permits and permit modifications published elsewhere in today's **Federal Register** will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on any permit or permit modification, that permit or permit modification in the notice of permits and permit modifications will be withdrawn and public comment received on that permit or permit modification based on this notice of draft permits and permit modifications will be addressed in a subseqent notice of permit or permit modification. Because the Agency will not institute a second comment period on this notice of draft permits and permit modifications, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the permits and permit modifications, see the information provided in the notice of permits and permit modifications elsewhere in today's **Federal Register**.

Dated: May 16, 1997.

Janice Wagner,

Acting Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.

[FR Doc. 97–13648 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5480–6]

Environmental Impact Statements; Notice of Availability

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly Receipt of Environmental Impact Statements Filed May 13, 1997 Through May 16, 1997 Pursuant to 40 CFR 1506.9

EIS No. 970177, FINAL EIS, COE, WA, Howard A. Hanson Dam Continued Operation and Maintenance Plan, Implementation, Green River, King County, WA, Due: June 23, 1997, Contact: Cyrus M. McNeely (206) 764–3624.

EIS No. 970178, FINAL EIS, SFW, SC, Waccamaw National Wildlife Refuge, Diverse Habitat Components and Coastal River Ecosystem Preservation and Protection, Great Pee Dee and Waccamaw Rivers, Georgetown, Horry and Marion Counties, SC, Due: June 23, 1997, Contact: Patricia Podriznik (404) 679–7245.

EIS No. 970179, FINAL EIS, FHW, NC, NC–16 Upgrading and Relocating Project, Construction, Lucia to North of NC–150, Funding, COE Section 404 Permit and NPDES Permit, Gaston, Lincoln and Catawba Counties, NC, Due: June 23, 1997, Contact: Nicholas L. Graf (919) 856–4346.

EIS No. 970180, DRAFT EIS, COE, MD, Ocean City, Restoration of Assateaque Island, Water Resources Study, Town

of Ocean City, Worcester County, MD, Due: July 7, 1997, Contact: Ms. Stacey Underwood (410) 962–4977.

EIS No. 970181, DRAFT EIS, TVA, MS, Exercise of Option Purchase Agreement with LSP Energy Limited Partnership for Supply of Electric Energy, Construction and Operation, Batesville Generation Facility, Funding, COE Section 10 and 404 Permits and NPDES Permit, City of Batesville, Coahoma, Panola, Quitman and Yalobusha Counties, MS, Due: July 7, 1997, Contact: Gregory L. Askew (423) 632–6418.

EIS No. 970182, DRAFT EIS, MMS, AK, Beaufort Sea Planning Area Outer Continental Shelf Oil and Gas Lease Sale 170 (1997) Lease Offering, Offshore Marine, Beaufort Sea Coastal Plain, North Slope Borough of Alaska, Due: July 18, 1997, Contact: George Valiulis (703) 787–1662.

EIS No. 970183, FINAL SUPPLEMENT EIS, FAA, WA, Seattle-Tacoma International Airport Improvement, South Aviation Support Area, Airport Layout Plan and Airport Master Plan Approval, Updated Information on Master Plan Update Development Actions, Funding, COE Section 10 and 404 Permits and NPDES Permit, Port of Seattle, King County, WA, Due: June 23, 1997, Contact: Dennis Ossenkop (206) 227–2611.

EIS No. 970184, FINAL EIS, FAA, NY, NJ, La Guardia and John F. Kennedy International Airports, Implementation of Automated Guideway Transit System by the Port Authority of New York and New Jersey's Airport Access Program, Funding, Airport Layout Plan Approval, COE Section 10 and 404 Permits and US Coast Guard Permit, NY and NJ, Due: June 23, 1997, Contact: Laurence Schafer (718) 553–3340.

Dated: May 20, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–13670 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5480–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 05, 1997 Through May 09, 1997 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of FEDERAL ACTIVITIES AT (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 04, 1997 (62 FR 16154).

Draft EISs

ERP No. D–TVA–E06017–AL Rating EC2, ellefonte Nuclear Plant Conversion Project, Construction and Operation, NPDES Permit and COE Section 404 Permit, Tennessee River near Hollywood, AL.

Summary

EPA expressed environmental concerns regarding predicted impacts of conversion options to coal, a need for global climate change information, commitments to mitigation, wetland losses, off-site hazardous waste transport, a need for additional demographic comparisons (EJ) and summer thermal discharges. EPA requested additional information be provided in the final document.

ERP No. D–USA–K11079–CA Rating EC2, Fleet and Industrial Supply Center/Vision 2000 Maritime Development, Disposal and Reuse, Funding, NPDES Permit, COE Section 10 and 404 Permits, City of Oakland, Alameda County, CA CA.

Summary

EPA had environmental concerns regarding dredging and disposal, air quality, and land use compatibility issues and requested additional information. In particular, EPA is concerned about land use compatibility between the Port's proposed reuse activities and nearby West Oakland residential areas.

ERP No. DS–FHW–H40138–NB Rating LO, US 275 Highway Reconstruction on New Alignment west of the existing US 275/N–36 Intersection to west of the existing US 275/N–64 (West Maple Road) Interchange near Waterloo, Funding, Douglas County, NB.

Summary

EPA expressed no objections to the proposed action.

Final EISs

ERP No. F–COE–K35035–CA San Gabriel Canyon Sediment Management Plan, Dredging and Disposal of Sediments, COE Section 404 Permit, Special Use Permit and Right-of-Entry Issuance, Angeles National Forest, San Gabriel River, Los Angeles, CA.

Summary

EPA requested that the Record of Decision provide clarification on the proposed action's compliance with the Clean Water Act Section 404 (b)(1) Guidelines, including information on impacts to sediment disposal sites, a summary of direct and indirect impacts, mitigation for impacts to fish habitat and riffle and pool complexes, and on-site versus offsite mitigation. EPA also requested a commitment on future environmental documentation should the Flow Assisted Sediment Transport (FAST) alternative be pursued in the future.

ERP No. F–FHW–H40133–MO MO–179 Extension, MO–50 west to the West Edgewood Boulevard, Funding, Right-of-Way and COE Section 404 Permit, Jefferson City, Cole County, MO.

Summary

Review of the final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–H40151–MO MO–13 Highway Improvement, Existing MO–13 to MO–10 just south of Richmond to US 24 just south of Lexington, Funding, COE Section 10 and 404 Permits and US Coast Guard Bridge Permit Issuance, Ray and Lafayette Counties, MO.

Summary

Review of the final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–H40154–MO US 61 Relocation, US 61/24 Interchange north of Hannibal to the vicinity of US 61/M Intersection south of Hannibal, Funding and Possible COE Section 404 Permit, Marion and Ralls Counties, MO.

Summary

Review of the Final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–H40157–MO US Route 71/Range Line Road Bypass east of the Joplin City Limits Construction, Funding and COE Section 404 Permit, Jasper County, MO.

Summary

Review of the final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–NOA–L39054–WA Programmatic EIS—Commencement Bay Restoration Plan, Implementation, COE Section 10 and 404 Permits, CZMA and NPDES Applications, Puget Sound, Pierce County, WA.

Summary

Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–NPS–H65005–NB Niobrara National Scenic River, General Management Plan, Niobrara/Missouri National Scenic Riverways, Implementation, Brown, Cherry, Keya Paha and Rock Counties, NB.

Summary

Review of the final EIS has been completed and the project found to be satisfactory. No formal comment letter was sent to the preparing agency.

ERP No. F–SFW–K99026–CA Multiple Species Conservation Program (MSCP) Planning Area, Issuance of Take Authorizations for Threatened and Endangered Species Due to Urban Growth, San Diego County, CA.

Summary

EPA had environmental concerns with the proposed project.

Dated: May 20, 1997.

William D. Dickerson,

Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. 97–13671 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00211; FRL–5716–3]

Cooperative Agreements to Develop and Carry Out Authorized State Training, Accreditation and Certification Programs for Lead-Based Paint Professionals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of funds availability; solicitation of applications for financial assistance.

SUMMARY: This notice announces EPA's intent to enter into cooperative agreements with States, Territories, the District of Columbia and federally-recognized Indian governing bodies to provide financial assistance for purposes of developing and carrying out EPA-authorized training, accreditation and certification programs for professionals engaged in lead-based paint activities. These State programs and this financial assistance are authorized by section 404 of the Toxic Substances Control Act (TSCA). The notice describes eligible activities, application procedures and requirements, and funding criteria. EPA anticipates that up to $12,500,000 will be available during federal fiscal year 1997 (FY97) for awards to eligible recipients. There are no matching share requirements for this assistance. This is the fourth year that funding is being made available for this cooperative agreement program. Subject to future budget limitations, EPA plans to provide this support on a continuing multi-year or program basis. All cooperative agreements will be administered by the appropriate EPA regional office. This cooperative agreement program is the first of two assistance programs that will be administered by EPA related to authorized State lead programs this year. The second program was formerly administered by the Department of Housing and Urban Development and will be announced in the **Federal Register** at a later date.

DATES: In order to be considered for funding during the FY97 award cycle, all applications must be received by the appropriate EPA regional office on or before June 23, 1997. EPA will make its award decisions and execute its FY97 cooperative agreements by September 30, 1997.

FOR FURTHER INFORMATION CONTACT: For general information, contact: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551, e-mail: TSCA-Hotline@epamail.epa.gov. For technical information, contact the appropriate Regional Primary Lead Contact person listed in Unit VI. of this notice.

SUPPLEMENTARY INFORMATION: Under TSCA section 404(g), EPA will award non-matching cooperative agreements to States, Territories, the District of Columbia and federally-recognized Indian governing bodies to develop and carry out programs established under section 402 for the training of individuals engaged in lead-based paint activities, the accreditation of training programs for these individuals, and the certification of contractors engaged in lead-based paint activities. Under section 404(a), States may seek EPA authorization to administer these programs. To achieve authorization under TSCA, programs must: (1) Be as protective of human health and the environment as the federal program established under TSCA section 402 or 406, or both, and (2) provide adequate enforcement. For States, Territories, the District of Columbia and federally-recognized Indian governing bodies that fail to obtain EPA authorization by August 31, 1998, the Agency will administer and enforce the TSCA section 402 requirements (15 U.S.C. 2682, as amended on October 28, 1992) or 406 (15 U.S.C. 2686(b)) in that State.

Pursuant to section 404(g) of TSCA, EPA encourages States, Territories, the District of Columbia and federally-recognized Indian governing bodies to seek authorization of their own training, accreditation, and certification programs for lead-based paint activities. EPA therefore recommends that eligible parties seek funding through the TSCA section 404(g) assistance program, which is now being implemented to help achieve these ends. EPA further recommends that eligible parties plan to utilize this assistance support in a way that complements any related financial assistance they may receive from other federal sources. EPA will require all grant applicants under the program to provide information on other sources of federal support for lead-based paint activities. EPA will use the information in an effort to coordinate federally funded lead activities.

EPA will work with prospective applicants to develop cooperative agreements which promote a variety of objectives deemed critical to the success of its national lead program. These objectives include: (1) Permitting flexible approaches to reducing lead hazards; (2) developing a nationwide pool of qualified lead abatement professionals; (3) encouraging pollution prevention in lead-based paint activities; (4) promoting environmental justice in the reduction of lead exposures and the prevention of lead poisoning; (5) fostering the establishment of comprehensive and integrated lead management programs by States, Territories, the District of Columbia and Indian governing bodies; and (6) promoting reciprocity among authorized programs in the training and certification of lead abatement professionals.

The cooperative agreement program announced here is to be distinguished from another similar assistance program that will also support States in developing a lead-based paint training, accreditation and certification Program. This second cooperative agreement program, which will be announced in a separate **Federal Register** Notice at a later date, was previously administered by the Department of Housing and Urban Development (HUD) under section 1011(g) of Title X of the Housing and Community Development Act of 1992. EPA and HUD are finalizing an Interagency Agreement whereby EPA, under its section 404(g) authority, will award the remaining HUD funds.

I. Eligibility

All States are eligible to apply for and receive assistance under section 404(g) of TSCA. The term ''State,'' for purposes of eligibility, refers broadly to any State of the United States, the District of Columbia, any federally-recognized Indian governing body, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, and any other territory or possession of the United States.

II. Authority

The ''TSCA State Lead Cooperative Agreement Program'' is a financial assistance program administered by EPA under authority of TSCA section 404(g) (Title IV of TSCA was enacted as subtitle B of Title X). Each of EPA's 10 regional administrators has been delegated the authority of section 404(g) to enter into cooperative agreements with eligible ''States.''

III. Activities to be Funded

EPA recognizes that when Title IV was enacted on October 28, 1992, States had widely varying capabilities for addressing lead hazards. Individual States currently fall within one of three broad categories of program development: (1) States without lead programs; (2) States with programs that qualify for authorization but that may need assistance in carrying out these programs; and (3) States with lead programs that will require modification before qualifying for authorization. Each State's need for assistance will vary, in part, according to the level of lead program development the State has attained. The type of program activity a given State seeks to pursue may also vary in a corresponding manner.

Although EPA generally supports all State activities aimed at developing or carrying out authorized State lead programs, the Agency does recognize certain priorities. Because few States presently have adequate lead program capabilities, as measured against TSCA sections 402 and 406, EPA priorities are: First to support the development of new State programs; second to support the continued implementation of authorized State programs; and third to support the implementation of existing State programs which do not presently qualify for authorization but which are otherwise willing to work toward timely authorization. Although these priorities do not constitute the Agency's criteria for award determinations, EPA will consider these items in its cooperative agreement negotiations with applicants.

EPA has established three general funding categories that reflect the different status, or levels, of State lead program development. They are not mutually exclusive, and it is permissible for a State's work plan to combine elements from two or more categories. Numerous examples of activities considered to be eligible for this funding is described in a separate EPA document entitled ''State and Tribal Cooperative Agreement Guidance for FY 1997.'' Copies of the grant guidance may be obtained through any of EPA's 10 regional offices at the addresses listed under Unit VI. of this notice. It is important to note, however, that the examples presented in the guidance are not exhaustive, and applicants are not limited in their proposals to the listed tasks. Individual State program innovations are eligible and encouraged, so long as the proposed tasks relate to the purposes set forth in TSCA section 404(g) and fit within one or more of the three general funding categories.

IV. Selection Criteria

During the FY97 award cycle, EPA expects up to $12,500,000 to be available for distribution to eligible applicants. The Agency will use a two-tiered system to calculate how much assistance money a State may be eligible to receive. This system is aimed at achieving the broadest possible State participation, while at the same time, targeting areas with the greatest potential lead hazard and risk. It accomplishes this by providing for a tier-one distribution of ''base funding,'' followed by a tier-two distribution of ''formula funding,'' where additional funds are calculated based upon the relative lead burden estimated to exist within a State. The actual amount of money that an eligible State may receive in this assistance cycle will be determined by the appropriate EPA Regional Office. Specifically, applicants with funding requirements exceeding the base allotments will be considered by their EPA Regional Office for receiving this apportioned additional funding based on two factors: the relative ''lead burden'' allocation and the applicant's demonstration of the State's progress in obtaining authorization for a training, accreditation, and certification program for lead-based paint activities.

For each State and the District of Columbia that submits a qualifying proposal, EPA intends to award a base funding allotment of $100,000. In addition, base funding of up to $50,000 will be reserved for each base ''Territory'' that has been administratively assigned to an EPA Regional Office and that has historically participated in EPA toxics grant programs. These ''base'' Territories include the U.S. Virgin Islands (Region 2), the Commonwealth of Puerto Rico (Region 2), Guam (Region 9), and American Samoa (Region 9). Base funding allotments maybe subject to change if new statutory requirements are introduced into law within the funding cycle. The two remaining ''non-base'' Territories, the Canal Zone and the Northern Mariana Islands, are also eligible to apply for funding up to, but not exceeding, $50,000 apiece. The non-base Territories are not considered in determining the base funding allotments. Base allotments are primarily intended to ensure that those States and base Territories wishing to pursue authorization under TSCA section 404 will be guaranteed a minimum level of funding for this purpose. Any unsubscribed base funding will be added to the formula funds pool.

Once base funding allotments have been reserved for all eligible applicants, each EPA Regional Office will be allocated $100,000 from this year's assistance pool to be distributed at the Region's discretion to applicants within that region. In addition, EPA has set-aside $1,500,000 for Federally-recognized Indian governing bodies. EPA cannot reliably predict the level of participation from Indian governing bodies and non-base Territories; therefore, where these eligible parties do apply for funds, they will be assigned to an appropriate regional office for administrative oversight, and that regional office will determine the appropriate distribution of funds not allocated through the formula funding process described above. Indian governing bodies, however, will not receive a formula ranking, and will not be eligible to compete for additional formula allocations based upon lead burden calculations. All remaining funds will be treated as ''formula funds.''

States, base Territories and the District of Columbia with funding requirements exceeding their base allotments can be given apportioned additional sums (''formula funds'') based upon their relative lead burden and the progress they have made toward establishing a training, certification, and accreditation program. In calculating the lead burden for the formula rankings, EPA will use readily available data derived from the 1990 Census of Population and Housing, together with data from the U.S. Department of Housing and Urban Development (HUD). The formula uses four factors to generate an estimate of the potential lead problem, or ''lead burden,'' in each

State. Two of these factors, the number of housing units with lead-based paint and the number of children under age 6, express the potential magnitude of the lead problem. The remaining two factors, the fraction of young children in poverty and the fraction of low-income housing units with lead-based paint, express the potential severity of the problem.

In determining formula rankings, each State, base Territory, and the District of Columbia is scored independently for each factor, and the four individual factor scores for the State, base Territory, or the District of Columbia are then summed to obtain an overall score for that applicant (a combined factor score). The combined factor scores of all States, base Territories, or the District of Columbia applying for formula funds (or amounts in excess of their base allotment) are then summed, and the percentage of the total sum represented by the individual State, base Territory, or District of Columbia's score is then calculated. When the total formula funding available is then multiplied by the percentage score of an individual State, Territory or District of Columbia, the applicant's ceiling formula allotment can be obtained. For example, assume that $10,000,000 are available and (1) all 50 States but none of the base Territories or the District of Columbia applies for formula allotments, (2) State X has a percentage score of 2 percent, and (3) a total of $5,000,000 in formula funding is available. In determining how much money to allot to State X, EPA would multiply $5,000,000 by .02. The product, $100,000, represents the maximum additional funding that could be awarded to State X to supplement its base allocation. State X would then qualify for up to $200,000 in total funding for the fiscal year ($100,000 in base funding + $100,000 in formula funding).

In general, the maximum, or ceiling, formula allotments will fluctuate inversely with the number of applicants. The greater the number of applicants, the lower the ceiling will tend to be, and vice versa. Formula allotments will be determined only after the annual application deadline has passed and EPA has full knowledge of the total amount of funds requested. If one or more States or base Territories request formula fund amounts below their ceiling allotments, residual formula funds will be available. Where this situation develops, if there are still other States or base Territories with unfunded needs, the formula will be run again. This procedure can be repeated until all formula funds have been fully allotted.

V. Submission Requirements

To be considered for funding, each application must include, at a minimum, the following forms and certifications which are contained in EPA's ''Application Kit for Assistance'': (1) Standard Form 424 (Application for Federal Assistance), (2) debarment and suspension certification, (3) disclosure of lobbying activities, and (4) a return mailing address. In addition to these standard forms, each application must also include a work program, a detailed line-item budget with sufficient information to clearly justify costs, a list of work products or deliverables, and a schedule for their completion or an update of an existing schedule from a previous funding year with updated work products or deliverables. This year, the State must also include a statement in their proposal that describes how the State will be able to develop and implement a lead training, accreditation and certification program for EPA approval by August 31, 1998.

Work programs are to be negotiated between applicants and their EPA regional offices to ensure that both EPA and State priorities can be addressed. Any application from a State, Territory, the District of Columbia or Indian governing body without an authorized program must demonstrate how the proposed activities will lead to that State's pursuit of authorization. Also, any applicant proposing the collection of environmentally related measurements or data generation must adequately address the requirements of 40 CFR 31.45 relating to quality assurance/quality control. These requirements are more specifically outlined in the ''Guidance Document for the Preparation of Quality Assurance Project Plans'' (May 1993) published by EPA's Office of Pollution Prevention and Toxics. This document, as well as the application kits referred to above, may be obtained from EPA's regional offices.

VI. Application Procedures and Schedule

Applications must be submitted to the appropriate EPA regional office in duplicate; one copy to the regional lead program branch and the other to the regional grants management branch. Early consultations are recommended between prospective applicants and their EPA regional offices. Because TSCA cooperative agreements will be administered at the regional level, these consultations can be critical to the ultimate success of a State's project or program. After the formula funding calculations are determined and the funds are transferred to the appropriate EPA Regional account, the lead Regional Office will contact the Applicant and discuss the final award allotment. EPA Regional Offices may require the Applicant to modify their proposed workplan and cooperative agreement based upon the final grant allotment.

EPA reserves the right, in negotiating the cooperative agreement, to delete budget items that, in its judgement, are not necessary for the direct support of program purposes, and to request the grantee to redirect the deleted sums to other acceptable purposes or make a corresponding reduction in the funding request.

The cooperative assistance shall be used solely for the purpose described in the applicant's approved implementation plan and the budget, including any changes that may be negotiated and adopted in the cooperative agreement.

For more information about this financial assistance program, or for technical assistance in preparing an application for funding, interested parties should contact the Regional Primary Lead Contact person in the appropriate EPA regional office. The mailing addresses and contact telephone numbers for these offices are listed below.

Region I: (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont), JFK Federal Building, One Congress St., Boston, MA 02203. Telephone: (617) 565-3836 (Jim Bryson)

Region II: (New York, New Jersey, Puerto Rico, Virgin Islands), Building 5, SDPTSB, 2890 Woodbridge Ave., Edison, NJ 08837-3679. Telephone: (908) 321-6671 (Lou Bevilacqua)

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), 841 Chestnut Bldg., Philadelphia, PA 19107. Telephone: (215) 566-2084 (Gerallyn Valls)

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), 100 Alabama St., SW., Atlanta, GA 30303. Telephone: (404) 562-8998 (Rose Anne Rudd)

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), SP-14J, 77 W. Jackson St., Chicago, IL 60604. Telephone: (312) 886-7836 (David Turpin)

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), 12th Floor, Suite 2000, 1445 Ross Ave., Dallas, TX 75202. Telephone: (214) 665-7577 (Jeff Robinson)

Region VII: (Iowa, Kansas, Missouri, Nebraska), ARTD/RENV, 726

Minnesota Ave., Kansas City, KS 66101. Telephone: (913) 551-7518 (Mazzie Talley)

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), 999 18th St., Suite 500, Denver, CO 80202. Telephone: (303) 312-6021 (David Combs)

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam), 75 Hawthorne St., San Francisco, CA 94105. Telephone: (415) 744-1094 (Harold Rush)

Region X: (Alaska, Idaho, Oregon, Washington), Solid Waste and Toxics Unit (WCM-128), 1200 Sixth Ave., Seattle, WA 98101. Telephone: (206) 553-1985 (Barbara Ross)

The deadline for EPA's receipt of final FY97 applications is June 23, 1997. Once the application deadline has passed, EPA will process the formula funding calculations and determine the initial formula ceiling allocations. Final negotiations for the award of cooperative agreements can then proceed, but all FY97 agreements must be executed no later than September 30, 1997.

List of Subjects

Environmental protection, Cooperative Agreements, Lead, Training and accreditation.

Dated: May 16, 1997.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–13642 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00482; FRL–5716–4]

Notice of Availability of Regional Environmental Stewardship Program Grants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Regional Pesticide Environmental Stewardship Program Grants.

SUMMARY: EPA is announcing the availability of approximately $498 thousand in fiscal year 1997 grant/cooperative agreement funds under section 20 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (the Act), for grants to States and all Federally recognized Native American Tribes. The grant dollars are targeted at State and Tribal programs that address reduction of the risks associated with pesticide use in agricultural and non-agricultural settings in the United States. EPA's Office of Pesticide Programs is offering the following grant opportunities to interested and qualified parties.

DATES: In order to be considered for funding during the FY97 award cycle, all applications must be received by the appropriate EPA regional office on or before June 6, 1997. EPA will make its award decisions by June 27, 1997.

FOR FURTHER INFORMATION CONTACT: Your EPA Regional Pesticide Environmental Stewardship Program Coordinator. Contact names for the coordinators are listed under Unit IV. of this document.

SUPPLEMENTARY INFORMATION:

I. Availability of FY 97 Funds

With this publication, EPA is announcing the availability of approximately $498 thousand in grant/cooperative agreement funds for FY97. The Agency has delegated grant making authority to the EPA Regional Offices. Regional offices are responsible for the solicitation of interest, the screening of proposals, and the selection of projects. Grant guidance will be provided to all applicants along with any supplementary information the Regions may wish to provide.

All applicants must address the criteria listed under Unit III.B. of this document. In addition, applicants may be required to meet any supplemental Regional criteria. Interested applicants should contact their Regional PESP coordinator listed under Unit IV. of this document for more information.

II. Eligible Applicants

In accordance with the Act, eligible applicants for purposes of funding under this grant program include the 50 States, the District of Columbia, the U.S. Virgin Islands, the Commonwealth of Puerto Rico, any territory or possession of the United States, any agency or instrumentality of a State including State universities, and all Federally recognized Native American tribes. For convenience, the term ''State'' in this notice refers to all eligible applicants. Local governments, private universities, private nonprofit entities, private businesses, and individuals are not eligible. The organizations excluded from applying directly are encouraged to work with eligible applicants in developing proposals that include them as participants in the projects. Contact your EPA Regional PESP coordinator for assistance in identifying and contacting eligible applicants. EPA strongly encourages this type of cooperative arrangement.

III. Activities and Criteria

A. General

The goal of PESP is to reduce the risks associated with pesticide use in agricultural and non-agricultural settings in the United States. The purpose of the grant program is to support the establishment and expansion of Integrated Pest Management (IPM) as a tool to be used to accomplish the goals of PESP. The grant program is also designed to research alternative pest management practices, demonstrate unique application techniques, research control methods for pest complexes, produce educational materials for better pest identification or management, and other activities that further the goals of PESP. EPA specifically seeks to build State and local IPM capabilities or to test, at the State level, innovative approaches and methodologies that use application or other strategies to reduce the risks associated with pesticide use. Funds awarded under the grant program should be used to support the Environmental Stewardship Program and its goal of reducing the risk/use of pesticides. State projects might focus on, for example:

- Developing multimedia activities, including but not limited to: promoting local IPM activities, user-community awareness of new innovative techniques for using pesticides, providing technical assistance to pesticide users; collecting and analyzing data to target outreach and technical assistance opportunities; conducting outreach activities; developing measures to determine and document progress in pollution prevention; and identifying regulatory and non-regulatory barriers or incentives to pollution prevention and developing plans to implement solutions, where possible.
- Institutionalizing IPM as an environmental management priority, establishing prevention goals, developing strategies to meet those goals, and integrating the ethic within both governmental and nongovernmental institutions of the State or region.
- Initiating demonstration projects that test and support innovative pesticide use practices, approaches and methodologies including measuring progress towards meeting the goal of 75% implementation of IPM by the year 2000.

B. Criteria

Proposals will be evaluated based on the following criteria:

1. Qualifications and experience of the applicant relative to the proposed project.

- Does the applicant demonstrate experience in the field of the proposed activity?
- Does the applicant have the properly trained staff, facilities, or infrastructure in place to conduct the project?

2. Consistency of applicant's proposed project with the risk reduction goals of the PESP.

3. Provision for measuring and documenting the project's results quantitatively and qualitatively (evaluation).

- Is the project designed in such a way that it is possible to measure and document the results quantitatively and qualitatively?
- Does the applicant identify the method that will be used to measure and document the project's results quantitatively and qualitatively?
- Will the project assess or suggest a new means of measuring progress in reducing risk/use of pesticides in the United States.

4. Likelihood that the project can be replicated in other areas by other organizations to benefit other communities or that the product may have broad utility to a widespread audience. Can this project, taking into account typical staff and financial restraints, be replicated by similar organizations in different locations to address a problem that exists in other communities?

C. Program Management

Awards of FY 1997 funds will be managed through the EPA Regional Offices.

D. Contacts

Interested applicants are requested to contact the appropriate EPA Regional PESP coordinator listed under Unit IV. of this document to obtain specific instructions and guidance for submitting proposals.

IV. Regional Pesticide Environmental Stewardship Program Contacts

Region I: (Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont), Robert Koethe, (CPT), 1 Congress St., Boston, MA 02203. Telephone: (617) 565-3491, koethe.robert@epamail.epa.gov

Region II: (New York, New Jersey, Puerto Rico, Virgin Islands), Fred Kozak, (MS-240), 2890 Woodbridge Ave., Edison, NJ 08837. Telephone: (908) 321-6769, kozak.fred@epamail.epa.gov

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia), Lisa Donahue, (3AT11), 841 Chestnut Bldg., Philadelphia, PA 19107. Telephone: (215) 566-2062, donahue.lisa@epamail.epa.gov

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Richard Pont, 12th Floor, Atlanta Federal Center, 61 Forsyth St., SW., Atlanta, GA 30303-3104. Telephone: (404) 562-9018, pont.richard@epamail.epa.gov

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), David Macarus, (DRT-14J), 77 West Jackson Blvd., Chicago, IL 60604, (312) 353-5814 macarus.david@epamail.epa.gov

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Jerry Collins, (6PD-P), 1445 Ross Ave., 6th Floor, Suite 600, Dallas, TX 75202, Telephone: (214) 665-7562, collins.jerry@epamail.epa.gov

Region VII: (Iowa, Kansas, Missouri, Nebraska), Glen Yager, 726 Minnesota Ave., Kansas City, KS 66101. Telephone: (913) 551-7296, yager.glen@epamail.epa.gov

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Debbie Kovacs, (8P2-TX), 999 18th St., Suite 500, Denver, CO 80202-2466. Telephone: (303) 312-6020, kovacs.debbie@epamail.epa.gov

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, Guam), Roccena Lawatch, (CMD4-3), 75 Hawthorne St., San Francisoco, CA 94105, Telephone: (415) 744-1068, lawatch.roccena@epamail.epa.gov

Region X: (Alaska, Idaho, Oregon, Washington), Karl Arne, (ECO-084), 1200 Sixth Ave., Seattle, WA 98101. Telephone: (206) 553-2576, arne.karl@epamail.epa.gov

Dated: May 16, 1997.

Kathleen D. Knox,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–13480 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5830–3]

Ozone, Particulate Matter and Regional Haze Implementation Programs Subcommittee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: On September 11, 1995 (60 FR 47172), the EPA announced the establishment of the Ozone, Particulate Matter and Regional Haze Implementation Programs Subcommittee under the Clean Air Act Advisory Committee (CAAAC). The CAAAC was established on November 8, 1990 (55 FR 46993) pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. app I). The purpose of the Subcommittee is to provide advice and recommendations on integrated approaches for implementing potentially new national ambient air quality standards (NAAQS) for ozone and particulate matter, as well as a regional haze program.

DATES: Notice is hereby given that the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs will hold its next public meeting on Tuesday, June 10, 1997 (from 8:30 a.m. to 5:30 p.m.) and Wednesday, June 11, 1997 (from 8:30 a.m. to 3:00 p.m.).

ADDRESSES: The public meeting will be held at the Omni Durham Hotel, 201 Foster Street, Durham, North Carolina 27701, telephone (919) 683–6664.

FOR FURTHER INFORMATION CONTACT: For further information on the Subcommittee for Development of Ozone, Particulate Matter and Regional Haze Implementation Programs, please contact Mr. William F. Hamilton, Designated Federal Officer, at 919–541-5498, or by mail at U.S. EPA, Office of Air Quality Planning and Standards, MD–12, Research Triangle Park, NC 27711. When a draft agenda is developed, a copy can be downloaded from the: (1) Ozone/Particulate Matter/Regional Haze FACA Bulletin Board, which is located on the Office of Air Quality Planning and Standards Technology Transfer Network (OAQPS TTN); (2) the OAQPS TTN Web Site (http://ttnwww.rtpnc.epa.gov); or (3) by contacting Ms. Denise M. Gerth at 919–541–5550.

Dated: May 16, 1997.

John S. Seitz,

Director, Office of Air, Quality Planning and Standards.

[FR Doc. 97–13676 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5829–4]

National Advisory Council for Environmental Policy and Technology Reinvention Criteria Committee; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, PL 92463, EPA gives notice of a teleconference meeting of the National Advisory Council for Environmental Policy and Technology (NACEPT) Reinvention Criteria Committee (RCC). NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues. The RCC, in addition to other stakeholders, has been asked to provide comments on the Agency's draft strategic plan. EPA has committee to establish a process that will change the way it does business with regard to strategic planning, budgeting and accountability and that will ensure compliance with the Government Performance and Results Act. The new process will integrate the Agency's planning and budgeting, as well as establish a performance evaluation and accountability system.

This meeting is being held via teleconference to discuss the comments from the members of the committee which includes representatives of state and local governments, environmental organizations, academia, industry, and NGOs.

DATES: The one hour teleconference will be held on June 6, 1997 from 2:00 p.m. to 3:00 p.m., at the EPA Washington Information Center, 401 M Street, SW, Washington, D.C. 20460.

ADDRESSES: Parties interested in attending the teleconference should contact Gwendolyn Whitt, Designated Federal Officer, NACEPT/RCC, U.S. EPA, Office of Cooperative Environmental Management (1601–F), 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Whitt, Designated Federal Officer for the NACEPT Reinvention Criteria Committee at 202–260–9484.

Dated: January 16, 1997.

Joseph Sierra,

Acting Designated Federal Official.

[FR Doc. 97–13654 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5829–3]

Science Advisory Board, Notification of Public Advisory Committee Meetings; June 1997

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating EPA office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB office. Details on availability are noted below.

1. Drinking Water Committee

The Drinking Water Committee (DWC) of the Science Advisory Board (SAB) will hold a public meeting on Monday, June 9, 1997 and Tuesday, June 10, 1997 beginning at 8:30 a.m. on June 9 and ending not later than 5:00 p.m. (Eastern Standard Time) on June 10, 1997. The meeting will be held at the Latham Hotel, 3000 M Street NW, (Georgetown) Washington, DC 20007, telephone (202) 726–5000.

The purpose of the meeting will be to: (a) Complete the Committee's evaluation of EPA's basis for concluding that protozoan monitoring, required under the Information Collection Rule (ICR), will provide data adequate for supporting a national impact analysis for the Enhanced Surface Water Treatment Rule (ESWTR); (b) hear the Agency's response to the Committee's ''Review of the Research Plan for Microbial Pathogens and Disinfection Byproducts in Drinking Water;'' and to (c) receive briefings from the Agency on the Safe Drinking Water Act Amendments of 1996, their implications to the DWC, and future issues that the Agency expects to bring to the DWC. The DWC will also discuss the schedule that it will implement in order to respond to the Agency's future review needs.

Background

The Agency has promulgated an information Collection Rule (ICR) which among other things will provide data about the occurrence of the pathogenic parasites *Cryptosporidium* and *Giardia* in the source waters of several hundred water supplies. Information about pathogen occurrence is needed for a Regulatory Impact Analysis of the Enhanced Surface Water Treatment Rule. The Office of Water (OW) does not believe that current statistical methods are appropriate for evaluating occurrence at individual sites for the purpose of complying with a regulation. However, OW does think that the method is adequate for obtaining data to support a National Impact Analysis.

FOR FURTHER INFORMATION CONTACT: Single copies of the background report for this review, or the meeting agenda, can be obtained by contacting Mr. Thomas O. Miller, Designated Federal Officer for the Drinking Water Committee, Science Advisory Board (1400), U.S. EPA, 401 M Street, SW, Washington, DC 20460; by telephone at (202) 260–5886; by fax at (202) 260–7118 or via the INTERNET at: miller.tom@epamail.epa.gov, or by contacting Ms. Mary Winston at (202) 260–8414, by fax at (202) 260–7118, or by INTERNET at: winston.mary@epamail.epa.gov.

Anyone wishing to make an oral presentation to the Committee must contact Mr. Miller, in writing (by letter, fax, or INTERNET—see previously stated information) no later than 12 noon (Eastern Standard Time) Monday, June 2, 1997, in order to be included on the Agenda. The request should identify the name and affiliation of the individual who will make the presentation and an outline of the issues to be addressed. At least 35 copies of any written comments to the Committee are to be given to Mr. Miller no later than the time of the presentation for distribution to the Committee and the interested public.

2. Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) Review Subcommittee (MARSSIMRS) of the Radiation Advisory Committee (RAC)

The Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) Review Subcommittee (MARSSIMRS) of the Science Advisory Board's (SAB's) Radiation Advisory Committee (RAC), will continue its review of the technical basis of the draft Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM), dated December 1996 in a public meeting on Tuesday, June 17 and Wednesday, June 18, 1997. The meeting will begin at 9:00 am on Tuesday, June 17, 1997 and end no later than 12:00 noon Wednesday, June 18, 1997. The MARSSIMRS will meet at The Latham Hotel, 3000 M Street, NW, Washington, DC 20007–3701 (Tel. 202–726–5000). During a portion of the meeting, the MARSSIMRS Workgroups may meet in ''break-out'' sessions for each of three MARSSIMRS workgroups, depending on how much work will be required in each workgroup. It is intended that most or all of the meeting will be held by the Subcommittee without the need for extensive break-out discussions. Workgroup No. 1 deals with Integration Issues, Workgroup No. 2 deals with Monitoring, and Workgroup No. 3 deals

with Statistics. The Subcommittee previously met on July 31 and August 1, 1996 (See **Federal Register** Vol. 61, No. 123, Tuesday, June 25, 1996, pages 32796–32798) to plan for the MARSSIM review, and January 22 and 23, 1997 to begin the review (See **Federal Register** Vol. 61, No. 251, Monday, December 30, 1996, pages 68743–68745).

The charge to the Subcommittee is as follows: (a) Is the overall approach to the planning, data acquisition, data assessment, and data interpretation as described in the MARSSIM technically acceptable? (b) Are the methods and assumptions for demonstrating compliance with a dose- or risk-based regulation technically acceptable? Are the hypothesis and statistical tests and their method of application appropriate?

The draft document being reviewed by the MARSSIMRS at this meeting is the draft MARSSIM Manual, dated December 1996. Copies of this draft document are *not* available from the SAB Office. A limited supply of single copies of this document will be available at no cost at the meeting on June 17 and 18, 1997. A free single copy of the draft MARSSIM may be requested by writing to the: Distribution and Mail Services Section, U.S. Nuclear Regulatory Commission (NRC), Washington, DC 20555–0001, or by fax to (301) 415–2260. The NRC document number is NUREG 1575. This document is also available via the INTERNET at http://www.epa.gov/ radiation/cleanup. This EPA document is also available from the National Technical Information Service (NTIS) for a fee. The NTIS document number is NTIS–PB97–117659. The NTIS sales desk is open between 8:30 am and 5:00 pm Eastern Time, Monday through Friday at (703) 487–4650. For the hearing impaired, call (703) 487–4639. For RUSH service (which entails an additional fee) call 1–800–NTIS. Fax orders can be sent to (703) 321–8547. To order by mail, send orders to: NTIS, 5285 Port Royal Road, Springfield, VA 22161. The background documents that support this review, as well as the draft MARSSIM, dated December 1996 (EPA draft document number EPA 402–R–96–018; also referred to as NUREG–1575) are available in the Agency's Air and Radiation Docket. Please address written inquiries as follows: US EPA, Attn: Air and Radiation Docket, Mail Stop 6102, Air Docket No. A–96–44, Room M1500, First Floor, Waterside Mall, 401 M Street, SW, Washington, DC 20460. The docket may be inspected from 8:00 am to 4:00 pm, Monday through Friday, excluding Federal holidays, in Room M1500. A reasonable fee may be charged for copies of docket materials. Inquiries regarding access to the public information docket should be directed to Mr. Mark Doehnert, ORIA Staff at (202) 233–9386. To discuss technical aspects of the draft document or any supporting or background information, please contact Mr. Doehnert, Radiation Protection Division (6603J), Office of Radiation and Indoor Air (ORIA), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, tel. (202) 233–9386; FAX (202) 233–9650; Email at DOEHNERT.MARK@EPAMAIL.EPA.GOV.

The draft SAB report entitled ''An SAB Report: Review of the Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM) by the Radiation Advisory Committee,'' review draft dated May, 1997, which critiques the December draft MARSSIM, may be obtained from the SAB from Mrs. Diana L. Pozun at (202) 260–8414.

Members of the public who wish to make a brief oral presentation at this meeting must contact Mrs. Diana L. Pozun, Staff Secretary, *in writing* via fax (202) 260–7118 or Email POZUN.DIANA@EPAMAIL.EPA.GOV) no later than noon, Eastern Time on Tuesday, June 10, 1997, in order to have time reserved on the agenda. For a copy of the proposed agenda or of the draft SAB report, please contact Ms. Pozun by phone (202–260–8414) or at the numbers given above. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, by telephone at (202) 260–2560, fax at (202) 260–7118, or via the Email at: KOOYOOMJIAN.JACK@EPAMAIL.EPA.GOV.

3. Radiation Advisory Committee (RAC)

The Radiation Advisory Committee (RAC) of the Science Advisory Board (SAB) will conduct a planning, coordination and review meeting the afternoon of Wednesday, June 18, 1997 from 1:00 pm and ending no later than 4:00 pm. The RAC last met on January 24, 1997 (See **Federal Register** Vol. 61, No. 251, Monday, December 30, 1996, pages 68743–68745). The meeting will take place at The Latham Hotel, 3000 M Street, NW, Washington, DC 20007–3701 (Tel. 202–726–5000). The major focus of the planning discussions are intended to include planning for upcoming Fiscal Year 1998 reviews from the Office of Radiation and Indoor Air (ORIA). Expected topics to be discussed include continuing efforts to revise the NORM (Naturally-Occurring Radioactive Material) Draft Scoping Document and the upcoming study of NORM by the National Academy of Sciences (NAS); a proposed review of the Agency's Environmental Radiation Ambient Monitoring System (ERAMS II—SAB Project #96–015); Review of Radon Proficiency Programs (SAB Project # 96–018); National Survey of Radon in Workplaces (SAB Project #96–020), Methodology for Identifying High Radon Geographic Areas (SAB Project #96–021), and continued discussion on ORIA's radon activities. Other topics will be reviewed as time permits.

To discuss technical aspects of the ORIA projects, or any supporting or background information, please contact Mr. Brian Littleton, (6601J), Office of Radiation and Indoor Air (ORIA), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, tel. (202) 233–9216; fax (202) 233–9651; or Email: LITTLETON.BRIAN@EPAMAIL.EPA.GOV.

Members of the public who wish to make a brief oral presentation at this meeting must contact Mrs. Diana L. Pozun, Staff Secretary, *in writin*g via fax (202) 260–7118 or Email POZUN.DIANA@EPAMAIL.EPA.GOV) no later than noon eastern time Wednesday, June 10, 1997, in order to have time reserved on the agenda. For a copy of the proposed agenda, please contact Ms. Pozun at the numbers given above, or call (202) 260–8414. For questions regarding technical issues to be discussed, please contact Dr. K. Jack Kooyoomjian, Designated Federal Official, Science Advisory Board (1400), US EPA, 401 M Street, SW, Washington DC 20460, tel. (202) 260–2560, fax (202) 260–7118, or via Email at: KOOYOOMJIAN.JACK@EPAMAIL.EPA.GOV.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for meetings, opportunities for oral comment will usually be limited to no more than five minutes per speaker and no more than thirty minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week before the meeting), may be mailed to the relevant SAB committee or subcommittee; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or

subcommittee up until the time of the meeting.

Information concerning the Science Advisory Board, its structure, function, and composition, may be found in The FY1996 Annual Report of the Staff Director which is available from the SAB Committee Evaluation and Support Staff (CESS) by contacting US EPA, Science Advisory Board (1400), Attention: CESS, 401 M Street, SW, Washington, DC 20460 or via fax (202) 260–1889. Additional information concerning the SAB can be found on the SAB Home Page at: HTTP://WWW.EPA/SCIENCE1/.

Dated: May 5, 1997.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 97–13652 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30434; FRL–5714–9]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register a pesticide product containing a new active ingredient not included in any previously registered product and a product involving a change use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by June 23, 1997.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30434] and the file symbols to: , Public Information and Records Integrity Branch (7506C), Information Resources and Services Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. In person, bring comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Sheryl K. Reilly, Regulatory Action Leader, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8265; e-mail: reilly.sheryl@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register a pesticide product containing an active ingredient not included in any previously registered product and a product involving a change use pattern pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Product Containing a New Active Ingredient Not Previously Registered

File Symbol: 64137–I. Applicant: Kemira Agro Oy, Espoo, Finland, c/o E. R. Butts International, Inc., P. O. Box 764, Fairfield, CT 06430. Product Name: Primastop Biofungicide. Active ingredient: Gliocladium catenulatum Strain J1446. Proposed classification/Use: None. For use on vegetables, herbs and spices, ornamentals, tree and shrub seedlings, turf, and in homes and gardens.

Product Involving a Change Use Pattern

File Symbol: 70063–R. Applicant: Tenneco Packaging, 1603 Orrington Avenue, Evanston, IL 60201–3853. Product Name: Methyl Salicylate Manufacturing Use Product. Active ingredient: Methyl salicylate. Proposed classification/Use: None. To include in its presently registered non-food use, a new use to repel insects in packaging materials used to hold food and animal feed.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30434] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30434]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Written comments filed pursuant to this notice, will be available in the Public Information and Records Integrity Branch, Information Resources and Services Division at the address provided, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703-305-5805) to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: May 8, 1997.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 97–13479 Filed 5–22–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

May 16, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before June 23, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commissions, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval No.: None-(3060–XXXX).

Title: FCC National Call Center Generic Customer Satisfaction Surveys.

Type of Review: New Collection.

Respondents: Individuals or households; business or other for-profit; and not-for-profit institutions; federal, state, local or tribal government(s).

Number of Respondents: 37,200.

Estimate Hour Per Response: .05 (3 minutes).

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,860 hours.

Needs and Uses: The FCC National Call Center, in order to assess their customer satisfaction, is developing generic customer surveys to determine how they are handling their calls, complaints, inquiries and requests for information. The Commission averages approximately 225,000 calls per year. The FCC National Call Center plans to survey one percent of those callers to determine their level of satisfaction of Commission customer service performance.

Each customer who calls the National Call Center for information, will be given the option to participate in a customer satisfaction survey on a voluntary basis. At the beginning of the call, the caller will be prompted by the interactive voice response system to determine if they wish to participate in the survey. When the caller has completed their initial call with the customer service representative, the survey audio response system will prompt the caller to answer a series of questions by touch tone response.

This survey is necessary to ensure customer satisfaction and to guarantee that the Center is providing quality service. Data will be collected to calculate time waiting; if the caller was given complete and responsive information to their inquiry or complaint; if the caller had to make repetitive calls to obtain information; how the caller rated the service they received; how they obtained the Call Center phone number; if the caller received courteous service, etc.

The Call Center's objective is to obtain feedback as to whether the customer service representative is performing to a level of satisfaction that is expected by the Commission. The data collected from this survey will be used to improve quality and efficiency of the operation and to target areas of needed employee training.

OMB Approval No.: 3060–0344.

Title: Section 1.1705, Method for determining duration of Cuban Interference.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1.

Estimated Hour per Response: 45 hours.

Frequency of Response: Recordkeeping and reporting requirement.

Total Annual Burden: 45 hours.

Needs and Uses: Section 1.1705 requires U.S. applicants (AM stations) for compensation to monitor and log signals of interfering Cuban stations for 60 consecutive days and submit the results to the Commission. The data is used by FCC staff to assure that a Cuban station has caused objectionable interference within the service area of an AM station.

OMB Approval No.: 3060–0345.

Title: Section 1.1709, Requirements for Filing Applications for Compensation.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1.

Estimated Hour per Response: 30 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2 hours. (This informal application would be contracted out and completed and filed by attorneys. Consultation time with attorney is also included in cost since respondents would incur a cost for this time.)

Needs and Uses: Section 1.1709 requires that U.S. AM radio stations submit an informal application for compensation of expenses incurred in mitigating the effects of Cuban interference and any supplemental information the Commission may request the applicant to file. The application must be accompanied by certain documentation demonstrating that the expenses were incurred in connection with the acquisition, installation or construction of facilities for the purpose of mitigating the effects of interference from Cuba. The informal application and supplemental information is used by FCC staff to assure that compensation to the station is justified.

OMB Approval No.: 3060–0341.

Title: Section 73.1680, Emergency Antennas.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 140.

Estimated Hour Per Response: 1 hour (This informal request would be contracted out and completed and filed by attorneys. Consultation time with these attorneys is estimated to be 0.5 hours.)

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 70 hours.

Needs and Uses: Section 73.1680 requires that licensees of AM, FM, or TV

stations submit an informal request to the FCC (within 24 hours of commencement of use) to continue operation with an emergency antenna. An emergency antenna is one that is erected for temporary use after the authorized main and auxiliary antennas are damaged and cannot be used. The data is used by FCC staff to ensure that interference is not caused to other existing stations.

OMB Approval No.: 3060–0340.

Title: Section 73.51, Determining operating power.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 4,956.

Estimated Hour per Response: 0.25 hours per notation; 3 hours per efficiency factor determination.

Frequency of Response: Recordkeeping requirement.

Total annual burden: 1,470 hours.

Needs and Uses: When it is not possible to use the direct method of power determination due to technical reasons, the indirect method of determining antenna input power may be used on a temporary basis. Section 73.51(d) requires that a notation be made in the station log indicating the dates of commencement and termination of measurement using the indirect method of power determination.

Section 73.51(e) requires that AM stations determining the antenna input power by the indirect method must determine the value F (efficiency factor) applicable to each mode of operation and must maintain a record thereof with a notation of its derivation. This recordkeeping requirement is used by FCC staff in field investigations to monitor licensees' compliance with the FCC's technical rules and to ensure that the licensee is operating in accordance with its station authorization. The value F (efficiency factor) is used by station personnel in the event that measurement by the indirect method of power is necessary.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–13544 Filed 5–22–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Orion International Freight Forwarders, Inc., 1670 NW 94th Avenue, Miami, FL 33172, Officers: Juan R. Cobo, President; Pedro L. Bocchini, Director

Sunwood International, Inc., 460 Carson Plaza Drive, Suite 219, Carson, CA 90746, Officer: Dock H. Jon, President

LR International, Inc., 160 Beeline Drive, Bensenville, IL 60106, Officers: Linda L. Frantz, President, Frederick G. Frantz, Jr., Vice President.

Dated: May 19, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–13546 Filed 5–22–97; 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 16, 1997.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. United Bankshares, Inc., Charleston, West Virginia; to acquire 100 percent of the voting shares of First Patriot Bankshares Corporation, Reston, Virginia, and thereby indirectly acquire Patriot National Bank, Reston, Virginia.

Board of Governors of the Federal Reserve System, May 19, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13548 Filed 5–22–97; 8:45 am]

BILLING CODE 6210–01–F

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 16, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Midwest Bancorporation, Inc., Poplar Bluff, Missouri, and Midwest Bancshares, Inc., and Affiliated Employee Stock Ownership Plan, Poplar Bluff, Missouri; to become bank holding companies by acquiring 100 percent and 36.48 percent of the voting shares, respectively, of Midwest Bancshares, Inc., Poplar Bluff, Missouri, and thereby indirectly acquire First Midwest Bank of Dexter, Dexter, Missouri; First Midwest Bank of Piedmont, Piedmont, Missouri; and Carter County State Bank, Van Buren, Missouri.

In addition Midwest Bancshares, Inc., also controls one additional subsidiary bank, First Midwest Bank of Chaffee, Chaffee, Missouri; however, this subsidiary will be divested prior to closing.

Board of Governors of the Federal Reserve System, May 20, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13658 Filed 5–22–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Wednesday, May 28, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 2lst Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 21, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–13756 Filed 5–21–97; 10:47 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Submission to OMB Under Delegated Authority

Background

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). The Federal Reserve 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.

FOR FURTHER INFORMATION CONTACT:

Chief, Financial Reports Section—Mary M. McLaughlin—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3829)

Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7860)

Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:

1. Report title: Report of Bank Holding Company Intercompany Transactions and Balances
Agency form number: FR Y-8
OMB Control number: 7100-0126
Frequency: semiannually, and interim reporting required for certain large asset transfers
Reporters: domestic, top-tier bank holding companies with assets of $300 million or more
Annual reporting hours: 4,080 burden hours
Estimated average hours per response: 3 burden hours
Number of respondents: 645 semiannual respondents; 70 interim respondents
Small businesses are not affected.

General description of report: This information collection is required by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844 (c)) and section 225.5(b) of Regulation Y (12 CFR 225.5(b)) and is given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. 552 (b)(8)).

Abstract: The report collects information on assets transferred between subsidiary banks and other entities of the bank holding company organization (that is, the bank holding company and its nonbank subsidiaries). This report also collects information on the income recognized by subsidiary banks from other bank holding company members. This information is required in order to identify categories of funds flows and internal transactions and balances that could adversely affect the safety and soundness of insured depository institutions.

2. Report title: Report of Intercompany Transactions for Foreign Banking Organizations and Their U.S. Bank Subsidiaries

Agency form number: FR Y-8f

OMB control number: 7100-0127

Frequency: semiannually, and interim reporting required for certain large asset transfers

Reporters: bank holding companies as defined by Section 2(a) of the Bank Holding Company Act with at least $300 million in total consolidated assets that are organized under the laws of a foreign country and principally engaged in banking outside the United States

Annual reporting hours: 360 burden hours

Estimated average hours per response: 3 burden hours

Number of respondents: 58 semiannual respondents; 4 interim respondents

Small businesses are not affected.

General description of report: This information collection is required by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844 (c)) and section 225.5(b) of Regulation Y (12 CFR 225.5(b)) and is given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. 552 (b)(8)).

Abstract: This report provides the Board and the Federal Reserve Banks with information on intercompany transactions between foreign banking organizations and their U.S. bank subsidiaries. It enables the Federal Reserve to monitor and supervise intercompany flows of funds to ensure that U.S. subsidiary banks are not engaging in any unsafe and unsound practices with their foreign owners. This report supplements the Board's global framework for the supervision of the U.S. operations of foreign banks. In addition, it aids in determining whether a foreign banking organization serves as a source of strength to its U.S. subsidiary.

Board of Governors of the Federal Reserve System, May 20, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–13659 Filed 5–22–97; 8:45AM]

Billing Code 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. ACYF–HS–93600–97–03–1]

Administration on Children, Youth and Families; Early Head Start Program Grant Availability

AGENCY: Administration on Children, Youth and Families, ACF, DHHS.

ACTION: Correction notice.

SUMMARY: This notice corrects the announcement of the availability of financial assistance and request for applications for the Early Head Start program, published in the **Federal Register** on April 17, 1997. Five of the geographic areas noted in Appendix D of the announcement under funding Category One are being changed.

FOR FURTHER INFORMATION CONTACT: Mireille Kanda (202) 205–8308.

SUPPLEMENTARY INFORMATION: On April 17, 1997, the Administration for Children and Families published in the **Federal Register** a notice which announced the availability of funds for competing applications for Early Head Start (62 FR 18966–19005). The purpose of this program is to provide early, continuous, intensive, and comprehensive child development and family support services on a year-round basis to low-income families with children under age three and pregnant women.

Geographic Areas

Georgia

The original citation of the ''Counties of Dekalb, Scottsdale and Decatur'' should be changed to ''Within Dekalb County the communities of Scottsdale, Decatur and that section of Atlanta in Dekalb County.''

Michigan

The original citation of ''Menominee, Delta and Schoolcraft Counties'' should be changed to ''Delta County.''

Texas

The original citation of ''Northeast Dallas'' should be changed to ''Southeast Dallas.''

Utah

Originally we listed Box Elder and Cache Counties in Utah and Franklin County in Idaho as served areas. This should be corrected. These counties are deleted from the list of served areas and are open now for competition under Category I.

Wisconsin

Originally the Counties of Barron, Chippewa, Dunn, Pepin, Pierce, Polk, and St. Croix were listed as served areas. This should be corrected. These counties are deleted from the list of served areas and are open now for competition under Category I.

Dated: May 15, 1997.

James A. Harrell,

Acting Commissioner, Administration on Children, Youth and Families.

[FR Doc. 97–13552 Filed 5–22–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0201]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency pursuant to the Paperwork Reduction Act of 1995 (the PRA). This notice solicits comments on a data collection effort consisting of four consumer surveys regarding preferences for, and comprehension of information contained in different formats and methods for communication in over-the-counter (OTC) drug labels. For two of these studies (studies A and B), the agency has requested emergency processing of the proposed collection by the Office of Management and Budget (OMB).

DATES: Submit written comments on the collection of information for studies A and B by June 2, 1997. Submit written comments on the collection of information for studies C and D by July 22, 1997.

ADDRESSES: Submit written comments on the collection of information for studies A and B 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. Submit written comments on the collection of information for studies C and D to the Dockets Management Branch (HFA–305), ATTN: OTC Drug Labeling Data Collection, Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collections to OMB for approval. Section 3507(j) of the P.A. and 5 CFR 1320.12 provides for emergency processing of proposed collection of information.

FDA intends to conduct four separate studies related to the labeling of OTC drug products. For studies A and B, the agency is requesting emergency processing because the information is necessary for the agency's deliberations on a proposed rule related to providing easier to read and easier to understand labeling on OTC drug products. (See 62 FR 9024.) The agency has determined that there is a public health need for revised OTC labeling, which is essential to the agency's mission, and if normal clearance procedures were followed, it would take longer to conclude the related OTC labeling rulemaking.

To comply with the PRA requirements, FDA is publishing notice of the proposed collections of information listed below.

With respect to the following collections of information, FDA invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimates of the burdens of the proposed collections 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 burdens of the collections of information on respondents, including through the use of automated collection

techniques, when appropriate, and other forms of information technology.

1. Evaluation of Proposed OTC Label Formats and OTC Label Format Preference

Under sections 201(n) and 502 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C 321(n) and 352), FDA has the authority to ensure that approved drugs are properly labeled. Section 201(n) of the act defines a drug as misbranded if its labeling or advertising is misleading; this includes the failure to reveal material facts. Under section 903 of the act (21 U.S.C. 393), FDA may conduct research related to drugs and conduct educational and public information programs relating to the responsibilities of the FDA. FDA will evaluate proposed OTC label formats and study the effect of various label formats on consumers' preference. The agency will conduct two studies:

In study A (Evaluation of Proposed OTC Label Formats), consumers will be shown the label of an OTC drug using either the proposed or the traditional format. Based on the different labels and different reading conditions, consumers' knowledge, attitudes, and decisions about proper drug use will be investigated.

In study B (OTC Label Format Preference), consumers will be asked to view examples and variations of current OTC label designs. Respondents will be asked to indicate their preference for various designs, as well as demonstrate memory retention of labeling information. Also, consumers will be asked to evaluate labeling terminology and graphics to investigate how they interpret various ways of communicating drug safety and effectiveness.

2. Evaluation of Statement of Identity Comprehension and of Alcohol Warning Statement Comprehension

Under sections 201(n) and 502 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C 321(n) and 352), FDA has the authority to ensure that approved drugs are properly labeled. Section 201(n) of the act defines a drug as misbranded if its labeling or advertising is misleading; this includes the failure to reveal material facts. Under section 903 of the act (21 U.S.C. 393), FDA may conduct research related to drugs and conduct educational and public information programs relating to the responsibilities of the FDA. FDA will study the comprehension of the statement of identity and warning information on labeling for OTC drug products. FDA will conduct two studies:

In study C (Statement of Identity Comprehension), consumers will be asked to view examples and variations of the placement of OTC statement of identity information. Respondents will be asked to demonstrate their perceptions and reactions to placement of active ingredient(s), pharmacologic category, and/or intended action information on the front and/or back portion of the product package.

In study D (Alcohol Warning Statement Comprehension), consumers will be asked to rate the clarity or understandability of the warning message. Respondents will be asked to rate various methods of conveying the alcohol warning that systematically vary the specificity, permissiveness, frequency, and quantity descriptors in the alcohol warning messages.

In each of the four studies, participants will examine materials varied by one or more format or content variables. Central location intercept sites that are geographically dispersed will be used to recruit and question respondents.

FDA estimates the burden of these collections of information as follows:

ESTIMATED ANNUAL REPORTING BURDEN

Study	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
A & B	2,100	1	2,100	.5	1,050
C & D	480	1	480	.5	240

There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 19, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–13601 Filed 5–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 35, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

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: The Health Education Assistance Loan (HEAL) Program: Forms—0915–0043—Extension, No Change

This clearance request is for extension of approval for 3 HEAL forms: the Repayment Schedule is used by lenders to inform the borrower of the cost of a HEAL loan, the number and amount of payments, and the Truth-in-Lending requirements; the Promissory Note is used by the lender to provide the borrower with the legally binding terms of the loan; and the Lender's Report (also known as the Call Report) is used by the lender to provide the Department with information on the status of all loans outstanding. The forms are needed to provide borrowers with information on their responsibilities and to determine which lenders may have

excessive delinquencies and defaulted loans. The estimate of burden for the forms are as follows:

Form and No.	Number of respondents	Responses per respondent	Number of responses	Burden per response (hrs.)	Total burden hours
Disclosure:					
Repayment Schedule HRSA 501–1,2	11	1,090	12,000	.5	6,000
Promissory Note, HRSA 500–1,2, & 3	11	1,384	15,227	.5	7,614
Disclosure Subtotal	11	2,474	27,227	.5	13,614
Reporting:					
Call Report HRSA 512	32	4	128	.75	96
Reporting Subtotal	32	4	128	.75	96
Total	32	855	27,355	.5	13,710

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 14, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination.

[FR Doc. 97–13610 Filed 5–22–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 35, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub.L. 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

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: Progress Reports for Continuation Training Grants—0915–0061—Extension and Revision (Former Title "HRSA Noncompeting Training Grant Application")

The HRSA Noncompeting Training Grant Application (HRSA Form 6025–2) has been used in the past for the preparation and submission of continuation applications for Titles VII and VIII health professions and nursing education and training programs. These continuation applications included general grantee information, a detailed budget and justification for the current budget year, a progress report, and other related information.

The HRSA Bureau of Health Professions has recently done a comprehensive review of grants management processes and made changes to streamline the processes for both grantees and Bureau staff. One of the changes resulted in replacing the requirement for submission of the continuation application with submission of a focused progress report with measurable objectives and outcome measures. Other information that was included in the application is either repetitious of information already contained in grants files or is not needed.

The progress report is needed to determine whether progress has been sufficient under the original project objectives to warrant continuation support. Grantees must demonstrate satisfactory progress or continuation awards cannot be made. Progress will be measured based on the objectives of the grant project, and outcome measures and indicators developed by the Bureau to meet requirements of the Government Performance and Results Act (GPRA).

The new progress report is in development and will be completely automated allowing the grantees to obtain, complete and submit the report electronically.

The estimate of burden for the progress reports for continuation training grants is as follows:

Number of respondents	Responses per respondent	Hours per response	Total burden hours
927	1	20	18,540

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 14, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination.

[FR Doc. 97–13613 Filed 5–22–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Project Grants for Renovation or Construction of Non-Acute Health Care Facilities

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of limited competition for grant funds.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that approximately $725,000 is available for project grants to renovate or construct outpatient clinics. Funds were appropriated by Public Law 104–

208 under the provisions of Section 1610(b) of the Public Health Service Act.

These awards will be limited to the following current section 330 community health center grantees located in the Midwest: (1) Primary Health Care, Des Moines, Iowa; (2) Siouxland Community Health Center, Sioux City, Iowa; and (3) Peoples Community Health Center, Waterloo, Iowa. The HRSA will contact each eligible applicant by mail.

OTHER AWARD INFORMATION: PHS strongly encourages all grant and contract recipients to provide a smoke free workplace and to promote the nonuse of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children.

FOR FURTHER INFORMATION CONTACT: Additional information relating to technical and program issues may be obtained from Mr. Paul Murphy, Chief, Facilities Monitoring Branch, Division of Facilities Compliance and Recovery, Bureau of Health Resources Development, HRSA, Parklawn Building, Room 7–47, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443–4303. Information regarding business, administrative or fiscal issues related to the awarding of grants under this Notice may be requested from Mr. Tom Castonguay, Grants Management Specialist, Bureau of Health Resources Development, HRSA, Parklawn Building, Room 7–27, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443–2385. Applicants for grants will use Form PHS 5161–1, approved under OMB Control Number 0937–0189.

The OMB Catalog of Federal Domestic Assistance number for Section 1610(b) is 93.887.

Dated: May 19, 1997.

Claude Earl Fox,

Acting Administrator.

[FR Doc. 97–13612 Filed 5–22–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–4021–N–06]

Announcement of Awards for the Economic Development and Supportive Services Program—Fiscal Year 1996

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this document notifies the public of funding awards for Fiscal Year 1996 Public and Indian Housing Authority applicants under the Economic Development and Supportive Services (EDSS) Program. The purpose of this document is to announce the names and addresses of the award winners and the amount of the awards to be used to further the Department's commitment to provide economic development opportunities and supportive services to assist families, the elderly and persons with disabilities that reside in Public and Indian Housing to become self-sufficient; to live independently or to prevent premature or unnecessary institutionalization.

FOR FURTHER INFORMATION CONTACT: Marcia Y. Martin, Office of Community Relations and Involvement (OCRI), U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410, (202) 708–4214; or Tracy C. Outlaw, National Office of Native American Programs (NONAP) 1999 Broadway, Suite 3390, Box 90, Denver, CO 80202; telephone numbers: OCRI (202) 708–4214; and NONAP (303) 675–1600. Hearing- or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) by contacting the Federal Information Relay Services on 1–800–877–TDDY (1–800–877–8339) or (202) 708–9300. (With exception of the ''800'' number, these are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Omnibus Consolidated Rescissions and Appropriation Act of 1966 (Pub. L. 104–134, approved April 26, 1996), set aside funding for the Economic Development and Supportive Services (EDSS) Program from the Community Development Block Grant (CDBG) appropriation. The purpose of the program is to provide grants to public housing agencies and Indian housing authorities (collectively HAs) that are in partnership with non-profit or incorporated for-profit agencies to (1) Provide economic development opportunities and supportive services to assist residents of public and Indian housing to become economically self-sufficient, particularly families with children where the head of household would benefit from the receipt of supportive services and is working, seeking work, or is preparing for work by participating in job-training or educational programs, and (2) to provide supportive services to assist the elderly and persons with disabilities to live independently or to prevent unnecessary institutionalization.

On August 14, 1996 (61 FR 42356), HUD published a Notice of Funding Availability (NOFA) that announced $30.8 million in EDSS funds. A total of $53 million was set-aside from the Community Development Block Grant (CDBG) appropriation for an economic development and supportive services program. Of the $53 million, $8 million was set-aside for the Bridges to Work Demonstration Program, $9.2 million was set-aside for the Section 8 Self-Sufficiency (FSS) Program, and $5 million for Housing's Neighborhood Network and Resident Initiatives programs. These set-asides were announced under separate notices. The EDSS NOFA was amended three times as follows:

- September 26, 1996 (61 FR 50501). Revised the application kit availability and extended the application due date to October 29, 1996. In addition, the Department announced the OMB control number issued for the information collection requirements.
- October 22, 1996 (61 FR 54813). Extended to November 12, 1996, the application due date for applicants submitting applications to HUD's Puerto Rico Office due to Hurricane Hortense which caused severe flooding on the Island of Puerto Rico resulting in travel problems, electrical outages and in the closing of HUD's Puerto Rico Office.
- February 18, 1997 (62 FR 7249). Advised of the procedure that the Department will use to determine how public housing agency and Indian housing authority applications will be selected for funding in the event of tie scores. The language was inadvertently omitted from the August 14, 1996 NOFA.

The Catalog of Federal Domestic Assistance number for the Economic Development and Supportive Services Program is 14.863.

Accordingly, this announcement further amends the NOFA for Economic Development and Supportive Services as published on August 16, 1996, (61 FR 423560) and subsequent amendments.

The Department announces that applications were reviewed and evaluated in accordance with ranking factors set forth in the NOFA published August 16, 1996, and that funding to tie scored applications was made in accordance with the notice published February 18, 1997.

In accordance with section 102(a)(4)(c) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545) the Department is publishing details regarding recipients of funding awards. This information is provided in Appendix A to this document.

Dated: May 15, 1997.

Kevin E. Marchman,

Acting Assistant Secretary for Public and Indian Housing.

Appendix A

Housing Authority of the City of Norwalk, P.O. Box 508, Norwalk, CT 06854–0508, (203) 838–8471. Grant Amount: $556,000

Housing Authority of the City of Hartford, 475 Flatbush Avenue, Hartford, CT 06106–3728, (860) 275–8400. Grant Amount: $368,126

Worcester Housing Authority, 40 Belmont Street, Worcester, MA 01605–0000, (508) 798–4506. Grant Amount: $1,000,000

Lawrence Housing Authority, 353 Elm Street, Lawrence, MA 01842–0000, (508) 685–3811. Grant Amount: $800,000

Lowell Housing Authority, 350 Moody Street, Lowell, MA 01853–0060, (508) 937–3500. Grant Amount: $878,288

Manchester Housing & Redevelopment Authority, 198 Hanover Street, Manchester, NH 03103–6125, (603) 624–2100. Grant Amount: $780,824

Dover Housing Authority, 62 Whittier Street, Dover, NH 03820–2994, (603) 742–5804. Grant Amount: $443,462

Providence Housing Authority, 100 Broad Street, Providence, RI 02903–4129, (401) 751–6400. Grant Amount: $500,000

Millville Housing Authority, 122 E. Main Street, Millville, NJ 08332–0803, (609) 825–8860. Grant Amount: $989,879

Long Branch Housing Authority, P.O. Box 336, Long Branch, NJ 07740–0336, (908) 222–3747, Grant Amount: $500,000

District of Columbia Housing Authority, 1133 North Capitol St. NE, Washington, DC 20002–7599, (202) 535–1445. Grant Amount: $1,000,000

Housing Authority of Frederick, 209 Madison, Frederick, MD 21701, (301) 662–8173, Grant Amount: $467,700

Housing Opportunity Commission, Montgomery County, 10400 Detrick Ave., Kensington, MD 20895, (301) 929–6783, Grant Amount: $207,603

Philadelphia Housing Authority, 2012–18 Chestnut Street, Philadelphia, PA 19103–0000, (215) 684–8128. Grant Amount: $300,000

Philadelphia Housing Authority, 2012–18 Chestnut Street, Philadelphia, PA 19103–0000, (215) 684–4027. Grant Amount: $265,658

York City Housing Authority, 31 S. Broad Street, York, PA 17405, (717) 845–2601. Grant Amount: $999,900

Housing Authority of The County of Chester, 222 North Church Street, West Chester, PA 19380–0000, (610) 436–9202. Grant Amount: $290,000

Chester Housing Authority, 1010 Madison Street, Chester, PA 19016–0000, (610) 876–5561. Grant Amount: $271,010

Pittsburgh Housing Authority, 100 Grant Street, Pittsburgh, PA 15219–2068, (412) 456–5079. Grant Amount: $379,510

Newport News Redevelopment & Housing Authority, P.O. Box 77, Newport News, VA 23607–0077, (757) 247–9701. Grant Amount: $770,700

Alexandria Redevelopment & Housing Authority, 600 North Fairfax, Alexandria, VA 22314–2094, (703) 549–7115. Grant Amount: $585,500

Mobile Housing Board, P.O. Box 1345, Mobile, AL 36633–1345, (334) 434–2201. Grant Amount: $1,000,000

Tampa Housing Authority, 1514 Union Street, Tampa, FL 33607–0000, (813) 253–0551. Grant Amount: $379,511

Housing Authority of the City of Lakeland, P.O. Box 1009, Lakeland, FL 33802–1009, (813) 687–2911. Grant Amount: $678,000

Housing Authority of Louisville, 420 South Eighth Street, Louisville, KY 40203, (502) 574–3400. Grant Amount: $500,000

Housing Authority of the City of High Point, P.O. Box 1779, High Point, NC 27261, (910) 887–2661. Grant Amount: $449,442

Housing Authority of the City of High Point, P.O. Box 1779, High Point, NC 27261, (910) 887–2661. Grant Amount: $208,943

Puerto Rico Public Housing Administration, P.O. Box 363188, San Juan, PR 00936–3188, (809) 753–4409. Grant Amount: $1,000,000

Housing Authority of Greenville, P.O. Box 10047, Greenville, SC 29605, (864) 467–4273. Grant Amount: $498,501

Housing Authority of Greenville, P.O. Box 10047, Greenville, SC 29605, (864) 467–4273. Grant Amount: $496,261

Knoxville's Community Development Corporation, P.O. Box 3550, Knoxville, TN 37927, (423) 594–8821. Grant Amount: $1,000,000

Chicago Housing Authority 626 W. Jackson Blvd., Chicago, IL 60661, (312) 791–8500. Grant Amount: $295,551

Detroit Housing Commission 2211 Orleans, Detroit, MI 48207–2780, (313) 877–8639. Grant Amount: $1,000,000

Lac Vieux Desert Band of Lake Superior Chippewa, P.O. Box 249, Watersmeet, MI 49969, (906) 358–4587. Grant Amount: $332,292

St. Paul Public Housing Agency, 480 Cedar Street, St. Paul, MN 55101–2240, (612) 298–5664. Grant Amount: $1,000,000

Youngstown Metropolitan Housing Authority, 131 Boardman Street, Youngstown, OH 44503–1329, (330) 744–2161. Grant Amount: $998,750

Trumbull Metropolitan Housing Authority, 1977 Niles Road S.E., Warren, OH 44484–5197, (330) 369–1533. Grant Amount: $960,639

Cherokee Nation Housing Authority, P.O. Box 1007, Tahlequah, OK 74465, (918) 456–5482. Grant Amount: $1,000,000

Houston Housing Authority, 2640 Fountainview, Houston, TX 77057–0000, (713) 260–0600. Grant Amount: $1,000,000

Kansas City, Missouri Housing Authority, 712 Broadway, Kansas City, MO 64105, (816) 842–2440. Grant Amount: $189,756

Fort Berthold Housing Authority, P.O. Box 310, New Town, ND 58763, (701) 627–4732. Grant Amount: $1,000,000

Rosebud Housing Authority, P.O. Box 69, Rosebud, SD 57570, (605) 747–2203. Grant Amount: $1,000,000,

Phoenix Housing Department, 251 W. Washington St. 4th Floor, Phoenix, AZ 85003–1611, (602) 262–4715. Grant Amount: $999,558

City of Oxnard Housing Authority, 1500 Colonia Road, Oxnard, CA 93030, (805) 385–7577. Grant Amount: $163,300

Housing Authority of the County of Marin, 30 N. San Pedro, San Rafael, CA 94903, (415) 491–2530. Grant Amount: $443,565

Oakland Housing Authority, 1619 Harrison, Oakland, CA 94612, (510) 874–1500. Grant Amount: $385,000

Housing Authority of Portland, 135 SW Ash, Portland, OR 97204, (503) 273–1492. Grant Amount: $588,995

Housing Authority of Portland, 135 SW Ash, Portland, OR 97204, (503) 273–4522. Grant Amount: $410,913

Housing Authority City of Tacoma, 902 South L Street, Tacoma, WA 98405–0000, (206) 207–4400. Grant Amount: $466,863

[FR Doc. 97–13533 Filed 5–22–97; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–04]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings

and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–G (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. the properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or make available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brain Rooney, Division of Property Management, Program Support, Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register,** the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Army: Mr. Jeff Holste, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 428–6318; Energy: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–0426; VA: Mr. George L. Szwarcman, Director, Land Management Service, 184A, Department of Veterans Affairs, 811 Vermont Avenue, NW, Room 414, Lafayette Bldg., Washington DC 20420; (202) 565–5941; Navy: Mr. Charles C. Cocks, Department of the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–7342; (These are not toll-free numbers)

Dated: May 15, 1997.

Fred Karnas, Jr.,

Acting Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program

Suitable/Available Properties

BUILDINGS (by State)

Hawaii

Bldg. 1794
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720041
Status: Excess
Comment: 300 sq. ft., needs repair, most recent use—classified material destruction facility, off-site use only

Unsuitable Properties

BUILDINGS (by State)

Alabama

Bldg. 3565
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720002
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 3649
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720003
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 4373
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720004
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 4809
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720005
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 4810
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720006
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 5655
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720007
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7363
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720008
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7616
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720009
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7647
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000

Landholding Agency: Army
Property Number: 219720010
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7667
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720011
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7671
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720012
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7721
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720013
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 7846
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720014
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldg. 8014
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–5000
Landholding Agency: Army
Property Number: 219720015
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Alaska

Bldg. 45–100
Fort Richardson
Ft. Richardson AK 99505–6500
Landholding Agency: Army
Property Number: 219720001
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material, Within airport runway clear zone, Secured Area, Extensive deterioration

Georgia

Bldg. 864, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720017
Status: Unutilized
Reason: Extensive deterioration

Bldg. 865, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720018
Status: Unutilized
Reason: Extensive deterioration

Bldg. 866, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720019
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1365, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720020
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1673, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720021
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2539, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720022
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4101, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720023
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4153, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 219720024
Status: Unutilized
Reason: Extensive deterioration

Hawaii

Bldg. 52
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720029
Status: Excess
Reason: Extensive deterioration

Bldg. 318
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720030
Status: Excess
Reason: Extensive deterioration

Bldg. 321
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720031
Status: Excess
Reason: Extensive deterioration

Bldg. 446
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720032
Status: Excess
Reason: Extensive deterioration

Bldg. 449
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720033
Status: Excess
Reason: Extensive deterioration

Bldg. 450
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720034
Status: Excess
Reason: Extensive deterioration

Bldg. 454
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720035
Status: Excess
Reason: Extensive deterioration

Bldg. 457
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720036
Status: Excess
Reason: Extensive deterioration

Bldg. 460
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720037
Status: Excess
Reason: Extensive deterioration

Bldg. 461
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720038
Status: Excess
Reason: Extensive deterioration

Bldg. 465
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720039
Status: Excess
Reason: Extensive deterioration

Bldg. 1569
Naval Air Station, Barbers Point
Honolulu Co: Honolulu HI 96862–
Landholding Agency: Navy
Property Number: 779720040
Status: Excess
Reason: Extensive deterioration

Kentucky

6 Bldgs.
Fort Knox
5, 31, 37, 49, 54, 58
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720025
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
59–60, 74, 746, 806, 808, 810–811, 815, 821
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720026
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fort Knox
62, 68, 72, 75, 2329, 2995
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720027
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.

Fort Knox
801–802, 804, 809, 812, 816–817, 819, 824, 826
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720028
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 803, 818, 830
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720029
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 813, 835
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720030
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 820, 822, 833
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720031
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 823, 832, 834, 2701
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720032
Status: Unutilized
Reason: Extensive deterioration

Bldg. 825
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720033
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 827, 831, 836, 839
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720034
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2337
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720035
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2357
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720036
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Location: 4439, 4460, 4468, 4492, 4515, 4518, 4521, 4925, 5412, 9113
Landholding Agency: Army
Property Number: 219720037
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Location: 6655, 6807–6808, 6811–6812, 6814–6817
Landholding Agency: Army
Property Number: 219720038
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 6803, 6804
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720039
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Location: 6809, 6810, 6813, 6819, 6838, 6864, 6868, 6877, 6883, 6886
Landholding Agency: Army
Property Number: 219720040
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Location: 6818, 6824, 6827, 6832, 6853, 6857, 6869, 6872, 6878, 6887
Landholding Agency: Army
Property Number: 219720041
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs., Fort Knox
6820–6823, 6825–6826, 6829–6830, 6839–6840
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720042
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 6831, 6865
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720043
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 6836, 6845, 6850
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720044
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Location: 6843–6844, 6848, 6851–6852, 6855–6856, 6859–6860, 6863
Landholding Agency: Army
Property Number: 219720045
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 6849, 6854
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720046
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6862
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720047
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Location: 6866–6867, 6871, 6873–6876, 6879–6881
Landholding Agency: Army
Property Number: 219720048
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Fort Knox
6884, 6885, 6888, 6889, 6892
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720049
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6893
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720050
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9292
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720051
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9319
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720052
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9320
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720053
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9643
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720054
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 525, 565, 6828, 6891
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720055
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 2311–2315, 2354–2356
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720056
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
501–502, 504, 509, 511–512, 514, 523–524, 526

Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720057
Status: Unutilized
Reason: Extensive deterioration

7 Bldgs.
Fort Knox
506, 508, 529, 542, 544, 546, 566
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720058
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6402
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720059
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2383
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720060
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 573, 578–580
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720061
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 532, 557
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720062
Status: Unutilized
Reason: Extensive deterioration

Bldg. 556
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720063
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6841
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720064
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs.
Fort Knox
513, 527, 558–560, 563, 6806, 6890
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720065
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 567–570, 6833, 6847
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720066
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
531, 534, 536, 538–540, 548–550, 552
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720067
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
522, 528, 530, 533, 543, 545, 547, 553, 561–562
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720068
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs.
Fort Knox
564, 574, 745–746, 6846, 2199, 2308–2310, 34
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720069
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
8–9, 44–46, 53, 64, 505, 507, 521
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720070
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9721
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720071
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 9399, 9646, 9647
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720072
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9250
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720073
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 4017, 9015
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720074
Status: Unutilized
Reason: Extensive deterioration

Bldg. 7727
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720075
Status: Unutilized
Reason: Extensive deterioration

Bldg. 7228
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720076
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6861
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720077
Status: Unutilized
Reason: Extensive deterioration

Bldg. 6837
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720078
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4017
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720079
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2990
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720080
Status: Unutilized
Reason: Extensive deterioration

Bldg. 584
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720081
Status: Unutilized
Reason: Extensive deterioration

Bldg. 83
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720082
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11
Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720083
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs.
Fort Knox
9361–9364, 9367, 9464, 9467, 9606
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 219720084
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
Ft. Knox Co: Hardin Ky 40121–
Location: 9600, 9604–9605, 9644–9645, 9649, 9652–9654, 9656
Landholding Agency: Army
Property Number: 219720085
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
Ft. Knox Co: Hardin Ky 40121–
Location: 9272, 9277–9278, 9281, 9285, 9295, 9313, 9603, 9655, 9657
Landholding Agency: Army
Property Number: 219720086
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 15, 57, 6893

Fort Knox
Ft. Knox Co: Hardin Ky 40121–
Landholding Agency: Army
Property Number: 219720087
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Fort Knox
26–29, 42–43, 47–48, 55, 61
Ft. Knox Co: Hardin Ky 40121–
Landholding Agency: Army
Property Number: 219720088
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 10–12, 16, 20–25
Fort Knox
Ft. Knox Co: Hardin Ky 40121–
Landholding Agency: Army
Property Number: 219720089
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1322
Fort Knox
Ft. Knox Co: Hardin Ky 40121–
Landholding Agency: Army
Property Number: 219720090
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs.
Fort Knox
5642, 5485, 5491, 5475, 5459, 5446, 7747, 9041
Ft. Knox Co: Hardin Ky 40121–
Landholding Agency: Army
Property Number: 219720091
Status: Unutilized
Reason: Extensive deterioration

9 Bldgs.
Fort Knox
5305, 5324, 5402, 5356, 5351, 5339, 5329, 5447, 5419
Ft. Knox Co: Hardin Ky 40121–
Landholding Agency: Army
Property Number: 219720092
Status: Unutilized
Reason: Extensive deterioration

New York

Bldg. 144, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: Army
Property Number: 219720004
Status: Unutilized
Reason: Extensive deterioration

Bldg. 143, VAECC
Linden Blvd. and 179th St.
St. Albans Co: Queens NY 11425–
Landholding Agency: Army
Property Number: 219720006
Status: Unutilized
Reason: Extensive deterioration

Bldg. 72, VAECC
St. Albans Co: Queens NY 11425–
Landholding Agency: Army
Property Number: 219720001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 73, VAECC
St. Albans Co: Queens NY 11425–
Landholding Agency: Army
Property Number: 219720002
Status: Unutilized
Reason: Extensive deterioration

Bldg. 94, VAECC
St. Albans Co: Queens NY 11425–
Landholding Agency: Army
Property Number: 219720003
Status: Unutilized
Reason: Extensive deterioration

Bldg. 158, VAECC
St. Albans Co: Queens NY 11425–
Landholding Agency: Army
Property Number: 219720004
Status: Unutilized
Reason: Extensive deterioration

Pennsylvania

Bldg. T–4–108
Ft. Indiantown Gap
Annville Co: Lebanon PA 17003–5029
Landholding Agency: Army
Property Number: 219720093
Status: Excess
Reason: Extensive deterioration

Bldg. T–6–10
Ft. Indiantown Gap
Anniville Co: Lebanon PA 17003–5029
Landholding Agency: Army
Property Number: 219720094
Status: Unutilized
Reason: Extensive deterioration

Z Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 419720002
Status: Excess
Reason: Extensive deterioration

Bldg. 22
Willow Grove Naval Air Station
Wilow Grove Co: Montgomery PA 19090–
Landholding Agency: Navy
Property Number: 779720028
Status: Excess
Reason: Extensive deterioration

South Carolina

Bldg. 2495
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720095
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 2550, 2552, 2560, 2565
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720096
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3502
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720097
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fort Jackson
4351, 4354, 4370, 4375, 4393, 4395
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720098
Status: Unutilized
Reason: Extensive deterioration

Bldg. 4436
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720099
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 5400, 5404, 5406, 5408
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720100
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 10–507, 10–514
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720101
Status: Unutilized
Reason: Extensive deterioration

Bldg. 10–614
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720102
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 10–622 thru 10–629
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720103
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 10–630 thru 10–639
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720104
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 10–640 thru 10–649
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720105
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 10–650 thru 10–656
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720106
Status: Unutilized
Reason: Extensive deterioration

Bldgs. M–7493 thru M–7494
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 219720107
Status: Unutilized
Reason: Extensive deterioration

Tennessee

Memphis USARC #2
360 W. California Ave.
Memphis Co: Shelby TN 38106–
Landholding Agency: Army
Property Number: 219720108
Status: Excess
Reason: Extensive deterioration

4 Bldgs.
Volunteer Army Ammunition Plant
202, 205–3, T–1067, T–1075
Chattanooga Co: Hamilton TN 37422–
Landholding Agency: Army
Property Number: 219720109

Status: Excess
Reason: Extensive deterioration

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roand TN 37831–
Landholding Agency: Energy
Property Number: 419720001
Status: Excess
Reason: Extensive deterioration

Texas

Bldg. 105B
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219720110
Status: Excess
Reason: Extensive deterioration

Bldg. P–2788
Fort Sam Houston
San Antonio Co: Bexar TX 78234–5000
Landholding Agency: Army
Property Number: 219720111
Status: Excess
Reason: Extensive deterioration

Facility 4677
Fort Bliss—Logan Hts Area
El Paso Co: El Paso TX 79924–
Landholding Agency: Army
Property Number: 219720112
Status: Unutilized
Reason: Extensive deterioration

Facility 4725
Fort Bliss—Logan Hts Area
El Paso Co: El Paso TX 79924–
Landholding Agency: Army
Property Number: 219720113
Status: Unutilized
Reason: Extensive deterioration

Facility 4731
Fort Bliss—Logan Hts Area
El Paso Co: El Paso TX 79924–
Landholding Agency: Army
Property Number: 219720114
Status: Unutilized
Reason: Extensive deterioration

Facility 4879
Fort Bliss—Logan Hts Area
El Paso Co: El Paso TX 79924–
Landholding Agency: Army
Property Number: 219720115
Status: Unutilized
Reason: Extensive deterioration

Bldg. 440
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720116
Status: Unutilized
Reason: Extensive deterioration

Bldg. 452
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720117
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1600–1603
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720118
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2325
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720119
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fort Bliss
2326, 2327, 2337, 2345, 2347, 2357
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720120
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2328
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720121
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 2334–2336
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720122
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2344
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720123
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 2346, 2355, 2356
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720124
Status: Unutilized
Reason: Extensive deterioration

Bldg. 2354
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720125
Status: Unutilized
Reason: Extensive deterioration

Bldg. 3796
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720126
Status: Unutilized
Reason: Extensive deterioration

Bldg. 5355
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720127
Status: Unutilized
Reason: Extensive deterioration

Bldg. 9900
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720128
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11001
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720129
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11177
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720130
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11219
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720131
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11221
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720132
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11222
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720133
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11226
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720134
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11312
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720135
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11351
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720136
Status: Unutilized
Reason: Extensive deterioration

Bldg. 11352
Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 219720137
Status: Unutilized
Reason: Extensive deterioration

Virginia

Bldg. 207
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 219720138
Status: Unutilized
Reason: Extensive deterioration

Bldg. 224
Fort Eustis
Newport News VA 23604–
Landholding Agency: Army
Property Number: 219720139
Status: Unutilized

Reason: Extensive deterioration

Bldg. 640
Fort Eustis
Newport News VA 23604–
Landholding Agency: Army
Property Number: 219720140
Status: Unutilized
Reason: Extensive deterioration

Bldg. 1504
U.S. Army Reserve Center
Newport News VA 23604–
Landholding Agency: Army
Property Number: 219720141
Status: Unutilized
Reason: Extensive deterioration

Washington

Bldg. C0111
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720142
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Fort Lewis
C0114, C0115, C0118, C0119
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720143
Status: Unutilized
Reason: Extensive deterioration

Bldg. C0128
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720144
Status: Unutilized
Reason: Extensive deterioration

Bldg. C1243
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720145
Status: Unutilized
Reason: Extensive deterioration

Bldg. C1244
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720146
Status: Unutilized
Reason: Extensive deterioration

Bldg. C1248
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720147
Status: Unutilized
Reason: Extensive deterioration

Bldg. C1260
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720148
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fort Lewis
6208–6210, 6187–6189
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720149
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 6190, 6211
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720150
Status: Unutilized
Reason: Extensive deterioration

Bldg. 8276
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 219720151
Status: Unutilized
Reason: Extensive deterioration

Land (by State)

Florida

Reserve Command Lands
Ltc. Luis E. Martinez U.S. Army Reserve Ctr.
Perrine Co: Dade FL 33257–
Landholding Agency: Army
Property Number: 219720016
Status: Excess
Reason: Secured Area

[FR Doc. 97–13235 Filed 5–22–97; 8:45 am]
BILLING CODE 4210–29–M

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–829493

Applicant: Stephanie V. Bestelmeyer, Ft. Collins, CO.

The applicant requests a permit to import up to 10 tissue samples and 20 hair samples collected from wild maned wolves (*Chrysocyon brachyurus*), in and around Parque Nacional das Emas, Goias, Brazil, for the purpose of scientific research.

PRT–829006

Applicant: Jacksonville Zoological Gardens, Jacksonville, FL.

The applicant requests a permit to import blood samples collected from captive-held Jaguars (*Panthera onca*) from the Fundacion Nacional De Parques Zoologicos Y Acuarios, Venezuela, for the purpose of scientific research.

PRT–829679

Applicant: Wildlife Conservation Society, Bronx, NY.

The applicant requests a permit to export eight male and four female captive-born lion-tailed macaques (*Macaca silenus*) to the Apenheul Primate Park, The Netherlands, for the purposes of enhancement of the survival of the species through captive-breeding and conservation education.

PRT–81988

Applicant: University Of Nevada Reno, Reno, NV.

The applicant requests a permit to import samples taken from wild populations and populations born in captivity of Black-handed spider monkey (*Ateles geoffroyi frontatus*) and (*Ateles* g. *panamensis*) for the purpose of enhancement of the survival of the species through scientific research.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application(s) for permits to conduct certain activities with marine mammals. The application(s) was/were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–829155

Applicant: Robert B. Nancarrow, Frankenmuth, MI.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Northern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–829152

Applicant: Gary Yackel, Hemlock, MI.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Northern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–829153

Applicant: Donald W. Leiser, Bethlehem, PA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the (former) Parry Channel polar bear population, Northwest Territories, Canada for personal use.

PRT–828883

Applicant: Jerome Eckrich, Aberdeen, SD.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Parry Channel

polar bear population, Northwest Territories, Canada for personal use.

PRT–828866

Applicant: Everett Pannkuk, Jr., Raleigh, NC.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the McClintock Channel polar bear population, Northwest Territories, Canada for personal use.

PRT–829415

Applicant: Roger Lee Baber, Jr., Churchville, VA.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Northern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on any of these applications as well as the applications of Kenneth Johnson (PRT–829284) and Ronald Baetens (PRT–829285) published in last weeks **Federal Register** should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice at the above address.

Dated: May 19, 1997.

Anna Barry,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–13636 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–06–1020–00 [4000/1790]]

Notice of Availability of Draft Environmental Impact Statement and Proposed Plan Amendment to Land Use Plans in the Development of Standards for Rangeland Health and Guidelines for Grazing Management on Public Lands in California and Northwestern Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) in California has available a Draft Environmental Impact Statement (Draft EIS) to address Standards for Rangeland Health and Guidelines for Grazing Management as provided in BLM's grazing regulations (43 CFR part 4100) and to amend, as necessary, existing Land Use Plans in the State. The Draft EIS is prepared in compliance with the National Environmental Policy Act. This notice announces the availability of the Draft EIS for public review and comment.

DATES: Comments concerning the Draft EIS must be received by August 31, 1997.

ADDRESSES: Comments to the Draft EIS and requests to receive a copy of the Draft EIS should be mailed to Rangeland Health Coordinator, Bureau of Land Management, 2135 Butano Drive, Sacramento, CA 95825–0451.

FOR FURTHER INFORMATION CONTACT: Jim Morrison at (916) 979–2830.

SUPPLEMENTARY INFORMATION: The BLM opened an initial scoping period on March 25, 1996, closing on April 24, 1996 and due to public desires, reopened the scoping period on August 5, 1996, closing September 4, 1996. Information taken during the scoping periods, information developed from BLM's Resource Advisory Councils (RACs), and other information, both existing and new, were used to formulate alternatives and to analyze the impacts to the environment as documented in the Draft EIS.

As indicated in the previous notices of intent, BLM is required by grazing management regulations (43 CFR part 4100), effective August 21, 1995 to develop state-wide Standards for Rangeland Health and Guidelines for Grazing Management. The final selected Standards and Guidelines (S&Gs) will be incorporated into existing Land Use Plans as plan amendments. The draft EIS is tiered to the national EIS which was completed in early 1995 during the development of the above referenced regulations. The development of rangeland S&Gs for the public owned rangelands in Southern California are not included in this effort and will be developed later in conjunction with the development of coordinated management plans.

There are four alternative sets of rangeland S&Gs considered in the Draft EIS including: (1) a set of S&Gs from each of three RACs which constitutes the proposed action, (2) a consolidated state-wide set of S&Gs, (3) a set of fall-back S&Gs as references in the regulations and constitutes the no action alternative, and (4) a set of S&Gs for rapid improvement and recovery of rangeland health. The Draft EIS analyzes the environmental, social, and economic impacts for each alternative.

The public is invited to comment on the Draft EIS as to the adequacy of the analysis, suggest modifications and provide recommendations to consider in finalizing EIS and development of plan amendments. No formal public hearings or meetings are anticipated.

Dated: May 12, 1997.

Carl Rountree,

Acting Deputy State Director,Ecosystem Sciences and Lands.

[FR Doc. 97–13301 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–1020–00; GP7–0186]

Notice of Meeting

AGENCY: Bureau of Land Management, Spokane District, Interior.

NOTICE: Notice of Meeting of the Eastern Washington Resource Advisory Council.

ACTION: Meeting of the Eastern Washington Resource Advisory Council; June 11, 1997, in Spokane, Washington.

SUMMARY: A meeting of the Eastern Washington Resource Advisory Council will be held on June 11, 1997. The meeting will convene at 7:00 p.m., at the Red Lion, ''Spokane Falls Ball Room'', 322 Spokane Falls Ct., Spokane, Washington, 99201; (509) 455–9600. The meeting will adjourn at approximately 9:00 p.m. or upon completion of business. Public comments will be heard from 7:00 p.m. until 7:30 p.m. If necessary to accommodate all wishing to make public comments, a time limit may be placed upon each speaker. The purposes of the meeting are to discuss the status

of the Interior Columbia Basin Ecosystem Management Project and the status of the Standards for Rangeland Health and Livestock Grazing Guidelines.

FOR FURTHER INFORMATION CONTACT: Richard Hubbard, Bureau of Land Management, Spokane District Office, 1103 N. Fancher Road, Spokane, Washington, 99212–1275; or call 509–536–1200.

Dated: May 15, 1997.

Cathy L. Harris,

Acting District Manager.

[FR Doc. 97–13432 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–350–1430–00]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands in Lassen County, California have been examined and found suitable for classification for lease or conveyance under the provisions of the Recreation and Public Purposes Act, as amended, (43 U.S.C. 869, *et seq.*). These lands are hereby classified for lease with option to purchase under the provisions of the Recreation and Public Purposes Act contained in Title 43 Code of Federal Regulations (CFR), parts 2912 and 2740:

Mount Diablo Meridian, California

T.30N., R.12E., Section 21, SE¼SE¼; Section 27, NW; and Section 28, E½NE., Containing 280 acres more or less.

The lands are not needed for Federal purposes. Lease or conveyance is consistent with current BLM land use planning and would be in the public interest.

The lease/patent, when issued, will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. A right-of-way for ditches and canals constructed by the authority of the United States.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove minerals.

4. Those rights for purposes of a RS 2477 road granted to the County of Lassen by permit CACA–8823.

5. The rights for purposes of State Highway 139 granted to the California Department of Transportation by permit CACA–35554.

6. The rights for purposes of a telephone line granted to Citizenstelecom by permit CACA–3389.

7. The rights for the purposes of a powerline granted to Lassen Municipal Utilitiy District by permit SACO–043218.

8. The rights for the purposes of a underground telephone line granted to AT&T by permit CAS–2919.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Eagle Lake Resource Area, 2950 Riverside Drive, Susanville, California.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Area Manager, Eagle Lake Resoure Area Office, 2950 Riverside Drive, Susanville, California 96130.

Classification Comments

These lands are not essential to any Bureau of Land Management program and no resource needed by the public will be lost through transfer to private ownership. Disposal will not be adverse to any known public or private interest. The land meets the classification criteria in 43 CFR 2430.4(c) as land valuable for public purposes. The land may, therefore, be classified for lease with the option to purchase consistent with 2430.2(b). This classification would be consistent with the criteria of 43 CFR 2410.1 (a)–(d). Interested parties may submit comments involving suitability of the land for public purposes, i.e. schools, hospital, etc. Comments on the Recreation and Public Purposes Act classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific uses under consideration, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for conveyance under the Recreation and Public Purposes Act, as amended, (43 U.S.C. 869, *et seq.*).

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the **Federal Register**.

John Bosworth,

Acting Area Manager.

[FR Doc. 97–13618 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–330–1220–00]

Notice of Final Supplementary Rules for King Range National Conservation Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of establishment of final Supplementary Rules.

SUMMARY: The Arcata Resource Area will establish the following Supplementary Rules for the King Range National Conservation Area as provided for under Title 43 Code of Federal Regulations Subpart 8365.1–6:

A. *Parking Restriction, Black Sands Beach:* Busses, camping trailers or motor homes, or any other vehicles larger than a full-sized pickup truck, are prohibited from parking in the Black Sands Beach Parking Area at the terminus of Beach Road.

B. *Parking Restriction, Developed Camping and Picnic Sites:* Parking any vehicle on a developed camp/picnic site is allowed only during occupancy of the site. ''Occupancy of the site'' is defined as that period of time when the vehicles occupants are using facilities at the site for the primary purpose of camping or picnicking. All vehicles not directly associated with use of the camp/picnic site must be placed at other parking locations. This includes any vehicle left parked unattended for the primary purpose of allowing the occupants to participate in recreation activities away from the camping/picnic site including, but not limited to, backpacking, hiking, beachcombing, hunting, surfing etc. The

following developed camping and picnic sites are covered under this restriction: Mattole, Tolkan, Horse Mountain, Honeydew Creek, and Wailaki.

C. *Vehicle Barriers:* Taking any vehicle through, around, or beyond any structure, restrictive sign, recognizable barricade, fence, gate, or traffic control barrier is prohibited.

D. *Camping Closure:* BLM administered lands within the following areas are closed to camping (overnight occupancy) outside of developed campgrounds: Public Lands within 500 feet of Chemise Mountain Road; Public Lands within 500 feet of Shelter Cove Road between milepost 5 and the intersection with Chemise Mountain Road; Public Lands adjacent to Lower Pacific Drive including Mal Coombs Park, Seal Rock Picnic Area, Abalone Point, and all other BLM managed oceanfront lots within the Shelter Cove Subdivision; Public Lands south of Telegraph Creek and north of Humboldt Creek known as the Black Sands Beach Parking Area; Public Lands within Township 3 South, Range 1 East, Sections 6 and 7 known as the Honeydew Creek parcel; and Public Lands within 500 feet of King Peak Road between milepost 2 and 7.

EFFECTIVE DATE: The rules are effective May 20, 1997.

SUPPLEMENTARY INFORMATION: The above supplementary rules are being implemented for the following purposes:

A. *Parking, Black Sands Beach:* Wave erosion of the existing parking area has severely reduced its size to the point that larger vehicles and trailers cannot safely park or turn around, especially since the lot is often filled to capacity. Enlargement of the existing lot is not feasible, and efforts are being made to acquire an alternate parking area to accommodate larger vehicles.

B. *Parking, Developed Camping and Picnic Sites:* This rule is intended to be used in conjunction with an improved information program to increase the efficiency of use at developed camping/picnic areas. Presently, visitors often park in camp/picnic sites to hike, backpack or pursue other activities that do not require use of the site. Comparable access for these activities is available from nearby parking locations. Often, all campsites are full, denying use to additional campers/picnickers, while these nearby parking areas have spots available.

C. *Vehicle Barriers:* Self explanatory.

D. *Camping Closure:* The closure along segments of Chemise Mountain and Shelter Cove Roads is intended to protect critical salmon spawning and rearing habitat along the Bear Creek corridor from impacts. The oceanfront lots and parks (Seal Rock, Abalone Point and Mal Coombs) along Lower Pacific Drive are in a residential area and are not designed to accommodate overnight use. The closure along King Peak Road and of the Honeydew Creek Parcel is intended to reduce resource damage and maintenance costs from increased numbers of visitors camping in undeveloped sites adjacent to developed campgrounds so that they can use the facilities without paying fees. Because of extensive wave erosion, the Black Sands Beach Parking Area no longer has the capacity to accommodate any tent or vehicle camping. Violation of any of the above supplementary rules is punishable by a fine not to exceed $100,000, and/or imprisonment not to exceed 12 months (43 CFR 8360.0–7).

FOR MORE INFORMATION CONTACT: Lynda J. Roush, Bureau of Land Management, Arcata Resource Area Manager, 1695 Heindon Rd., Arcata, CA 95521, phone (707) 825–2300.

Lynda J. Roush,

Arcata Resource Area Manager.

[FR Doc. 97–13592 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–128–6332–00; Gp7–0180]

Establishment of Supplementary Rules

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Establishment of Supplementary Rules for the Sixes River Recreation Area.

SUMMARY: The Coos Bay District proposes new supplementary rules to regulate recreational placer mining activities at the Sixes River Recreation Site in Curry County, Oregon and further describe penalties for violation of these proposed rules. The rules are designed to implement the existing Code of Federal Regulations and ensure consistency with recently adopted Oregon State rules and regulations governing the same activities. The supplementary rules apply only to the Sixes River Recreation Site.

The Sixes River, which passes through the Sixes River Recreation Area, has been designated as essential indigenous anadromous salmonid fish habitat by the Oregon Division of Fish & Wildlife (ODF&W). In accordance with this designation, the ODF&W, the Oregon Department of Environmental Quality, and the Oregon Division of State Lands, adopted rules requiring authorization and permitting of mining and recreational placer mining activities, limitations on equipment size, and the establishment of in-water work periods governing these activities.

The Bureau of Land Management administers the public land the Sixes River crosses and has an interest in the protection of the water related resources, the adjoining riparian and terrestrial resources, and the protection of the physical developments existing at the recreation site.

Supplementary Rules

1. To ensure consistency with Oregon State rules and regulations governing placer mining activities at the Sixes Recreation Site, the following acts are prohibited.

a. Panning (manual or motorized), sluicing (manual or motorized), or dredging in streambed without the required general authorization or permit issued by the appropriate State Agency (ies).

b. Operating a motorized dredge rated over 10 horsepower, or having an intake suction hose over 4 inches in diameter.

c. Conducting panning, sluicing, or dredging outside the seasonal in-water work period specified by the ODF&W.

2. In order to enhance recreational opportunities and protect public resources at Sixes River Recreation site the following acts are prohibited:

a. Excavating and processing materials outside the existing wet perimeter. ''Wet Perimeter'' as defined in State rules and regulations is that area of the streambed which is under water, or exposed as a non-vegetated gravel bar surrounded on all sides by actively moving water, at the time the mining activity occurs.

b. Impounding of water or excavating to extend the natural wet perimeter existing at the time mining activity occurs.

c. Removing, disturbing, or excavating of any soil or vegetation within the area outside of the wet perimeter.

Comment Period

The BLM requests comments from the public concerning the above supplemental rules and prohibited acts. The comment period will be open for 30 days from the date of publication of this notice. Comments received or postmarked after this 30-day period may not be considered.

EFFECTIVE DATE: Unless substantive changes are made to the proposed Supplementary Rules for the Sixes River Recreation Area as a result of public comments received in response to this

Federal Register notice, these supplementary rules and prohibited acts will become effect July 7, 1997.

FOR FURTHER INFORMATION CONTACT: Neal Middlebrook, Area Manager, Myrtlewood Resource Area, Bureau of Land Management, 1300 Airport Lane, North Bend, Oregon 97459 (541) 756–0100.

SUPPLEMENTARY INFORMATION: Authority for the establishment of these proposed Supplementary Rules for the Sixes River Recreation Area and Prohibited Acts is contained in 43 CFR, Chapter II, subpart 8360–3 and 8365.1–6. Person or persons violating or failing to comply with these rules may be subject to penalties provided for in 43 CFR 8360.0–7 and 43 CFR 9262.1, which include a fine not to exceed $1000.00 and/or imprisonment not to exceed twelve (12) months.

Dated: May 6, 1997.

Edward W. Shepard,

District Manager.

[FR Doc. 97–13554 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Bill D. Ming, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2135 Butano Drive, Sacramento, CA 95825–0451, (916) 979–2890.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Mount Diablo Meridian, California

T. 11N., R. 17 E.,—Dependent resurvey and subdivision of sections 1, 2, 11, 12, 16 and 18, (Group 1140) accepted April 1, 1997, to meet certain administrative needs of the US Forest Service, El Dorado National Forest.

T. 18N., R. 7 E.,—Supplemental plat of the W½ of section 19, accepted April 8, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 29N., R. 9 W.,—Supplemental plat of the SE¼ of section 18, accepted April 9, 1997, to meet certain administrative needs of the US Forest Service, Shasta-Trinity National Forest.

T. 3N., R. 13 E.,—Supplemental plat of the SW¼ of section 19, accepted April 9, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: May 16, 1997.

Bill D. Ming,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 97–13550 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 15 N., R. 79 E., accepted May 12, 1997
T. 29 N., R. 106 W., accepted May 12, 1997

Sixth Principal Meridian, Nebraska

T. 25 N., R. 9 W., accepted May 12, 1997
T. 31 N., R. 5 W., accepted May 12, 1997

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and/or appeal(s). A plat will not be officially filed until after disposition of protest(s) and/or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: May 12, 1997.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 97–13589 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

National Park Service

Upper Delaware Scenic and Recreational River Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the revised dates of the meetings of the Upper Delaware Citizens Advisory Council for the remainder of calendar year 1997.

Dates	Type of meeting	"Rain" date	Address
June 10, 1997	Business	None	NPS Headquarters, River Road, Beach Lake, Pennsylvania.
September 2, 1997	Business	None	NPS Headquarters, River Road, Beach Lake, Pennsylvania.
November 5, 1997	Business		Zane Grey House and Museum, Delaware Drive, Lackawaxen, Pennsylvania.

Press Releases containing specific information regarding the subject of each meeting, as well as special informational programs, will be published in the following area newspapers: The Sullivan County Democrat, The Times Herald Record, The River Reporter, The Tri-state Gazette, The Pike County Dispatch, The Wayne Independent, The Hawley News Eagle, The Weekly Almanac.

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, WJFF and WVOS.

FOR FURTHER INFORMATION CONTACT: Calvin F. Hite, Superintendent; Upper Delaware Scenic and Recreational River, RR2, Box 2428, Beach Lake PA 18405–9737; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704 (f) of the National Parks and Recreation Act of 1978, Public Law 95–625, 16 U.S.C. s1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region.

All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Dated: May 19, 1997.

Calvin F. Hite,

Superintendent, Upper Delaware Scenic & Recreational River.

[FR Doc. 97–13660 Filed 5–22–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

May 20, 1997.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Theresa M. O'Malley (202) 219–5096 ext. 143). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Ground Control Plan.

OMB Number: 1219–0026 (reinstatement without change).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 159.

Estimated Time Per Respondent: 39 hours.

Total Burden Hours: 6,204.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $204.00.

Description: Requires operators of surface coal mines to establish and follow a ground control plan to ensure safe working conditions around highwalls and spoil banks. The plan is used to ensure that highwalls and spoil banks are based on sound engineering design and excavated and maintained with suitable equipment.

Agency: Mine Safety and Health Administration.

Title: Identification of Independent Contractors.

OMB Number: 1219–0043 (reinstatement without change).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 1,207.

Estimated Time Per Respondent: 8 minutes.

Total Burden Hours: 161.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $387.00.

Description: Provides that independent contractors may voluntarily obtain a permanent MSHA identification number by submitting to MSHA their trade name and business address, a telephone number, an estimate of the annual hours worked by the contractor on mine property for the previous calendar year, and the address of record for the service of documents upon the contractor.

Agency: Bureau of Labor Statistics.

Title: International Price Program—U.S. Export Price Indexes.

OMB Number: 1220–0025 (revision).

Affected Public: Business or other for-profit.

Form No.	Frequency	Number of respondents	Average time per respondent (minutes)
2894B	Annually	1,613	45
3008	Annually	1,613	15

Form No.	Frequency	Number of respondents	Average time per respondent (minutes)
3007D	Monthly/Quarterly	3,235	32

Total Burden Hours: 22,039.
Total Annualized capital/startup costs: 0.
Total annual costs (operating/maintaining systems or purchasing services): 0.
Description: The International Price Program Indexes, a primary economic indicator, are used as measures of movement in international prices, indicators of inflationary trends in the economy, and sources of information used to determine U.S. monetary, fiscal, trade, and commercial policies. They are also used to deflate the Gross Domestic Product.

Agency: Bureau of Labor Statistics.
Title: International Price Program—U.S. Import Price Indexes.
OMB Number: 1220–0026 (revision).
Affected Public: Business or other for-profit.

Form No.	Frequency	Number of respondents	Average time per respondent
3007B	Annually	1,725	1 hour
3008	Annually	1,725	20.5 minutes
3007D	Monthly/Quarterly	3,235	34 minutes

Total Burden Hours: 23,884.
Total Annualized capital/startup costs: 0.
Total annual costs (operating/maintaining systems or purchasing services): 0
Description: The International Price Program Indexes, a primary economic indicator, are used as measures of movement in international prices, indicators of inflationary trends in the economy, and sources of information used to determine U.S. monetary, fiscal, trade, and commercial policies. They are also used to deflate the Gross Domestic Product.

Agency: Employment and Training Administration.
Title: JTPA Title III Quarterly Status Report.
OMB Number: 1205–0323 (reinstatement with change).
Frequency: Quarterly.
Affected Public: State, Local or Tribal Government.
Number of Respondents: 59.
Estimated Time Per Respondent: 4.5 hours.
Total Burden Hours: 1,062.
Total Annualized capital/startup costs: 0.
Total annual costs (operating/maintaining systems or purchasing services): 0.
Description: The information will be used to assess the Job Training Partnership Act Statewide financial and partnership data. Participant and financial data will be used to respond to congressional oversight, prepare budget requests, and make annual reports to Congress per statute.

Agency: Occupational Safety and Health Administration.
Title: Methylene Chloride 29 CFR 1910.1052.
OMB Number: 1218–0179 (revision).
Frequency: On occasion.
Affected Public: Business or other for-profit, Federal government, State and Local governments.
Number of Respondents: 92,000.
Average Time per Respondent: 5.7 hours.
Total Burden Hours: 524,593.
Total Annualized capital/startup costs: 0.
Total initial annual costs (operating/maintaining systems or purchasing services): $46,187,980.
Description: The Methylene Chloride Standard and its information collection requirements are designed to provide protection for employee from adverse health effects associated with occupational exposure to methylene chloride (MC). The standard requires employers to monitor employee exposure to methylene chloride and inform employees of monitoring results. If monitoring results are above the standard's 8-hour Time Weighted Average permissible exposure limit (PEL) or the short term excursion limit (STEL), then employers must also inform employees of the corrective action that will be taken to reduce employee exposure to or below the 8-hour PEL or STEL. Employers may be required to provide medical surveillance to employees who are or may be exposed to MC. Employers are required to provide information and training to employees on the following: health effects of MC, specifics regarding use of MC in the workplace, the contents of the standard, and means the employee can take to protect themselves from overexposure to MC. Employers are to allow employee access to their exposure monitoring and medical records, and under certain circumstances employers are to transfer monitoring and medical records to the National Institute for Occupational Safety and Health.

Theresa M. O'Malley,
Departmental Clearance Officer.
[FR Doc. 97–13616 Filed 5–22–97; 8:45 am]
BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Employment Standards Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the

proposed extension collection of Form WH–46, Application For Certificate to Employ Homeworkers, and Form WH–75, Homeworker Handbook.

Copies of the proposed information collection request can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before July 23, 1997. The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

ADDRESSES: Mr. Rich Elman, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 219–6375 (this is not a toll-free number), fax 202–219–6592.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 11(d) of the Fair Labor Standards Act (FLSA), authorizes the Secretary of Labor to regulate, restrict, or prohibit industrial homework as necessary to prevent evasion of the minimum wage requirements of the Act. In order to be permitted to employ homeworkers in the restricted industries (knitted outwear, women's apparel, jewelry manufacturing, gloves and mittens, button and buckle manufacturing, handkerchief manufacturing and embroideries) under the certification program, an employer must first apply to the Wage and Hour Division for a certificate. The employer's application (WH–46) must contain information required by section 530.102 of Regulations, 29 CFR Part 530, Employment of Homeworkers in Certain Industries, including the names and addresses and languages spoken (other than English) by the homeworkers. Section 516.31(c) of Regulations, 29 CFR Part 516, Records to be kept by Employers, requires that employers obtain from the Wage and Hour Division (WHD), a separate homeworker handbook for each homeworker employed. The employer must insure that all homeworkers make proper entries in the handbook concerning their hours of work.

II. Current Actions

The Department of Labor (DOL) seeks extension of approval to collect this information on: Form WH–46, to provide the WHD a means of identifying employers of homeworkers and individual homeworkers in the restricted industries who may not be identified otherwise; and, on Form WH–75, to ensure that employers fulfill their obligation to obtain and record accurate hours worked information whenever homework is distributed to and collected from employees. Homeworkers record the information as the work is performed. Failure to require an employer to collect this information would make it extremely difficult to determine whether homeworkers are being paid in compliance with the FLSA.

Type of Review: Extension.

Agency: Employment Standards Administration.

Titles: Application For Certificate to Employ Homeworkers, and Homeworker Handbook.

OMB Number: 1215–0013

Agency Numbers: WH–46 and WH–75.

Affected Public: Individuals or households; Business or other for-profit; Not for-profit institutions.

Total Respondents: 14,175.

Frequency: On occasion.

Total Responses: 56,663.

Average Time Per Response for Reporting: ½ hour for WH–46; ½ hour for WH–75.

Average Time Per Response for Recordkeeping: ½ hour for Piece Rate Measurements; ½ hour for WH–75.

Estimated Total Burden Hours: 28,916.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $13.30.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: May 19, 1997.

Cecily A. Rayburn,

Director, Division of Financial Management, Office of Management Administration and Planning, Employment Standards, Administration.

[FR Doc. 97–13615 Filed 5–22–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be

impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or government agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. NE970036 and NE970044 dated February 14, 1997.

Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize Wage Decision No. NE970025. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA970012 (Feb. 14, 1997)
New Jersey
NJ970002 (Feb. 14, 1997)
NJ970003 (Feb. 14, 1997)
NJ970004 (Feb. 14, 1997)
NJ970005 (Feb. 14, 1997)
New York
NY970002 (Feb. 14, 1997)
NY970007 (Feb. 14, 1997)
NY970018 (Feb. 14, 1997)
NY970021 (Feb. 14, 1997)

Volume II

Maryland
MD970002 (Feb. 14, 1997)
Pennsylvania
PA970003 (Feb. 14, 1997)
PA970013 (Feb. 14, 1997)
PA970032 (Feb. 14, 1997)
PA970051 (Feb. 14, 1997)
Virginia
VA970003 (Feb. 14, 1997)
VA970005 (Feb. 14, 1997)
VA970006 (Feb. 14, 1997)
VA970009 (Feb. 14, 1997)
VA970015 (Feb. 14, 1997)
VA970017 (Feb. 14, 1997)
VA970018 (Feb. 14, 1997)
VA970022 (Feb. 14, 1997)
VA970023 (Feb. 14, 1997)
VA970031 (Feb. 14, 1997)
VA970033 (Feb. 14, 1997)
VA970035 (Feb. 14, 1997)
VA970046 (Feb. 14, 1997)
VA970054 (Feb. 14, 1997)
VA970055 (Feb. 14, 1997)
VA970080 (Feb. 14, 1997)
VA970081 (Feb. 14, 1997)
VA970084 (Feb. 14, 1997)
VA970085 (Feb. 14, 1997)
VA970087 (Feb. 14, 1997)
VA970088 (Feb. 14, 1997)
VA970107 (Feb. 14, 1997)
VA970108 (Feb. 14, 1997)

Volume III

None

Volume IV

Illinois
IL970001 (Feb. 14, 1997)
IL970002 (Feb. 14, 1997)
IL970009 (Feb. 14, 1997)
IL970010 (Feb. 14, 1997)
IL970011 (Feb. 14, 1997)
IL970012 (Feb. 14, 1997)
IL970013 (Feb. 14, 1997)
IL970015 (Feb. 14, 1997)
IL970018 (Feb. 14, 1997)
IL970038 (Feb. 14, 1997)
IL970048 (Feb. 14, 1997)
IL970053 (Feb. 14, 1997)
IL970055 (Feb. 14, 1997)
IL970065 (Feb. 14, 1997)
Indiana
IN970001 (Feb. 14, 1997)

Volume V

Kansas
KS970006 (Feb. 14, 1997)
KS970012 (Feb. 14, 1997)
Louisiana
LA970005 (Feb. 14, 1997)
LA970015 (Feb. 14, 1997)
LA970018 (Feb. 14, 1997)
Nebraska
NE970025 (Feb. 14, 1997)

Volume VI

None

Volume VII

California
CA970070 (Feb. 14, 1997)
CA970084 (Feb. 14, 1997)
CA970101 (Feb. 14, 1997)
CA970111 (Feb. 14, 1997)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the county.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTISD) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

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Signed at Washington, D.C. this 16th day of May 1997.

Carl Poleskey,

Chief, Branch of Construction Wage Determinations.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Proposed Amendment to Prohibited Transaction Exemptions (PTEs) 90–30 Involving Bear, Stearns & Co. Inc., (D–10245) 90–32 Involving Prudential Securities Incorporated, (D–10246)

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of a proposed amendment to the Underwriter Exemptions.[1]

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed amendment to the Underwriter Exemptions. The Underwriter Exemptions are individual exemptions that provide relief for the origination and operation of certain asset pool investment trusts and the acquisition, holding and disposition of certain asset backed pass-through certificates representing undivided interests in those investment trusts. The proposed amendment, if granted, would: (1) Modify the definition of ''Trust'' to include a pre-funding account (the Pre-Funding Account) and a capitalized interest account (the Capitalized Interest Account) as part of the corpus of the Trust; (2) provide retroactive relief for transactions involving asset pool investment trusts containing pre-funding accounts which have occurred on or after January 1, 1992; (3) include in the definition of ''Certificate'' a debt instrument that represents an interest in a Financial Asset Securitization Investment Trust (FASIT); and (4) make certain changes to the Underwriter Exemptions that would reflect the Department's current interpretation of the Underwriter Exemptions.

DATES: Written comments and requests for a hearing should be received by the Department on or before July 7, 1997.

EFFECTIVE DATE: If adopted, the proposed amendment to the Underwriter Exemptions would be effective for transactions occurring on or after January 1, 1992, except as otherwise provided in subsection II.A.(7) and section III.AA. of the proposed exemption.

ADDRESSES: All written comments and requests for a hearing (preferably at least three copies) should be sent to: Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attn: Proposed Amendment to PTEs 90–30, 90–32, et al. The applications pertaining to the amendment proposed herein and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Administration, U. S. Department of Labor, Room N–5638, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Wendy McColough of the Department, telephone (202) 219–8971. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption to amend PTEs 90–30, 55 FR 21461 (May 24, 1990) and 90–32, 55 FR 23147 (June 6, 1990), two of the Underwriter Exemptions. The Underwriter Exemptions are a group of individual exemptions that provide substantially identical relief for the operation of certain asset pool investment trusts and the acquisition and holding by plans of certain asset-backed pass-through certificates representing interests in those trusts. These exemptions provide relief from certain of the restrictions of sections 406(a), 406(b) and 407(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of certain provisions of section 4975(c)(1) of the Code.

The proposed amendment was requested by application dated March 25, 1996, and as restated in a later submission dated February 26, 1997, on behalf of Bear, Stearns & Co. Inc.[2] and Prudential Security Inc.[3] (the Applicants). In preparing the application, the Applicants received input from members of the PSA. The Bond Market Trade Association (formerly the Public Securities Association) (PSA).

The Department is proposing the amendment to these individual exemptions pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).[4] In addition, the Department is proposing to provide the same relief on its own motion pursuant to the authority described above for many of the other Underwriter Exemptions which have substantially similar terms and conditions.[5] The Department is also proposing to provide the same relief to Ironwood Capital Partners Ltd. (D–10424) and Deutsche Bank AG, New York Branch and Deutsche Morgan Grenfell/C.J. Lawrence Inc. (D–10433), which received the

[1] The term ''Underwriter Exemptions'' refers to the following individual Prohibited Transaction Exemptions (PTEs): PTE 89–88, 54 FR 42582 (October 17, 1989); PTE 89–89, 54 FR 42569 (October 17, 1989); PTE 89–90, 54 FR 42597 (October 17, 1989); PTE 90–22, 55 FR 20542 (May 17, 1990); PTE 90–23, 55 FR 20545 (May 17, 1990); PTE 90–24, 55 FR 20548 (May 17, 1990); PTE 90–28, 55 FR 21456 (May 24, 1990); PTE 90–29, 55 FR 21459 (May 24, 1990); PTE 90–30, 55 FR 21461 (May 24, 1990); PTE 90–31, 55 FR 23144 (June 6, 1990); PTE 90–32, 55 FR 23147 (June 6, 1990); PTE 90–33, 55 FR 23151 (June 6, 1990); PTE 90–36, 55 FR 25903 (June 25, 1990); PTE 90–39, 55 FR 27713 (July 5, 1990); PTE 90–59, 55 FR 36724 (September 6, 1990); PTE 90–83, 55 FR 50250 (December 5, 1990); PTE 90–84, 55 FR 50252 (December 5, 1990); PTE 90–88, 55 FR 52899 (December 24, 1990); PTE 91–14, 55 FR 48178 (February 22, 1991); PTE 91–22, 56 FR 03277 (April 18, 1991); PTE 91–23, 56 FR 15936 (April 18, 1991); PTE 91–30, 56 FR 22452 (May 15, 1991); PTE 91–62, 56 FR 51406 (October 11, 1991); PTE 93–31, 58 FR 28620 (May 5, 1993); PTE 93–32, 58 FR 28623 (May 14, 1993); PTE 94–29, 59 FR 14675 (March 29, 1994); PTE 94–64, 59 FR 42312 (August 17, 1994); PTE 94–70, 59 FR 50014 (September 30, 1994); PTE 94–73, 59 FR 51213 (October 7, 1994); PTE 94–84, 59 FR 65400 (December 19, 1994); PTE 95–26, 60 FR 17586 (April 6, 1995); PTE 95–59, 60 FR 35938 (July 12, 1995); PTE 95–89, 60 FR 49011 (September 21, 1995); PTE 96–11, 61 FR 3490 (January 31, 1996); PTE 96–22, 61 FR 14828 (April 3, 1996); PTE 96–84, 61 FR 58234 (November 13, 1996); PTE 96–92, 61 FR 66334 (December 17, 1996); PTE 96–94, 61 FR 68787 (December 30, 1996); PTE 97–05, 62 FR 1926 (January 14, 1997); and PTE 97–28, 62 FR (Norwest Investment Services).

In addition, the Department notes that it is also proposing individual exemptive relief for Ironwood Capital Partners Ltd., Final Authorization Number (FAN) 97–02E and Deutsche Bank AG, New York Branch and Deutsche Morgan Grenfell/C.J. Lawrence Inc., FAN 97–03E, which received the approval of the Department to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96–62.

[2] PTE 90–30, 55 FR 21461 (May 24, 1990). Bear, Stearns & Co. Inc. (Bear, Stearns) is an international investment banking firm which engages in securities transactions as both a principal and agent and which provides a broad range of underwriting, research and financial services to its clients.

[3] PTE 90–32, 55 FR 23147 (June 6, 1990). PTE 90–32 was granted to Prudential-Bache Securities, Inc. which subsequently changed its corporate name to Prudential Securities Incorporated (Prudential). Prudential is a full service securities broker-dealer and investment banking firm.

[4] Section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978, 5 U.S.C. App. 1 [1995]) generally transferred the authority of the Secretary of the Treasury to issue exemptions under section 4975(c)(2) of the Code to the Secretary of Labor. In the discussion of the exemption, references to section 406 and 408 of the Act should be read to refer as well to the corresponding provisions of section 4975 of the Code.

[5] In this regard, the entities who received the other Underwriter Exemptions were contacted concerning their participation in this amendment process.

approval of the Department to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96–62.

Amendment to the Exemptions

The Applicants state that the proposed amendment is requested in order to modify the definition of Trust contained in the Underwriter Exemptions to include a Pre-Funding Account and a related Capitalized Interest Account, both consisting of cash or temporary investments made therewith (as further described herein). This would permit the Trust to acquire a portion (not to exceed the limitations set forth below) of its assets during an interim period (the Pre-Funding Period), following the closing date of the Trust under the pooling and servicing agreement or trust agreement pursuant to which the Trust is established (the Closing Date). Allowing a portion of the Trust's assets to be acquired during the Pre-Funding Period would be an alternative to requiring that all of the receivables to be held in the Trust be transferred or constitute a fixed pool of assets as of the Closing Date.[6] The characteristics of the receivables to be acquired during the Pre-Funding Period will be substantially similar to the characteristics of the receivables conveyed to the Trust as of the Closing Date.

Additionally, the Applicants request that the proposed amendment include in the definition of ''Certificate'' a debt instrument that represents an interest in a FASIT provided that each of the applicable requirements of the Underwriter Exemptions are met. The Applicants also request that the Department update the Underwriter Exemptions to reflect: (1) those features which the Department has already approved in recently granted Underwriter Exemptions; (2) certain other technical corrections or clarifications; and (3) provisions authorizing yield supplement agreements or similar yield maintenance arrangements.[7]

The Underwriter Exemptions

The Underwriter Exemptions permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts:[8] (1) single and multi-family residential or commercial mortgage investment trusts;[9] (2) motor vehicle receivables investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.[10] Residential and commercial mortgage investment trusts may include mortgages on ground leases of real property. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the terms of such mortgages.[11]

Each Trust is established under a pooling and servicing agreement or an equivalent agreement among a sponsor, a servicer, and a trustee. Prior to the Closing Date under the pooling and servicing agreement, the sponsor and/or the servicer selects receivables from the classes of assets described in Section III.B.(1)(a)-(f) of the Underwriter Exemptions to be included in a Trust, establishes the Trust and designates an independent entity as trustee for the Trust. Typically, on or prior to the Closing Date, the sponsor acquires legal title to all assets selected for the Trust. In some cases, legal title to some or all of such assets continue to be held by the originator of the receivables until the Closing Date. On the Closing Date, the sponsor and/or the originator conveys to the Trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the Trust assets.

Since the receivables to be held in the Trust were all transferred as of the Closing Date, no exemptive relief was requested under the Underwriter Exemptions for the Trust to hold any cash, or temporary investments made therewith, other than cash representing undistributed proceeds from payments of principal and interest by obligors under the receivables. However, in the past several years, the transactions relating to the funding of the Trust have changed.

Pre-Funding Accounts

The Applicants represent that while many transactions still occur as described in the applications for the Underwriter Exemptions and as summarized above, it is also common for other transactions to be structured using a Pre-Funding Account and/or a Capitalized Interest Account as described below. Pre-Funding Accounts allow the sponsor additional time after the Closing Date to assemble the files for receivables, complete quality control or other due-diligence procedures and deliver the necessary documents to the trustee. The sale of certificates prior to the origination of such receivables provides a mechanism for both the originator and/or sponsor and plans to protect against fluctuations in interest rates. Since many transaction costs are fixed regardless of the size of the receivables pool, the sale of additional receivables lowers the unit costs of the transaction, both for the originators and/or the sponsor and for plans (who otherwise might not be able to purchase the same volume of receivables on their own at a comparable unit price).

Pre-Funding Accounts allow originators and/or sponsors to reduce costs by permitting the sale of the existing receivables and delivery of additional receivables without the need to warehouse the existing receivables during the period that the additional receivables are being acquired. The Applicants state that all of these uses of Pre-Funding Accounts make

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[6] The Department is of the view that the term ''Trust'' under the Underwriter Exemptions would include a Trust: (a) the assets of which, although all specifically identified by the sponsor or originator as of the Closing Date, are not all transferred to the Trust on the Closing Date for administrative or other reasons but will be transferred to the Trust shortly after the Closing Date, or (b) with respect to which certificates are not purchased by plans until after the end of the Pre-Funding Period at which time all receivables are contained in the Trust.

[7] In a July 14, 1994 letter to Richard A. Gilbert, Esq. of Orrick, Herrington & Sutcliffe, the Department expressed the view that the definition of ''Trust'' in PTE 90–23, 55 FR 20545 (May 17, 1990) includes yield supplement agreements or similar yield maintenance arrangements which obligates the sponsor, master servicer or another party specified in the pooling and servicing agreement to supplement the interest rates otherwise payable on the obligations that are held in the Trust, provided that such arrangements do not involve swap agreements or other notional principal contracts.

[8] A given trust may include receivables of the type described below in one or more of the categories of trusts discussed herein.

[9] The Department notes that PTE 83–1 (48 FR 895, January 7, 1983), a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83–1 are met. The Underwriter Exemptions provide relief for single-family residential mortgages because the applicants preferred one exemption for all trusts of similar structure. However, the applicants have stated that they may still avail themselves of the exemptive relief provided by PTE 83–1.

[10] Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3–101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

[11] Trust assets may also include obligations that are secured by leasehold interests on residential real property. *See* PTE 90–32 involving Prudential-Bache Securities, Inc. (55 FR 23147, at 23150, June 6, 1990).

transactions more efficient, thereby reducing costs and producing better execution for both sponsors and/or originators and plan investors. Also, through the use of a Pre-Funding Account, sponsors and/or originators are able to sell, and plans are able to purchase, more securities at then current market rates than would be the case in the absence of the Pre-Funding Account.

The Applicants assumed that the use of a Pre-Funding Account was authorized under the original Underwriter Exemptions and transactions including Pre-Funding Accounts have occurred since January 1, 1992. The Applicants therefore request retroactive relief for transactions involving Trusts containing Pre-Funding Accounts. The Applicants state that transactions involving Pre-Funding Accounts which have occurred on or after January 1, 1992 but prior to the date of this proposed amendment, were entered into by the parties under a good faith belief that the Department had sanctioned such use.

The Applicants represent that they are unaware of any circumstances in which the use of pre-funding has harmed plan investors and there is no evidence of any failure of a sponsor to meet its representations as to the characteristics of the subsequently acquired receivables or of any down-grading of a certificate rating at the end of the Pre-Funding Period. PSA has canvassed its members who have been granted an Underwriter Exemption and have solicited this same information from four nationally recognized rating agencies referred to in the Underwriter Exemptions. No such underwriter or rating agency is aware of any transaction where the rating of the certificates has been down-graded at the end of the Pre-Funding Period solely as a consequence of use of a pre-funding mechanism.

The Pre-Funding Period for any Trust will be defined as the period beginning on the Closing Date and ending on the earliest to occur of (i) the date on which the amount on deposit in the Pre-Funding Account is less than a specified dollar amount, (ii) the date on which an event of default occurs under the related pooling and servicing agreement [12] or (iii) the date which is the later of three months or ninety days after the Closing Date. If pre-funding is used, cash sufficient to purchase the receivables to be transferred after the Closing Date will be transferred to the Trust by the sponsor or originator on the Closing Date. During the Pre-Funding Period, such cash and temporary investments, if any, made therewith will be held in a Pre-Funding Account and used to purchase the additional receivables, the characteristics of which will be substantially similar to the characteristics of the receivables transferred to the Trust on the Closing Date. Certain specificity and monitoring requirements described below must be met and will be disclosed in the pooling and servicing agreement and/or the prospectus [13] or private placement memorandum.

For transactions involving a Trust using pre-funding, on the Closing Date, a portion of the offering proceeds will be allocated to the Pre-Funding Account generally in an amount equal to the excess of (i) the principal amount of certificates being issued over (ii) the principal balance of the receivables being transferred to the Trust on such Closing Date. In certain transactions, the aggregate principal balance of the receivables intended to be transferred to the Trust may be larger than the total principal balance of the certificates being issued. In these cases, the cash deposited in the Pre-Funding Account will equal the excess of the principal balance of the total receivables intended to be transferred to the trust over the principal balance of the receivables being transferred on the Closing Date.

On the Closing Date, the sponsor transfers the assets to the Trust in exchange for the certificates. The certificates are then sold to an underwriter for cash or to the certificateholders directly if the certificates are sold through a placement agent. The cash received by the sponsor from the certificateholders (or the underwriter) from the sale of the certificates issued by the Trust in excess of the purchase price for the receivables and certain other trust expenses such as underwriting or placement agent fees and legal and accounting fees, constitutes the cash to be deposited in the Pre-Funding Account. Such funds are either held in the trust and accounted for separately, or are held in a sub-trust. In either event, these funds are not part of assets of the sponsor.

Generally, the receivables are transferred at par value, unless the interest rate payable on the receivables is not sufficient to service both the interest rates to be paid on the certificates and the transaction fees (i.e., servicing fees, trustee fees and fees to credit support providers). In such cases, the receivables are sold to the Trust at a discount, based on an objective, written, mechanical formula which is set forth in the pooling and servicing agreement and agreed upon in advance between the sponsor, the rating agency and any credit support provider or other insurer. The proceeds payable to the sponsor from the sale of the receivables transferred to the trust may also be reduced to the extent they are used to pay transaction costs (which typically include underwriting or placement agent fees and legal and accounting fees). In addition, in certain cases, the sponsor may be required by the rating agencies or credit support providers to set up trust reserve accounts to protect the certificateholders against credit losses.

The exemptive relief requested for Pre-Funding Accounts is limited to those Trusts where the percentage or ratio of the amount allocated to the pre-funding account, as compared to the total principal amount of the certificates being offered (the Pre-Funding Limit) does not exceed 25% for transactions occurring on or after the date the proposed amendment is published in the **Federal Register** and did not exceed 40% for transactions occurring on or after January 1, 1992, but prior to the date the proposed amendment is published in the **Federal Register**. The Pre-Funding Limit (which may be expressed as a ratio or as a stated percentage or a combination thereof) will be specified in the prospectus or the private placement memorandum.

Any amounts paid out of the pre-funding account are used solely to purchase receivables and to support the certificate pass-through rate (as explained below). Amounts used to support the pass-through rate are payable only from investment earnings and are not payable from principal. However, in the event that, after all of the requisite receivables have been transferred into the Trust, any funds remain in the Pre-Funding Account, such funds will be paid to the certificateholders as principal prepayments. Upon termination of the Trust, if no receivables remain in the Trust and all amounts payable to certificateholders have been distributed, any amounts remaining in the Trust would be returned to the sponsor.

[12] The minimum dollar amount is generally the dollar amount below which it becomes too uneconomical to administer the Pre-Funding Account. An event of default under the pooling and servicing agreement generally occurs when: (i) a breach of a covenant or a breach of a representation and warranty concerning the sponsor, the servicer or certain other parties occurs which is not cured; (ii) there occurs a failure to make required payments to certificateholders; or (iii) the servicer becomes insolvent.

[13] References to the term ''prospectus'' herein shall include any related prospectus supplement thereto, pursuant to which certificates are offered to investors.

A dramatic change in interest rates on the receivables held in a Trust using a Pre-Funding Account would be handled as follows. If the receivables (other than those with adjustable or variable rates) had already been originated prior to the Closing Date, no action would be required as the fluctuations in market interest rates would not affect the receivables transferred to the Trust after the Closing Date. In contrast, if interest rates fall after the Closing Date, loans originated after the Closing Date will tend to be originated at lower rates, with the possible result that the receivables will not support the certificate pass-through rate. In such situations, the sponsor could sell the receivables into the Trust at a discount and more receivables will be used to fund the Trust in order to support the pass-through rate. In a situation where interest rates drop dramatically and the sponsor is unable to provide sufficient receivables at the requisite interest rates, the pool of receivables would be closed. In this latter event, under the terms of the pooling and servicing agreement, the certificateholders would receive a repayment of principal from the unused cash held in the Pre-Funding Account. In transactions where the certificate pass-through rates are variable or adjustable, the effects of market interest rate fluctuations are mitigated. In no event will fluctuations in interest rates payable on the receivables affect the pass-through rate for fixed rate certificates.

The cash deposited into the Trust and allocated to the Pre-Funding Account is invested in certain permitted investments (see below), which may be commingled with other accounts of the Trust. The allocation of investment earnings to each Trust account is made periodically as earned in proportion to each account's allocable share of the investment returns. As Pre-Funding Account investment earnings are required to be used to support (to the extent authorized in the particular transaction) the pass-through amounts payable to the certificateholders with respect to a periodic distribution date, the trustee is necessarily required to make periodic, separate allocations of the Trust's earnings to each Trust account, thus ensuring that all allocable commingled investment earnings are properly credited to the Pre-Funding Account on a timely basis.

The Capitalized Interest Account

The Applicants state that in certain transactions where a Pre-Funding Account is used, the sponsor and/or originator may also transfer to the Trust additional cash on the Closing Date, which is deposited in a Capitalized Interest Account and used during the Pre-Funding Period to compensate the certificateholders for any shortfall between the investment earnings on the Pre-Funding Account and the pass-through interest rate payable under the certificates.

The Capitalized Interest Account is needed in certain transactions since the certificates are supported by the receivables and the earnings on the Pre-Funding Account, and it is unlikely that the investment earnings on the Pre-Funding Account will equal the interest rates on the certificates (although such investment earnings will be available to pay interest on the certificates). The Capitalized Interest Account funds are paid out periodically to the certificateholders as needed on distribution dates to support the pass-through rate. In addition, a portion of such funds may be returned to the sponsor from time to time as the receivables are transferred into the Trust and the need for the Capitalized Interest Account diminishes. Any amounts held in the Capitalized Interest Account generally will be returned to the sponsor and/or originator either at the end of the Pre-Funding Period or periodically as receivables are transferred and the proportionate amount of funds in the Capitalized Interest Account can be reduced. Generally, the Capitalized Interest Account terminates no later than the end of the Pre-Funding Period. However, there may be some cases where the Capitalized Interest Account remains open until the first date distributions are made to certificateholders following the end of the Pre-Funding Period.

In other transactions, a Capitalized Interest Account is not necessary because the interest paid on the receivables exceeds the interest payable on the certificates at the applicable pass-through rate and the fees of the Trust. Such excess is sufficient to make up any shortfall resulting from the Pre-Funding Account earning less than the certificate pass-through rate. In certain of these transactions, this occurs because the aggregate principal amount of receivables exceeds the aggregate principal amount of certificates.

Pre-Funding Account and Capitalized Interest Account Payments and Investments

Pending the acquisition of additional receivables during the Pre-Funding Period, it is expected that amounts in the Pre-Funding Account and the Capitalized Interest Account will be invested in certain permitted investments or will be held uninvested. Pursuant to the pooling and servicing agreement, all permitted investments must mature prior to the date the actual funds are needed. The permitted types of investments in the Pre-Funding Account and Capitalized Interest Account are investments which are either: (i) Direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (ii) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by Standard and Poor's Structured Rating Group, Moody's Investors Service, Inc., Duff & Phelps Credit Rating Co. or Fitch Investors Service, L.P. (each a rating agency or collectively, the rating agencies), as set forth in the pooling and servicing agreement and as required by the rating agencies. The credit grade quality of the permitted investments is generally no lower than that of the certificates. The types of permitted investments will be described in the pooling and servicing agreement.

The ordering of interest payments to be made from the Pre-Funding and Capitalized Interest Accounts is pre-established and set forth in the pooling and servicing agreement. The only principal payments which will be made from the Pre-Funding Account are those made to acquire the receivables during the Pre-Funding Period and those distributed to the certificateholders in the event that the entire amount in the Pre-Funding Account is not used to acquire receivables. The only principal payments which will be made from the Capitalized Interest Account are those made to certificateholders if necessary to support the certificate pass-through rate or those made to the sponsor either periodically as they are no longer needed or at the end of the Pre-Funding Period when the Capitalized Interest Account is no longer necessary.

The Characteristics of the Receivables Transferred During the Pre-Funding Period

In order to ensure that there is sufficient specificity as to the representations and warranties of the sponsor regarding the characteristics of the receivables to be transferred after the Closing Date, the Applicants have represented that:

(i) All such receivables will meet the same terms and conditions for eligibility as those of the original receivables used to create the Trust corpus (as described in the prospectus or private placement memorandum and/or pooling and

servicing agreement for such certificates), which terms and conditions have been approved by a rating agency. However, the terms and conditions for determining the eligibility of a receivable may be changed if such changes receive prior approval either by a majority vote of the outstanding certificateholders or by a rating agency; [14]

(ii) The transfer to the Trust of the receivables acquired during the Pre-Funding Period will not result in the certificates receiving a lower credit rating from the rating agency upon termination of the pre-funding period than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(iii) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations in the Trust at the end of the Pre-Funding Period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the Trust on the Closing Date;

(iv) The trustee of the trust (or any agent with which the trustee contracts to provide trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, will enforce all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act.

In order to ensure that the characteristics of the receivables actually acquired during the Pre-Funding Period are substantially similar to receivables that were acquired as of the Closing Date, the Applicants represent that for transactions occurring on or after the date of publication of the proposed exemption, the characteristics of the additional obligations subsequently acquired will either be monitored by a credit support provider or other insurance provider which is independent of the sponsor or an independent accountant retained by the sponsor will provide the sponsor with a letter (with copies provided to the rating agency, the underwriter and the trustees) stating whether or not the characteristics of the additional obligations acquired after the Closing Date conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or pooling and servicing agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the Closing Date.

Each prospectus, private placement memorandum and/or pooling and servicing agreement will set forth the terms and conditions for eligibility of the receivables to be included in the Trust as of the related Closing Date, as well as those to be acquired during the Pre-Funding Period, which terms and conditions will have been agreed to by the rating agencies which are rating the applicable certificates as of the Closing Date. Also included among these conditions is the requirement that the trustee be given prior notice of the receivables to be transferred, along with such information concerning those receivables as may be requested. Each prospectus or private placement memorandum will describe the amount to be deposited in, and the mechanics of, the Pre-Funding Account and will describe the Pre-Funding Period for the Trust.

FASITs

The Applicants request that exemptive relief apply to FASITs which are trusts, provided that each of the other applicable requirements of the Underwriter Exemption are met. FASITs are a new type of statutory entity created by the Small Business Job Protection Act of 1996 (SBA) through amendments to the Code effective on September 1, 1997.[15] FASITs are designed to facilitate the securitization [16] of debt obligations, such as credit card receivables, home equity loans, and auto loans, and thus allows certain features such as revolving pools of assets, trusts containing unsecured receivables and certain hedging types of investments. A FASIT is not a taxable entity and debt instruments issued by such trusts, which might otherwise be recharacterized as equity, will be treated as debt in the hands of the holder for tax purposes.

The Applicants represent that the rationale set forth in the Department's statements regarding REMICs, which were published in the **Federal Register** with respect to several of the earlier Underwriter Exemptions also apply to FASITs. However, the Applicants note that the representation in the Underwriter Exemptions [17] regarding the tax requirement that a Trust must be maintained as an essentially passive entity would not be true for all FASITs, as they are allowed under the Code to have revolving pools of permitted assets. The Applicants are only requesting exemptive relief for FASITs that are, in fact, passive in nature, which would preclude (in the absence of other exemptive relief) revolving asset pools. Thus, only FASITs with assets which were comprised of secured debt and which did not allow revolving pools of assets or hedging investments not specifically authorized by the Underwriter Exemptions would be permissible under the proposed amendment.

Parties to Transactions

The originator of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to a lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a Trust sponsor.

Originators of receivables included in the Trust will be entities that originate receivables in the ordinary course of their business, including finance companies for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service

[14] In some transactions, the insurer and/or credit support provider may have the right to veto the inclusion of receivables, even if such receivables otherwise satisfy the underwriting criteria. This right usually takes the form of a requirement that the sponsor obtain the consent of these parties before the receivables can be included in the Trust. The insurer and/or credit support provider may, therefore, reject certain receivables or require that the sponsor establish certain Trust reserve accounts as a condition of including these receivables. Virtually all Trusts which have insurers or other credit support providers are structured to give such veto rights to these parties. The percentage of Trusts that have insurers and/or credit support providers, and accordingly feature such veto rights, varies.

[15] Section 1621 of the SBA adds sections 860H, 860I, 860J, 860K and 860L to the Internal Revenue Code of 1986.

[16] Securitization is the process of converting one type of asset into another and generally involves the use of an entity separate from the underlying assets. In the case of securitization of debt instruments, the instruments created in the securitization typically have different maturities and characteristics than the debt instruments that are securitized.

[17] For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years, in which case the period will not exceed two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

enterprise for whom such origination is an incidental part of its operations. Each Trust may contain assets of one or more originators. The originator of the receivables may also function as the Trust sponsor or servicer.

The sponsor will be one of three entities: (i) a special-purpose or other corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited to acquiring the receivables to be included in the trust, establishing the Trust, designating the trustee, and assigning the receivables to the trust. The trustee of a Trust is the legal owner of the obligations in the Trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the Trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to the Underwriter, the Trust sponsor, the servicer or any other member of the Restricted Group. The Underwriter represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer, sponsor, or out of the Trust assets. The method of compensating the trustee which is specified in the pooling and servicing agreement will be disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

The servicer of a Trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a Trust, the receivables may be ''subserviced'' by their respective originators and a single entity may ''master service'' the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

The underwriter will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of the certificates. Public offerings of certificates are generally made on a firm commitment basis. Private placement of certificates may be made on a firm commitment or agency basis. It is anticipated that the lead and co-managing underwriters will make a market in certificates offered to the public.

In some cases, the originator and servicer of receivables to be included in a Trust and the sponsor of the Trust (although they may themselves be related) will be unrelated to the Underwriter. In other cases, however, the Underwriter may originate or service receivables included in a Trust or may sponsor a Trust.

Certificate Price, Pass-Through Rate and Fees

In some cases, the sponsor will obtain the receivables from various originators pursuant to existing contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the receivables at fair market value from the originator or a third party pursuant to a purchase and sale agreement related to the specific offering of certificates. In other cases, the sponsor will originate the receivables itself.

As compensation for the receivables transferred to the Trust, the sponsor receives certificates representing the entire beneficial interest in the Trust, or the cash proceeds of the sale of such certificates. If the sponsor receives certificates from the Trust, the sponsor sells all or a portion of these certificates for cash to investors or securities underwriters.

The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces, including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on receivables included in the Trust minus a specified servicing fee.[18] This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon, rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting in that capacity) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the Trust (which time is set forth in the pooling and servicing agreement). The servicer typically will be required to pay the administrative expenses of servicing the trust, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the Trust or otherwise arrange to obtain credit support from another party. This ''credit support fee'' may be aggregated with other servicing fees, and is either paid out of the interest income received on the receivables in the Trust in excess of the pass-through rate or paid in a lump sum at the time the Trust is established.

The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the Trust are due. In some cases, the pooling and servicing agreement may

[18] The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into ''principal'' and ''interest'' components based on an implicit interest rate.

permit the servicer to place these payments in non-interest bearing accounts maintained with itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

The underwriter will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter would sell certificates in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at which the certificates are sold to the public and what it pays the sponsor. In some private placements, the underwriter may buy certificates as principal, in which case its compensation would be the difference between what it receives for the certificates that it sells and what it pays the sponsor for these certificates.

Purchase of Receivables by the Servicer

The applicants represent that as the principal amount of the receivables in a Trust is reduced by payments, the cost of administering the Trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables remaining in the Trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 to 10 percent) of the initial aggregate unpaid balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to either: (1) The unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) the greater of (a) the amount in (1) or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the receivables in the case of a trust that is not a REMIC.

Certificate Ratings

The certificates will have received one of the three highest ratings available from a rating agency. Insurance or other credit support (such as surety bonds, letters of credit, guarantees, or overcollateralization) will be obtained by the Trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is typically a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing Trust.

Provision of Credit Support

In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the Trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be the master servicer or an affiliate thereof) or, (c) in the case of a Trust that issues subordinated certificates, from amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance such funds in a timely manner. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism. In some cases, however, the master servicer may not be obligated to advance funds but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from future payments on the affected assets.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover delinquent payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the Trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the master servicer out of future payments on receivables held by the Trust to the extent not covered by credit support. However, where the master servicer provides credit support to the Trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the Trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the Trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all payments which are past due more than a specified number of days and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by

independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee; and

(d) The credit support has a ''floor'' dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the Trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount thereafter is subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the Trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

Disclosure

In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates and the fact that principal amounts left in the Pre-Funding Account at the end of the Pre-Funding Period will be paid to certificateholders as a repayment of principal.

(b) A description of the Trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the Trust;

(d) A description of the receivables contained in the Trust, including the types of receivables, the diversification of the receivables, their principal terms, and their material legal aspects, and a description of any Pre-Funding Account used or Capitalized Interest Account used in connection with a Pre-Funding Account;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the Trust assets, including the terms and conditions for eligibility of any receivables transferred during the Pre-Funding Period and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; a description of permitted investments for any Pre-Funding Account or Capitalized Interest Account; identification of the servicing compensation and a description of any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates; and

(k) A statement as to the duration of any Pre-Funding Period and the Pre-Funding Limit for the Trust.

Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

In the case of a Trust that offers and sells certificates in a registered public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some Trusts that offer certificates in a public offering will file quarterly reports on Form 10–Q and Annual Reports on Form 10–K, many Trusts obtain, by application to the Securities and Exchange Commission, relief from the requirement to file quarterly reports on Form 10–Q and a modification of the disclosure requirements for annual reports on Form 10–K. If such relief is obtained, these Trusts normally would continue to have the obligation to file current reports on Form 8–K to report material developments concerning the Trust and the certificates and copies of the statements sent to certificateholders. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a Trust will be filed to the extent required under the Securities Exchange Act of 1934.

At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the Trust and its assets, including underlying obligations. Such report will typically contain information regarding the Trust's assets (including those purchased by the Trust from any Pre-Funding Account), payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the Trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the servicer, paying agent or trustee summarizing information regarding the Trust and its assets. Such statement will include information regarding the Trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

Secondary Market Transactions

It is the Underwriter's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter, and it is the underwriter's intention to make a market for any certificates for which the Underwriter is a lead or co-managing underwriter. At times the Underwriter will facilitate sales by investors who purchase certificates if the Underwriter has acted as agent or principal in the original private placement of the certificates and if such investors request the Underwriter's assistance.

Summary

In summary, the Applicants represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The Trusts contain ''fixed pools'' of assets. There is little discretion on the part of the Trust sponsor to substitute receivables contained in the Trust once the Trust has been formed.

(b) In the case where a Pre-Funding Account is used, the characteristics of the receivables to be transferred to the Trust during the Pre-Funding Period must be substantially similar to the characteristics of those transferred to the Trust on the Closing Date thereby giving the sponsor and/or originator little discretion over the selection process, and compliance with this requirement will be assured by the specificity of the characteristics and the monitoring mechanisms contemplated under the Proposed Amendment. In addition, certain cash accounts will be established to support the certificate pass-through rate and such cash accounts will be invested in short-term, conservative investments; the Pre-Funding Period will be of a reasonably short duration; a Pre-Funding Limit will be imposed; and any Internal Revenue Service requirements with respect to pre-funding intended to preserve the passive income character of the Trust will be met. The fiduciary of the plans making the decision to invest in certificates is thus fully apprised of the nature of the receivables which will be held in the Trust and has sufficient information to make a prudent investment decision.

(c) Certificates in which plans invest will have been rated in one of the three highest rating categories by a rating agency. Credit support will be obtained to the extent necessary to attain the desired rating;

(d) All transactions for which the Underwriter seeks exemptive relief will be governed by the pooling and servicing agreement, the principal provisions of which are described in the prospectus or private placement memorandum and which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(e) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(f) The Underwriter has made and anticipates that it will continue to make, a secondary market in certificates.

Notice to Interested Persons

The applicant represents that because those potentially interested participants and beneficiaries cannot all be identified, the only practical means of notifying such participants and beneficiaries of this proposed exemption is by the publication of this notice in the **Federal Register**. Comments and requests for a hearing must be received by the Department not later than 45 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plans and of their participants and beneficiaries and protective of the rights of participants and beneficiaries of the plans;

(3) The proposed amendment, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed amendment, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the proposed amendment to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed amendment. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Under section 408(a) of ERISA and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, August 10, 1990), the Department proposes to amend the following individual Prohibited Transaction Exemptions (PTEs): PTE 89–88, 54 FR 42582 (October 17, 1989); PTE 89–89, 54 FR 42569 (October 17, 1989); PTE 89–90, 54 FR 42597 (October 17, 1989); PTE 90–22, 55 FR 20542 (May 17, 1990); PTE 90–23, 55 FR 20545 (May 17, 1990); PTE 90–24, 55 FR 20548 (May 17, 1990); PTE 90–28, 55 FR 21456 (May 24, 1990); PTE 90–29, 55 FR 21459 (May 24, 1990); PTE 90–30, 55 FR 21461 (May 24, 1990); PTE 90–31, 55 FR 23144 (June 6, 1990); PTE 90–32, 55 FR 23147 (June 6, 1990); PTE 90–33, 55 FR 23151 (June 6, 1990); PTE 90–36, 55 FR 25903 (June 25, 1990); PTE 90–39, 55 FR 27713 (July 5, 1990); PTE 90–59, 55 FR 36724 (September 6, 1990); PTE 90–83, 55 FR 50250 (December 5, 1990); PTE 90–84, 55 FR 50252 (December 5, 1990); PTE 90–88, 55 FR 52899 (December 24, 1990); PTE 91–14, 55 FR 48178 (February 22, 1991); PTE 91–22, 56 FR 03277 (April 18, 1991); PTE 91–23, 56 FR 15936 (April 18, 1991); PTE 91–30, 56 FR 22452 (May 15, 1991); PTE 91–62, 56 FR 51406 (October 11, 1991); PTE 93–31, 58 FR 28620 (May 5, 1993); PTE 93–32, 58 FR 28623 (May 14, 1993); PTE 94–29, 59 FR 14675 (March 29, 1994); PTE 94–64, 59 FR 42312 (August 17, 1994); PTE 94–70, 59 FR 50014 (September 30, 1994); PTE 94–73, 59 FR 51213 (October 7, 1994); PTE 94–84, 59 FR 65400 (December 19, 1994); PTE 95–26, 60 FR 17586 (April 6, 1995); PTE 95–59, 60 FR 35938 (July 12, 1995); PTE 95–89, 60 FR 49011 (September 21, 1995); PTE 96–11, 61 FR 3490 (January 31, 1996); PTE 96–22, 61 FR 14828 (April 3, 1996); PTE 96–84, 61 FR 58234 (November 13, 1996); PTE 96–92, 61 FR 66334 (December 17, 1996); PTE 96–94, 61 FR 68787 (December 30, 1996); PTE 97–05, 62 FR 1926 (January 14,1997);

and PTE 97–, 62 FR (Norwest Investment Services)(collectively, the Underwriter Exemptions). In addition, the Department is considering granting exemptions to Ironwood Capital Partners Ltd (D–10424) and Deutsche Bank AG, New York Branch and Deutsche Morgan Grenfell/C.J. Lawrence Inc. (D–10433), which received the approval of the Department to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96–62.

I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[19]

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold serviced by the same entity.[20] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certifi cates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[21]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating from a rating agency (as defined in section III.W) at the time of such acquisition that is in one of the three highest generic rating categories;

(4) The trustee is not an affiliate of any other member of the Restricted

[19] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 of the Act for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) of the Act, and regulation 29 CFR 2510.3–21(c).

[20] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[21] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions. For purposes of this Amendment, references to ''prospectus'' include any related prospectus supplement thereto, pursuant to which certificates are offered to investors.

Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith;

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933; and

(7) In the event that the obligations used to fund a trust have not all been transferred to the trust on the closing date, additional obligations as specified in subsection III.B.(1) may be transferred to the trust during the pre-funding period (as defined in Section III.BB.) in exchange for amounts credited to the pre-funding account (as defined in Section III.Z.), provided that:

(a) The pre-funding limit (as defined in Section III.AA.), is not exceeded;

(b) All such additional obligations meet the same terms and conditions for eligibility as those of the original obligations used to create the trust corpus (as described in the prospectus or private placement memorandum and/or pooling and servicing agreement for such certificates), which terms and conditions have been approved by a rating agency. Notwithstanding the foregoing, the terms and conditions for determining the eligibility of an obligation may be changed if such changes receive prior approval either by a majority vote of the outstanding certificateholders or by a rating agency;

(c) The transfer of such additional obligations to the trust during the pre-funding period does not result in the certificates receiving a lower credit rating from a rating agency upon termination of the pre-funding period than the rating that was obtained at the time of the initial issuance of the certificates by the trust;

(d) The weighted average annual percentage interest rate (the average interest rate) for all of the obligations in the trust at the end of the pre-funding period will not be more than 100 basis points lower than the average interest rate for the obligations which were transferred to the trust on the closing date;

(e) Effective for transactions occurring on or after May 23, 1997, in order to ensure that the characteristics of the receivables actually acquired during the pre-funding period are substantially similar to those which were acquired as of the closing date, the characteristics of the additional obligations will either be monitored by a credit support provider or other insurance provider which is independent of the sponsor or an independent accountant retained by the sponsor will provide the sponsor with a letter (with copies provided to the rating agency, the underwriter and the trustees) stating whether or not the characteristics of the additional obligations conform to the characteristics of such obligations described in the prospectus, private placement memorandum and/or pooling and servicing agreement. In preparing such letter, the independent accountant will use the same type of procedures as were applicable to the obligations which were transferred as of the closing date;

(f) The pre-funding period shall be described in the prospectus or private placement memorandum provided to investing plans; and

(g) The trustee of the trust (or any agent with which the trustee contracts to provide trust services) will be a substantial financial institution or trust company experienced in trust activities and familiar with its duties, responsibilities, and liabilities as a fiduciary under the Act. The trustee, as the legal owner of the obligations in the trust, will enforce all the rights created in favor of certificateholders of such trust, including employee benefit plans subject to the Act.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. ''Certificate'' means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in either a Real Estate Mortgage Investment Conduit (REMIC) or a Financial Asset Securitization Investment Trust (FASIT) within the meaning of section 860D(a) or Section 860L, respectively, of the Internal Revenue Code of 1986, as amended: and

(b) That is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) above for which the *Underwriter* is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust.

B. ''Trust'' means an investment pool, the corpus of which is held in trust and consists solely of:

(1)(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association); and/or

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T.); and/or

(c) Obligations that bear interest or are purchased at a discount and which are

secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on residential or commercial real property); and/or

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U.); and/or

(e) ''Guaranteed governmental mortgage pool certificates,'' as defined in 29 CFR 2510.3–101(i)(2); and/or

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this subsection B.(1); [22]

(2) Property which had secured any of the obligations described in subsection III.B.(1);

(3) (a) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and/or

(b) Cash or investments made therewith which are credited to an account to provide payments to certificateholders pursuant to any yield supplement agreement or similar yield maintenance arrangement to supplement the interest rates otherwise payable on obligations described in subsection III.B.(1) held in the trust, provided that such arrangements do not involve swap agreements or other notional principal contracts; and/or [23]

(c) Cash transferred to the trust on the closing date and permitted investments made therewith which:

(i) Are credited to a pre-funding account established to purchase additional obligations with respect to which the conditions set forth in clauses (a)–(g) of subsection II.A.(7) are met and/or

(ii) Are credited to a capitalized interest account (as defined in Section III.X.); and

(iii) Are held in the trust for a period ending no later than the first distribution date to certificateholders occurring after the end of the pre-funding period,

For purposes of this clause (c) of subsection III.B.(3), the term ''permitted investments'' means investments which are either: (i) direct obligations of, or obligations fully guaranteed as to timely payment of principal and interest by, the United States or any agency or instrumentality thereof, provided that such obligations are backed by the full faith and credit of the United States or (ii) have been rated (or the obligor has been rated) in one of the three highest generic rating categories by a rating agency; are described in the pooling and servicing agreement; and are permitted by the rating agency.

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship, yield supplement agreements described in clause (b) of subsection III.B.(3) and other credit support arrangements with respect to any obligations described in subsection III.B.(1).

Notwithstanding the foregoing, the term ''trust'' does not include any investment pool unless: (i) the obligations contained in the investment pool consist only of assets of the type described in clauses (a)–(f) of subsection III.B.(1) which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by a rating agency for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. ''Underwriter'' means: (1) An entity defined as an Underwriter in subsection III.C.(1) of each of the Underwriter Exemptions that are being amended by this proposed exemption. In addition, the term Underwriter includes Ironwood Capital Partners Ltd. and Deutsche Bank AG, New York Branch and Deutsche Morgan Grenfell/C.J. Lawrence Inc. (which received the approval of the Department to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96–62);

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such entity; or

(3) Any member of an underwriting syndicate or selling group of which a person described in subsections III.C.(1) or (2) above is a manager or co-manager with respect to the certificates.

D. ''Sponsor'' means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. ''Master Servicer'' means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. ''Subservicer'' means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. ''Servicer'' means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. ''Trustee'' means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. ''Insurer'' means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. ''Obligor'' means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, ''obligor'' shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. ''Excluded Plan'' means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. ''Restricted Group'' with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

[22] It is the Department's view that the definition of ''Trust'' contained in subsection III.B. includes a two-tier trust structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues certificates that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

[23] The Department notes that the definition of ''Trust'' contained in Section III.B. includes cash or investments credited to an account to provide payments to certificateholders pursuant to a yield supplement agreement or similar yield maintenance arrangement to supplement the interest rates otherwise payable on obligations described in section B.(1) held in the trust, provided that such arrangements do not involve swap agreements or other notional principal contracts.

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)–(6) above.

M. ''Affiliate'' of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. ''Control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be ''independent'' of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. ''Sale'' includes the entrance into a forward delivery commitment (as defined in section III.Q. below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. ''Forward delivery commitment'' means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. ''Reasonable compensation'' has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. ''Qualified Administrative Fee'' means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations:

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. ''Qualified Equipment Note Secured By A Lease'' means an equipment note:

(1) Which is secured by equipment which is leased;

(2) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. ''Qualified Motor Vehicle Lease'' means a lease of a motor vehicle where:

(1) The trust owns or holds a security interest in the lease;

(2) The trust owns or holds a security interest in the leased motor vehicle; and

(3) The trust's interest in the leased motor vehicle is at least as protective of the trust's rights as the trust would receive under a motor vehicle installment loan contract.

V. ''Pooling and Servicing Agreement'' means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, ''Pooling and ServicingAgreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

W. ''Rating Agency'' means Standard & Poor's Structured Rating Group, Moody's Investors Service, Inc., Duff & Phelps Credit Rating Co. or Fitch Investors Service, L.P.

X. ''Capitalized Interest Account'' means a trust account: (i) which is established to compensate certificateholders for shortfalls, if any, between investment earnings on the pre-funding account and the pass-through rate payable under the certificates; and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

Y. ''Closing Date'' means the date the trust is formed, the certificates are first issued and the trust's assets (other than those additional obligations which are to be funded from the pre-funding account pursuant to subsection II.A.(7)) are transferred to the trust.

Z. ''Pre-Funding Account''—means a trust account: (i) which is established to purchase additional obligations, which obligations meet the conditions set forth in clauses (a)–(g) of subsection II.A.(7); and (ii) which meets the requirements of clause (c) of subsection III.B.(3).

AA. ''Pre-Funding Limit'' means a percentage or ratio of the amount allocated to the pre-funding account, as compared to the total principal amount of the certificates being offered which is less than or equal to: (i) 40 percent, effective for transactions occurring on or after January 1, 1992, but prior to May 23, 1997; and (ii) 25 percent, for transactions occurring on or after May 23, 1997.

BB. ''Pre-Funding Period'' means the period commencing on the closing date and ending no later than the earliest to occur of: (i) the date the amount on deposit in the pre-funding account is less than the minimum dollar amount specified in the pooling and servicing agreement; (ii) the date on which an event of default occurs under the pooling and servicing agreement; or (iii) the date which is the later of three months or 90 days after the closing date.

IV. Modifications

For the Underwriter Exemptions provided to Residential Funding Corporation, Residential Funding Mortgage Securities, Inc., et. al. and GE Capital Mortgage Services, Inc. and GECC Capital Markets (the Applicants) (PTEs 94–29 and 94–73, respectively);

A. Section III.A. of this proposed amendment is modified to read as follows:

A. ''Certificate'' means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(c) With respect to which (i) one of the Applicants or any of its affiliates is the sponsor, and an entity which has received from the Department an individual prohibited transaction exemption relating to certificates which is similar to this exemption is the sole underwriter or the manager or co-manager of the underwriting syndicate

or a selling or placement agent; or (ii) one of the Applicants or any of its affiliates is the sole underwriter or the manager or co-manager of the underwriting syndicate or a selling or placement agent; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in either a Real Estate Mortgage Investment Conduit (REMIC) or a Financial Asset Securitization Investment Trust (FASIT) within the meaning of section 860D(a) or section 860L, respectively, of the Internal Revenue Code of 1986, as amended: and

(b) That is issued by and is an obligation of a trust with respect to which (i) one of the Applicants or any of its affiliates is the sponsor, and an entity which has received from the Department an individual prohibited transaction exemption relating to certificates which is similar to this exemption is the sole underwriter or the manager or co-manager of the underwriting syndicate or a selling or placement agent or (ii) one of the Applicants or any of its affiliates is the sole underwriter or the manager or co-manager of the underwriting syndicate, or a selling or placement agent.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust.

B. Section III.C. of this proposed amendment is modified to read as follows:

C. ''Underwriter'' means:

(1) An entity defined as an Underwriter in subsection III.C.(1) of each of the Underwriter Exemptions that are being amended by this proposed exemption. In addition, the term Underwriter includes Ironwood Capital Partners Ltd. and Deutsche Bank AG, New York Branch and Deutsche Morgan Grenfell/C.J. Lawrence Inc. (which received the approval of the Department to engage in transactions substantially similar to the transactions described in the Underwriter Exemptions pursuant to PTE 96–62);

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with such entity;

(3) Any member of an underwriting syndicate or selling group of which a person described in subsections III.C.(1) or (2) above is a manager or co-manager with respect to the certificates; or

(4) An entity which has received from the Department an individual prohibited transaction exemption relating to certificates which is similar to this exemption.

EFFECTIVE DATE: This exemption will be effective for transactions occurring on or after January 1, 1992 except as otherwise provided in subsection II.A.(7) and section III.AA.

Signed at Washington, D.C., this 20th day of May, 1997.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

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DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 97–28; Exemption Application No. D–10430]

Grant of Individual Exemptions; Norwest Investment Services, Inc.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Norwest Investment Services, Inc. (NISI) Located in Minneapolis, Minnesota

[Prohibited Transaction Exemption 97–28; Exemption Application No. D–10430]

Exemption

I. Transactions

A. Effective February 12, 1997, the restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A. (1) or (2).

Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.[1]

[1] Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person

Continued

B. Effective February 12, 1997, the restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan;

(ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in certificates representing an interest in a trust containing assets sold or serviced by the same entity.[2] For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1) (i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B. (1) or (2).

C. Effective February 12, 1997, the restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.[3]

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a ''qualified administrative fee'' as defined in section III.S.

D. Effective February 12, 1997, the restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975 (a) and (b) of the Code by reason of sections 4975(c)(1) (A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14) (F), (G), (H) or (I) of the Act or section 4975(e)(2) (F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Structured Rating Group (S & P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Credit Rating Co. (D & P) or Fitch Investors Service, L.P. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an ''accredited investor'' as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the

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rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3–21(c).

[2] For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

[3] In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

III. Definitions

For purposes of this exemption:

A. ''Certificate'' means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) above for which NISI or any of its affiliates is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to ''certificates representing an interest in a trust'' include certificates denominated as debt which are issued by a trust.

B. ''Trust'' means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) ''Guaranteed governmental mortgage pool certificates,'' as defined in 29 CFR 2510.3–101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)–(e) of this section B.(1);[4]

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term ''trust'' does not include any investment pool unless: (i) the investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D&P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. ''Underwriter'' means:

(1) NISI;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with NISI; or

(3) Any member of an underwriting syndicate or selling group of which NISI or a person described in (2) is a manager or co-manager with respect to the certificates.

D. ''Sponsor'' means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. ''Master Servicer'' means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. ''Subservicer'' means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. ''Servicer'' means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. ''Trustee'' means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. ''Insurer'' means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. ''Obligor'' means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, ''obligor'' shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. ''Excluded Plan'' means any plan with respect to which any member of the Restricted Group is a ''plan sponsor'' within the meaning of section 3(16)(B) of the Act.

L. ''Restricted Group'' with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

[4] It is the Department's view that the definition of ''trust'' contained in III.B. includes a two-tier structure under which certificates issued by the first trust, which contains a pool of receivables described above, are transferred to a second trust which issues securities that are sold to plans. However, the Department is of the further view that, since the exemption provides relief for the direct or indirect acquisition or disposition of certificates that are not subordinated, no relief would be available if the certificates held by the second trust were subordinated to the rights and interests evidenced by other certificates issued by the first trust.

(7) Any affiliate of a person described in (1)–(6) above.

M. ''Affiliate'' of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. ''Control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be ''independent'' of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. ''Sale'' includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's-length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. ''Forward delivery commitment'' means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. ''Reasonable compensation'' has the same meaning as that term is defined in 29 CFR 2550.408c–2.

S. ''Qualified Administrative Fee'' means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. ''Qualified Equipment Note Secured By A Lease'' means an equipment note:

(1) Which is secured by equipment which is leased;

(2) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. ''Qualified Motor Vehicle Lease'' means a lease of a motor vehicle where:

(1) The trust holds a security interest in the lease;

(2) The trust holds a security interest in the leased motor vehicle; and

(3) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as would be the case if the trust consisted of motor vehicle installment loan contracts.

V. ''Pooling and Servicing Agreement'' means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, ''Pooling and Servicing Agreement'' also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

W. ''NISI'' means Norwest Investment Services, Inc. and its affiliates.

The Department notes that this exemption is included within the meaning of the term ''Underwriter Exemption'' as it is defined in section V(h) of Prohibited Transaction Exemption 95–60 (60 FR 35925, July 12, 1995), the Class Exemption for Certain Transactions Involving Insurance Company General Accounts at 35932.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption published on April 17, 1997 at 62 FR 18808.

Written Comments

The Department received one written comment, which was submitted by the applicant to make two corrections with respect to the proposed exemption. The first correction pointed out that representation 1 of the proposed exemption should have indicated that NISI has branch offices in other Minnesota cities in addition to the Twin Cities Metropolitan Area. The second correction noted a typographical error in footnote 19 of the proposed exemption, indicating that the seventh word of the footnote should read ''asset-backed''.

The Department has considered the entire record, including the comments submitted by the applicant, and has determined to grant the exemption as amended in response to the applicant's comments.

For further information contact: Gary Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 20th day of May, 1996.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–13672 Filed 5–22–97; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting

Notice of Change in Subject of Meeting

The National Credit Union Administration Board determine that its business requires the addition of the following item, which is closed to public observation, to the previously announced closed meeting (**Federal Register**, Vol. 62, No. 95, pages 27072–27073, Friday, May 16, 1997) scheduled for Thursday, May 22, 1997.

4. Request from a Corporate Credit Union for an Extension under Part 704, NCUA's Rules and Regulations. Closed pursuant to exemption (8).

The Board voted unanimously that agency business requires that this item be considered with less than the usual seven days notice, that it be closed to the public, and that no earlier announcement of this change was possible.

The previously announced items are:

1. Approval of Minutes of Previous Closed Meeting.

2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

3. Personnel Action(s). Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 97–13843 Filed 5–21–97; 3:09 pm]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Submission for OMB Review; Comment Request

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval as required by the provisions of the Paperwork Reduction Act of 1995 (P.L. 104–13,44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the National Endowment for the Humanities, Assistant Director, Grants Office, Susan G. Daisey (202–606–8494) or may be requested by email to sdaisey@neh.fed.us. Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the National Endowment for the Humanities, Office of management and Budget, Room 10235, Washington, DC 20503 (202–395–7316), within 30 days from the date of this publication in the **Federal Register**.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) is particularly interested in comments which: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Agency: National Endowment for the Humanities.

Title of Proposal: Generic Clearance Authority for the National Endowment for the Humanities.

OMB Number: 3136–0134.

Frequency of Collection: On occasion.

Affected Public: Applicants of NEH grant programs, reviewers of NEH grant applications, and NEH grantees.

Number of Respondents: 14,097.

Estimated Time per Respondent: varied according to type of information collection.

Estimated Total Burden Hours: 107,888 hours.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This submission requests approval from OMB for a three year extension of NEH's currently approved generic clearance authority for all NEH information collections other than one-time evaluations, questionnaires and surveys. Generic clearance authority would include approval of forms and instructions for application to NEH grant programs, reporting forms for NEH grantees, panelists and reviewers and for program evaluation purposes.

FOR FURTHER INFORMATION CONTACT: Ms. Susan G. Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, N.W., Room 311, Washington, D.C. 20506, or by email to: sdaisey@neh.fed.us. Telephone 202–606–8494.

Juan Mestas,

Deputy Chairman.

[FR Doc. 97–13602 Filed 5–22–97; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–33244, License No. 07–30056–01 EA 97–202]

Capital Engineering Services, Inc. Dover, Delaware; Order Revoking License

I

Capital Engineering Services, Inc., (Licensee) is the holder of Byproduct Nuclear Material License No. 07–30056–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The License authorizes possession and use of moisture/density gauges containing sealed sources. The License was originally issued on September 14, 1993, and is due to expire on September 30, 1998.

On February 12, 1996, the License was suspended by an NRC Order for nonpayment of fees. However, on May 17, 1996, the NRC issued a Conditional Order Extending Time that granted the Licensee's request to pay the delinquent fees in twelve monthly installment payments and extended the effective date of the February 12, 1996 Order to March 15, 1997. In addition, the Conditional Order stated that, in the event the Licensee fails to pay an installment during the 12-month period, each and every term and condition set forth in the February 12, 1996 Order will become immediately effective without further notice. The Licensee failed to make the first installment due June 15, 1996, after the Conditional Order was issued. Accordingly, on June 16, 1996, the terms of the February 12, 1996 ''Order Suspending License'' again became effective.

II

On October 30, 1996, November 19, 1996, February 20, 1997, and March 5, 1997, the NRC conducted an inspection at the Licensee's facility in Dover, Delaware. During the inspection, the inspector determined that the Licensee had continued to use licensed radioactive material after issuance of the NRC Order Suspending the License on February 12, 1996. Specifically, the Licensee used licensed material on numerous occasions between February 12, 1996, and May 16, 1996, before the Conditional Order Extending Time was granted, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

Additionally, the Licensee continued to use the gauges on numerous occasions after June 16, 1996, the date on which the Order Suspending License once again became effective because of the Licensee's failure to pay the first fee installment required by the May 17, 1996 Order Extending Time, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

On October 2, 1996, the NRC issued to the Licensee a letter reiterating that, given the Licensee's failure to abide by the installment plan, the License had been suspended as specified in the February 12, 1996 Order Suspending License. During an NRC inspection on October 30, 1996, the Licensee informed the NRC inspector that it continued to use licensed material because it had not received the October 2, 1996 letter until October 28, 1996.

As a result, the NRC issued a Confirmatory Action Letter (CAL) to the Licensee on November 1, 1996, which confirmed the Licensee's commitments to cease use and/or receipt of licensed material. The CAL references a telephone conversation between Mr. David Johns, the Licensee's President, and Mr. Frank Costello, NRC Region I, that took place on October 31, 1996, in which Mr. Johns agreed to the terms of the CAL.

Concurrently with NRC inspection, the NRC Office of Investigations (OI) conducted an investigation of these matters. During the investigation, the Licensee's President stated that he recalled the October 31, 1996 telephone conversation, but he understood that once he fully paid the outstanding debt, he could use the gauges. The Licensee, however, did not pay the outstanding debt [1] and, yet, continued to use licensed material on numerous occasions from October 29 to, at least, November 19, 1996, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3. In addition, based on the OI investigation and inspection findings, the NRC determined that the Licensee failed to test sealed sources for leakage and/or contamination, a violation of License Condition 13.

On April 10, 1997, an enforcement conference was scheduled with the Licensee. However, the Licensee failed to appear for the enforcement conference. In a subsequent telephone conversation between Mr. David Johns, the Licensee President/Owner and Mr. R. Blough, Director, Division of Nuclear Materials Safety, NRC Region I, Mr. Johns indicated that he was not planning to attend the conference. During that telephone conversation, Mr. Johns was also informed that the NRC would proceed with appropriate enforcement action.

III

Based on the above, the NRC has concluded that the Licensee deliberately violated NRC requirements by continuing to use licensed material, a violation of 10 CFR 30.10(a)(1), Condition A of the February 12, 1996 Order, and 10 CFR 30.3. This conclusion is: (1) Based on the Licensee's continued use of licensed material in violation of NRC requirements despite the Licensee receiving numerous written communications that specifically informed the Licensee of the License suspension; and (2) supported by the fact that the Licensee requested from the NRC that an installment plan be established to remove the suspension of the License; the Licensee's President recalled the October 31, 1996 telephone conversation in which he was specifically informed that the License was suspended and in which he agreed not to use licensed material; and the Licensee did not pay the outstanding debt and, yet, continued to use licensed material. Furthermore, the NRC has concluded that the Licensee failed to perform leak testing of sources, a violation of License Condition 13.

The NRC must be able to rely on its Licensees to comply with NRC requirements. It is important that licensed material be used in accordance with the applicable NRC requirements. The Licensee's continued deliberate violation demonstrates that the Licensee is either unwilling or unable to comply with NRC requirements. Given the deliberate nature of the violation, as well as the additional violations of other NRC requirements, as set forth in this section, the NRC no longer has reasonable assurance that public health and safety will be protected.

Consequently, I lack the requisite reasonable assurance that the Licensee is willing and able to conduct operations under License No. 07–30056–01 in compliance with the Commission's requirements, and that the health and safety of the public will be protected. Therefore, the public health, safety and interest require that License No. 07–30056–01 be revoked based on violations set forth above.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 30, *it is hereby ordered* That license No. 07–30056–01 is revoked.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this order and set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemaking and Adjudications Staff, Washington, D.C. 20555. Copies of the hearing request also should be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415, and to the Licensee if the hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this

[1] By Check No. 2054 dated November 20, 1996, the Licensee paid $531.16. However, the check did not clear due to insufficient funds.

Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

Dated at Rockville, Maryland this 15th day of May 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement.

[FR Doc. 97–13599 Filed 5–22–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA 97–026]

David F. Johns, P.E., Dover, Delaware; Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

David F. Johns, P.E., is the Owner/President, and Radiation Safety Officer at Capital Engineering Services, Inc. (Licensee), an NRC licensee who is the holder of Byproduct Nuclear Material License No. 07–30056–01 (License) issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Part 30. The License authorizes possession and use of moisture/density gauges containing sealed sources. The License was originally issued on September 14, 1993, and is due to expire on September 30, 1998.

On February 12, 1996, the License was suspended by an NRC Order for nonpayment of fees. However, on May 17, 1996, the NRC issued a Conditional Order Extending Time that granted the Licensee's request to pay the delinquent fees in twelve monthly installment payments and extended the effective date of the February 12, 1996 Order to March 15, 1997. In addition, the Conditional Order stated that, in the event the Licensee fails to pay an installment during the 12-month period, each and every term and condition set forth in the February 12, 1996 Order will become immediately effective without further notice. The Licensee failed to make the first installment due June 15, 1996, after the Conditional Order was issued. Accordingly, on June 16, 1996, the terms of the February 12, 1996 ''Order Suspending License'' again became effective.

II

On October 30, 1996, November 19, 1996, February 20, 1997, and March 5, 1997, the NRC conducted an inspection at the Licensee's facility in Dover, Delaware. During the inspection, the inspector determined that the Licensee had continued to use licensed radioactive material after issuance of the NRC Order Suspending the License on February 12, 1996. Specifically, the Licensee used licensed material on numerous occasions between February 12, 1996, and May 16, 1996, before the Conditional Order Extending Time was granted, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

Additionally, the Licensee continued to use the gauges on numerous occasions after June 16, 1996, the date on which the Order Suspending License once again became effective because of the licensee's failure to pay the first fee installment required by the May 17, 1996 Order Extending Time, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3.

On October 2, 1996, the NRC issued to the Licensee a letter reiterating that, given the Licensee's failure to abide by the installment plan, the License had been suspended as specified in the February 12, 1996 Order Suspending License. During an NRC inspection on October 30, 1996, the Licensee informed the NRC inspector that it continued to use licensed material because it had not received the October 2, 1996 letter until October 28, 1996.

As a result, the NRC issued a Confirmatory Action Letter (CAL) to the Licensee on November 1, 1996, which confirmed the Licensee's commitments to cease use and/or receipt of licensed material. The CAL references a telephone conversation between Mr. David Johns, the Licensee's President, and Mr. Frank Costello, NRC Region I, that took place on October 31, 1996, in which Mr. Johns agreed to the terms of the CAL.

Concurrently with NRC inspection, the NRC Office of Investigations (OI) conducted an investigation of these matters. During the investigation, Mr. Johns stated that he did not recall receiving by mail, or being informed of, the February 12, 1996 Order. However, Mr. Johns recalled requesting from the NRC that an installment plan be established for payment of the delinquent inspection and annual fees.

When questioned as to why the Licensee continued to use licensed material after Mr. Johns failed to make the installment due June 15, 1996, Mr. Johns stated that he forgot about the language in the May 17, 1996 Conditional Order (i.e., should the Licensee fail to pay an installment during the 12-month period, each and every term and condition set forth in the February 12, 1996 Order will become immediately effective without further notice).

As to his agreement to the terms of the CAL, Mr. Johns stated that he recalled the October 31, 1996 telephone conversation, but he understood that once he fully paid the outstanding debt, he could use the gauges. Mr. Johns, however, did not pay the outstanding debt [1] and, yet, allowed continued use of licensed material on numerous occasions from October 29 to, at least, November 19, 1996, a violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3. In addition, based on the OI investigation and inspection findings, the NRC determined that the Licensee failed to test sealed sources for leakage and/or contamination, a violation of License Condition 13.

On April 10, 1997, an enforcement conference was scheduled with the Licensee. However, the Licensee failed to appear for the enforcement conference. In a subsequent telephone conversation between Mr. Johns and Mr. R. Blough, Director, Division of Nuclear Materials Safety, NRC Region I, Mr. Johns indicated that he was not planning to attend the conference. During that telephone conversation, Mr. Johns was also informed that the NRC would proceed with appropriate enforcement action.

III

Based on the above, the NRC has concluded that Mr. Johns engaged in deliberate misconduct, a violation of 10 CFR 30.10(a)(1), by causing the Licensee to be in violation of Condition A of the February 12, 1996 Order and 10 CFR 30.3. This conclusion is: (1) based on the Licensee's continued use of licensed material in violation of NRC

[1] By Check No. 2054 dated November 20, 1996, the Licensee paid $531.16. However, the check did not clear due to insufficient funds.

requirements despite Mr. Johns receiving numerous written communications that specifically informed him of the License suspension; and (2) supported by the fact that Mr. Johns requested from the NRC that an installment plan be established to remove the suspension of the License; Mr. Johns recalled the October 31, 1996 telephone conversation in which he was specifically informed that the License was suspended and in which he agreed not to use licensed material; and Mr. Johns failed to ensure that the Licensee paid the outstanding debt before permitting resumption of licensed material use. In addition, as the Licensee's Radiation Safety Officer, Mr. Johns failed to ensure that the Licensee tested sealed sources for leakage and/or contamination, a violation of License Condition 13.

Given Mr. Johns' deliberate misconduct, and Mr. Johns' failure to ensure that the Licensee complied with other NRC requirements, the NRC no longer has the necessary assurance that Mr. Johns, should he engage in NRC-licensed activities under any other NRC license, would perform NRC-licensed activities safely and in accordance with NRC requirements.

Consequently, I lack the requisite reasonable assurance that NRC-licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Johns were permitted at this time to be involved in NRC-licensed activities.

Therefore, the public health, safety and interest require that Mr. Johns be prohibited from any involvement in NRC-licensed activities for a period of three years from the date of this Order, and if he is currently involved with another licensee in NRC-licensed activities, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this order to the employer. Mr. Johns is also required, for a period of three years from the date of this Order, to provide a copy of this Order to any prospective employer who engages in NRC-licensed activities prior to his acceptance of employment involving non-NRC-licensed activities with such prospective employer. Additionally, for a period of three years following the three-year prohibition, the first time Mr. Johns is employed in NRC-licensed activities, Mr. Johns is required to notify the NRC of his first employment in NRC-licensed activities. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Johns conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR 30.10, and 10 CFR 150.20, It is hereby ordered that, effective immediately:

1. For a period of three years from the date of this Order, Mr. Johns is prohibited from engaging in NRC-licensed activities. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted in areas of NRC jurisdiction pursuant to the authority granted by 10 CFR 150.20.

2. For a period of three years from the date of this Order, Mr. Johns shall provide a copy of this Order to any prospective employer who engages in NRC-licensed activities (as described in Paragraph IV.1 above) prior to his acceptance of employment involving non-NRC-licensed activities with such prospective employer. The purpose of this requirement is to ensure that the employer is aware of Mr. Johns' prohibition from engaging in NRC-licensed activities.

3. For a period of three years following the three-year prohibition, the first time Mr. Johns is employed in NRC-licensed activities, Mr. Johns shall notify the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415, prior to engaging in NRC-licensed activities, including activities under an Agreement State license when activities under that license are conducted in areas of NRC jurisdiction pursuant to 10 CFR 150.20. The notice shall include the name, address, and telephone number of the NRC or Agreement State licensee and the location where licensed activities will be performed.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, Mr. Johns must, and any other person adversely affected by this Order may, submit an answer to this Order and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission Washington, D.C. 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Johns or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attn: Rulemaking and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406–1415, to Mr. Johns if the answer or hearing request is by a person other than Mr. Johns. If a person other than Mr. Johns requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Johns or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Johns may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR

HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated at Rockville, Maryland this 15th day of May 1997.

For the Nuclear Regulatory Commission.

Edward L. Jordan,

Deputy Executive Director for Regulatory Effectiveness, Program Oversight, Investigations and Enforcement.

[FR Doc. 97–13600 Filed 5–22–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

The Cleveland Electric Illuminating Company, et al., Beaver Valley Power Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order under 10 CFR 50.80, of the indirect transfer of Facility Operating Licenses Nos. DPR–66 and NPF–73, to the extent they are held by The Cleveland Electric Illuminating Company (CEI), Ohio Edison Company (OE), Toledo Edison Company (TE), and Pennsylvania Power Company (PP), for the Beaver Valley Power Station, Unit Nos. 1 and 2, located in Shippingport, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consent to the indirect transfer of the licenses with respect to a proposed merger between Centerior Energy Corporation and Ohio Edison Company. Centerior Energy Corporation is the parent holding company of CEI and TE, which hold licenses to possess interests in the Beaver Valley Power Station. OE and its subsidiary PP also hold licenses to possess interests in the Beaver Valley Power Station. The merger would result in the formation of a new holding company, FirstEnergy Corporation (''FirstEnergy''), of which CEI, TE, and OE would become subsidiaries. PP would continue to remain a subsidiary of OE, and Centerior Energy Corporation would cease to exist.

According to the application, the merger will have no affect on the operation of Beaver Valley Power Station or the provisions of its operating licenses. The Cleveland Electric Illuminating Company, The Toledo Edison Company, Ohio Edison Company, and Pennsylvania Power Company will remain licensees responsible for their possessory interests and related obligations. Duquesne Light Company, which is not involved in the merger, will continue to operate the Beaver Valley Power Station after the merger, as required by the operating licenses. No direct transfer of the licenses will result from the merger.

The proposed action is in accordance with The Cleveland Electric Illuminating Company, et. al's request for approval dated December 13, 1996, as supplemented by letter dated February 14, 1997.

The Need for the Proposed Action

The proposed action is required to obtain the necessary consent to the indirect transfer of the licenses discussed above. According to the application, the underlying transaction is needed to create a stronger, more competitive enterprise that is expected to save over $1 billion over the first 10 years of FirstEnergy operation.

Environmental Impacts of the Proposed Action

The Commission has reviewed the proposed action and concludes that there will be no changes to the facility or its operation as a result of the proposed action. Accordingly, the NRC staff concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the NRC staff concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Beaver Valley Power Station, Unit 1,'' dated July 1973, and the ''Final Environmental Statement Related to the Operation of Beaver Valley Power Station, Unit 2,'' dated September 1986 in NUREG–1094.

Agencies and Persons Consulted

In accordance with its stated policy, on May 7, 1997, the staff consulted with the Pennsylvania State official, Mr. Michael P. Murphy of the Bureau of Radiation Protection, Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see The Cleveland Electric Illuminating Company, et al.'s submittal dated December 13, 1996, as supplemented by letter dated February 14, 1997, which 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 B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 15th day of May 1997.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–13598 Filed 5–22–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Human Factors; Revised

The ACRS Subcommittee meeting on Human Factors scheduled to start at 8:30 a.m. on Tuesday, June 3, 1997, has been *changed to start at 12:00 Noon.* Notice of this meeting was published in the **Federal Register** on Friday, May 9, 1997 (62 FR 25678). All other items pertaining to this meeting remain the same as previously published.

For further information contact: Mr. Noel F. Dudley, cognizant ACRS staff engineer, (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT).

Dated: May 19, 1997.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 97–13596 Filed 5–22–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Errata to Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued an errata sheet to a new guide in its Regulatory Guide Series. Equations 2 and 3 on page 2 of Regulatory Guide 8.39, ''Release of Patients Administered Radioactive Materials,'' were misstated when the guide was issued in April 1997. Parentheses were omitted from the denominator of both equations. The equations should read:

For radionuclides with a physical half-life greater than 1 day:

$$D(\infty) = \frac{34.6 \Gamma Q_o T_p (0.25)}{(100\ cm)^2}$$

For radionuclides with a physical half-life less than or equal to 1 day and if an occupancy factor of 1.0 is used:

$$D(\infty) = \frac{34.6 \Gamma Q_o T_p (1)}{(100\ cm)^2}$$

Regulatory Guide 8.39, ''Release of Patients Administered Radioactive Materials,'' provides guidance to licensees on complying with the NRC's regulations on determining when the licensee may authorize the release of a patient who has been administered radiopharmaceuticals or permanent implants containing radioactive material. The guide also provides guidance on instructions that may be necessary for such patients and on records that may be needed for such patients.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Single copies of regulatory guides may be obtained free of charge by writing the Office of Administration, Attention: Distribution and Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by fax at (301) 415–2260. Issued guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 9th day of May 1997.

For the Nuclear Regulatory Commission.

David L. Morrison,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 97–13597 Filed 5–22–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [62 FR 27636, May 20, 1997].

STATUS: Open and Closed Meetings.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: May 20, 1997.

CHANGE IN THE MEETING: Time Changes.

The time for the open meeting scheduled for Friday, May 23, 1997, at 2:00 p.m., has been changed to 1:00 p.m. The time for the close meeting scheduled for Friday, May 23, 1997, following the 2:00 p.m. open meeting, has been changed to 12:00 noon.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: May 20, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–13803 Filed 5–21–97; 2:05 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38651; International Series Release No. 1081; File No. SR–AMEX–97–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. to Amend the Manner of Calculation of the Hong Kong Option Index]

May 16, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 9, 1997, the American Stock Exchange, Inc. (''AMEX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the manner in which the AMEX calculates the Hong Kong Option (''HKO'') Index by using a floating rate of exchange for the Hong Kong dollar rather than a fixed value. The text of the proposed rule change is available at the AMEX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 11, 1994, the AMEX received approval to trade standardized options on the HKO Index.[1] The HKO

[1] *See* Securities Exchange Act Release No. 33894 (April 11, 1994), 59 FR 18429 (April 18, 1994).

Index is a broad-based capitalization-weighted stock index designed and maintained by the AMEX, based on the capitalizations of 30 stocks that are traded on the Hong Kong Stock Exchange (''HKSE'') and whose issuers have major business interests located in Hong Kong. The HKO Index value is calculated by multiplying the price of each component security (in Hong Kong dollars) by its number of shares outstanding, adding the sums, and dividing by the current HKO Index divisor. For valuation purposes, one HKO Index unit is assigned a fixed value of one U.S. dollar. The Exchange adopted a fixed value for the HKO Index unit because Hong Kong has traditionally pegged the value of the Hong Kong dollar to the U.S. dollar.[2]

At midnight on June 30, 1997, sovereignty over Hong Kong will transfer from the United Kingdom to the People's Republic of China, and Hong Kong will become a Special Administrative Region of China. While there has been much debate over what this will mean financially, politically, and socially for the former British colony, statements from the People's Republic of China indicate that the existing currency and financial systems of Hong Kong will remain unchanged. In order, however, to be prepared for any possible changes with respect to the Hong Kong dollar, such as a change in the policy of pegging its value to the U.S. dollar, the Exchange has determined to adopt a floating rate of exchange for the Hong Kong dollar when calculating the value of the HKO Index.

The AMEX will use the WM/Reuters Hong Kong dollar/U.S. dollar exchange rate available at the close of trading in London. AMEX will receive this rate between approximately 11:30 a.m. and 12:00 noon (New York time) each trading day. The Exchange will then use this rate in calculating and disseminating the HKO Index value after it is received on that trading day, and will also use the rate in calculating and disseminating the HKO Index value on the following day until a new value is received, again typically between 11:30 a.m. and 12:00 noon. If on any business day WM/Reuters does not post a closing spot exchange rate for the Hong Kong dollar, the last reported closing spot rate will remain in effect until a new rate is posted. Once the AMEX has received Commission approval to implement this change, it will do so by establishing a separate contract on the HKO Index using the floating rate in its calculation. The current contract using the fixed rate will continue to trade until the expiration of any remaining contracts.[3] No new series will be added using the fixed rate after the new floating rate calculation goes into effect.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[4] in general and furthers the objectives of Section 6(b)(5)[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair competition between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–AMEX–97–18 and should be submitted by June 13, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13609 Filed 5–22–97; 8:45 am]

BILLING CODE 8010–01–M

[2] As of April 14, 1997, the exchange rate was approximately HK $7.75 per U.S. $1.

[3] As of April 15, 1997, the outstanding interest in HKO Index contracts with expiration dates after July 1, 1997 was as follows: September 1997 series, 2042 contracts; 2042 contracts; December 1997 series, 835 contracts; and January 1998 series, 162 contracts. Phone conversation between Claire McGrath, Managing Director and Special Counsel, AMEX, and Heather Seidel, Attorney, Market Regulation, Commission, on April 18, 1997.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–38650; File No. SR–CBOE–97–15]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Incorporated, Relating to OEX–SPX Spread Orders

May 16, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'') and Rule 19b–4 thereunder[2] notice is hereby given that on March 4, 1997, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') 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 the self-regulatory organization. On May 15, 1997, the CBOE submitted an amendment (''Amendment No. 1'') to the proposed rule change.[3] The Commission is

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19–4.

[3] On May 15, 1997, the CBOE filed Amendment No. 1 to its proposal. In Amendment No. 1, the CBOE revised the proposed language of Rule 24.18 to make it clearer and provided further justification and explanation for providing a special rule of priority for OEX–SPX spread orders. *See* Letter from Timothy Thompson, Senior Attorney, CBOE, to

Continued

publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to establish a rule to facilitate the transaction of spread orders between S&P 500 Index options (''SPX'') and S&P 100 Index options (''OEX'') at either the OEX trading post or the SPX trading post.

The text of the proposed rule change is available at the Office of the Secretary, CBOE, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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 CBOE has prepared summaries, set forth in section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change, as amended, is to establish a new rule to facilitate the transaction of both legs of a spread order between options on the SPX and options on the OEX at either the OEX trading post or the SPX trading post. This new Rule 24.18 (''Rule''), which sets forth a special procedure for spreads between two products traded at different trading posts, recognizes the unique nature of the two largest trading crowds on the floor of the Exchange and the close relationship of the options traded at those two posts. Member firms routinely get requests from customers to transact a spread strategy between OEX and SPX.[4] Traders and customers alike often employ strategies involving the two options because of the close relationship in the movement between the indexes underlying these options.[5] SPX traders commonly hedge their SPX positions with OEX options, just as OEX traders hedge their OEX positions with SPX options. In addition, many customers and traders of OEX hedge their OEX positions with S&P 500 index features because there are no widely available products with the S&P 100 index as an underlying.[6] Consequently, these customers and traders will employ an OEX–SPX spread strategy to hedge the residual risk from using an imperfect hedge of S&P 500 futures for OEX.[7] Traders and customers have found that trading OEX and SPX in a strategy is a very effective way to manage risk.[8]

Under the current rules, it is difficult for brokers to execute these strategies on behalf of customers.[9] When the two legs of the strategy cannot be quoted at one price and traded at the same post then there is a large risk that the market will move in the time it takes to send the second order to the other trading pit to be executed. Consequently, the second leg of the strategy may not be filled at a price that makes the strategy feasible.[10] In many cases, depending on the movement of the market, the execution of the second leg of the order may exacerbate any risk that already existed and which the strategy was intended to hedge. In contrast, the market for spreads in which both legs can be traded at the same post likely will be tight and competitive.[11] In these cases, there is no risk that the market will move because the legs are being traded together at one price. The markets are likely to be quoted at a narrower bid-ask interval than would be the spread if it was quoted as two legs individually.[12] The Options Clearing Corporation recognizes the benefits of hedging OEX and SPX because these products may be maintained in the same cross-margin account.[13] The Commission also has recognized the relationship between these options by permitting haircut relief for offsetting positions between these options under the risk-based haircut rules.[14]

Although the Rule gives customers (through brokers) and members an opportunity to trade both legs of these spreads at one location on the floor, the procedures in Rule 24.18 serve to protect customer orders in the public customer limit order books of both products and the customer orders being represented in the crowd at both trading posts. This is accomplished, as described below, by requiring the member representing the OEX–SPX spread order to check the public customer limit order books before filing the order and by requiring notice of the order to be sent to the other trading crowd.

Paragraph (a) of the Rule defines an OEX–SPX spread order as an order to buy a stated number of OEX (SPX) options contracts and to sell an equal number of SPX (OEX) options contracts. The requirement that the number of options contracts be equal ensures that this procedure is only used for legitimate spread transactions and is not used to gain unfairly the special priority that is accorded to spread transactions, as detailed further below. Although some customers or traders legitimately trade spreads of equal deltas instead of equal numbers of contracts, the Exchange decided that it would be simpler and easier to surveil for spread orders of equal numbers of contracts. Spreads of equal numbers of OEX and SPX contracts would generally be substantially similar to spreads of equal deltas and should allow for customers and traders accomplish their objectives.

In addition, the Exchange selected spread orders of equal numbers of contracts, rather than equal contract values, because customer interest has generally been expressed in terms of equal numbers of contracts and the value of the indexes and the correlation of the movement of the two indexes is particularly close.[15] The Exchange will continue to review this requirement to determine if a future changes seems warranted.

Paragraph (b) of the Rule sets forth the procedures to be followed in representing and filling an OX–SPX spread order. An OEX–SPX spread order may be represented initially at either the OEX or SPX trading post. The trading post where the order is first represented will be the ''primary trading station'' for purposes of the Rule. Immediately after the order is represented at the primary trading station, or concurrent with the announcement of such order, the member initiating the order must contact the Order Book Official at the other trading station (OEX or SPX). The announcement at the other trading station must specify the terms of the order, a contact person for the order, and the telephone number of the contact person at the primary trading station.[16]

Elaine Darroch, Attorney, Division of Market Regulation, Securities and Exchange Commission, dated May 14, 1997.

[4] *See* Amendment No. 1, *supra* note 3.

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.* The value of OEX is 823.55 and SPX is 837.66 as of the close of May 12, 1997. *See* Amendment No. 1, *supra* note 3.

[16] The contact person does not have to, but may, provide brokerage to the members of the other trading crowd. The notice, however, will inform the members of he other trading crowd who they should contact if they want to participate in the trade.

The form of the announcement in the other trading station will be determined by the appropriate Floor Procedure Committee for the trading station where the announcement is to be made.

Once the order has been represented at the primary trading station and the order has been announced at the other trading station, the member representing the order may fill the order at the best net debit or credit, whether from the primary trading station or from the other trading station, provided the conditions described below are met. The priority of the bids and offers on OEX–SPX spread orders will be determined by the same concept that applies to spread orders on a single class of options as set forth in Rule 6.45(d). Paragraph (b)(iii) provides that a member holding an order on an OEX–SPX spread that is priced net at a multiple of 1/16 i.e., 1/4, 3/8, 7/16, 1/2, etc.) will have priority over bids and offers in the trading crowd if both legs of the OEX–SPX spread would trade at a price that is at least equivalent to quotes in the crowd. Similarly, such an order has priority over bids and offers in the customer limit order book[17] if at least one leg of the OEX–SPX spread would trade at a price that is better than the corresponding bid or offer in the book. Bids or offers that are part of an OEX–SPX spread and that are not priced at a net multiple of 1/16 while permissible, will not be entitled to priority under (b)(iii) to Rule 24.18. As with other spread orders, the Exchange has determined that the ability to transact spread orders efficiently justifies the slight deviation from the normal rules of priority that require an order to better any bids or offers in the customer limit order book before they may be executed.

As an illustration, assume that the relevant OEX option, Option O, is quoted at 5 bid, 5 1/8 asked, and, the relevant SPX option, Option S, is quoted at 6 bid, 6 1/8 asked, and assume that all four quotes are represented in the book. In that instance, a spread involving the purchase (or sale) of Option O and the sale (or purchase) of Option S may trade at a net credit or debit of 1 (e.g., a net credit of 1 if Option O is bought at 5 and Option S sold at 6, or a net debit of 1 if Option O is sold at 5 1/8 and Option S is bought at 6 1/8. In this example, because the net price is multiple of 1/16 and the execution of the spread involves taking the same side of the market as the book on one side of the spread at the book price, but bettering the book price on the other side of the market, the spread would receive priority. (That is, in the spread consisting of the purchase of Option O at 5 and the sale of Option S at 6, only the *purchase* of Option O occurs at the same price and on the same side of the market as the book, which is bid at 5; the *sale* of Option S at 6 betters the market in the book, because the *ask* price in the book is 6 1/8.) In this same example, it would not be permissible under paragraph (b)(iii) of Rule 24.18 to trade the spread at a net debit of 7/8 by selling the first option at 5 1/8 and buying the second at 6, because this trade would be executed at the same price and on the same side of the market as the book on *both sides* of the spread.

Paragraph (b) (iv) permits bids and offers from the other trading crowd to participate equally with equal bids and offers from the primary trading station if those bids and offers from the other trading station are received promptly. The determination of whether an order is received promptly will depend on the size and the complexity of the order involved. For example, a large spread order might take a minute to execute, while a small spread order of ten contracts might require only 15 seconds to execute. The amount of time to satisfy the time requirement would be different in these two circumstances.[18]

The Exchange will investigate on a case-by-case basis any complaints associated with the handling of OEX–SPX spread orders as it is made aware of them.

The Exchange believes that the proposed rule will allow the efficient conduct of OEX–SPX spread orders that will be beneficial to both customers and traders; at the same time, the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–97–15 and should be submitted by June 13, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–13608 Filed 5–22–97; 8:45 am]

BILLING CODE 8010–01–M

[17] The Exchange notes that one of the conditions for executing a spread order at the best net debit or credit is that the member has determined that the order may not be executed by a combination of transactions with the bids and offers displayed in the OEX or SPX customer limit order book or by the displayed quotes of the training crowds. The Exchange states that paragraph (b)(iii) of Rule 24.18 may be reasonably and fairly interpreted to mean that if the order can be executed in the marketplace at the order's price or at a better price, then the order cannot be executed as a spread order at the best net debit or credit. *See* Amendemnt No. 1, *supra* note 3.

[18] *Id.*

[19] 17 CFR 200.30–3(a) (12).

TENNESSEE VALLEY AUTHORITY

Paperwork Reduction Act of 1995, as Amended by Public Law 104–13; Proposed Collection; Comment Request

AGENCY: Tennessee Valley Authority.

ACTION: Proposed collection; comment request.

SUMMARY: The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Acting Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (WR 4Q), Chattanooga, Tennessee 37402–2801;(423) 751–2523.

Comments should be sent to the Acting Agency Clearance Officer no later than July 22, 1997.

SUPPLEMENTARY INFORMATION:

Type of Request: Regular submission, proposal to extend without revision a currently approved collection of information (OMB control number 3316–0019).

Title of Information Collection: Energy Right Residential Program.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or households.

Small Business or Organizations Affected: No.

Federal Budget Functional Category Code: 271.

Estimated Number of Annual Responses: 12,000.

Estimated Total Annual Burden Hours: 3,600.

Estimated Average Burden Hours Per Response: .3.

This information is used by distributors of TVA power to assist in identifying and financing energy improvements for their electrical energy customers.

William S. Moore,

Senior Manager, Administrative Services.

[FR Doc. 97–13549 Filed 5–22–97; 8:45 am]

BILLING CODE 8120–08–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Expedited Review of Melamine Institutional Dinnerware Products Imported From Indonesia

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and opportunity for public comment.

SUMMARY: This notice invites public comments on whether melamine institutional dinnerware imported from Indonesia should continue to be eligible for benefits under the Generalized System of Preferences.

DATES: Comments are due on Wednesday, July 2, 1997.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, United States Trade Representative, 600 17th Street, N.W., Room 518, Washington, D.C. 20508. The telephone number is (202) 395–6971.

SUPPLEMENTARY INFORMATION:

I. The GSP Program

The GSP program grants duty-free treatment to designated eligible articles that are imported from designated beneficiary development countries. The GSP program was authorized by Title of the Trade Act of 1974, as amended (''Trade Act'') (19 U.S.C. 2461 *et seq.*), and was implemented by Executive Order 11888 of November 24, 1975, as modified by subsequent Executive Orders and Presidential Proclamations. The GSP regulations provide for an annual GSP review, unless otherwise specified by **Federal Register** notice (15 CFR 2007.3).

This notice solicits public comments on whether to suspend GSP eligibility for melamine institutional tableware from Indonesia as sought in a petition from the American Melamine Institutional Tableware Association (AMITA). Petitioners argue that the GSP program was not intended to benefit manufacturers who sell their products as less than fair value to the injury of the U.S. industry.

II. Public Comments

All written comments on whether GSP eligibility for melamine institutional tableware from Indonesia should be suspended should be addressed to: GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, N.W., Room 518, Washington, D.C. 20508. All submissions must be in English and should conform to the information requirements of 15 CFR 2007. Furthermore, each party providing comments should indicate on the first page of the submission its name.

A party must provide fourteen copies of its comments which must be received by the Chairman of the GSP Subcommittee no later than 5 p.m., Wednesday, July 1, 1997. Comments received after the deadline will not be accepted. If the comments contain business confidential information, fourteen copies of a non-confidential version must also be submitted. A justification as to why the information contained in the submission should be treated confidentially must be included in the submission. In addition, the submissions containing confidential information should be clearly marked ''confidential'' at the top and bottom of each page of the submission. The version that does not contain confidential information should also be clearly marked, at the top and bottom of each page, ''public version'' or ''non-confidential''.

Written comments submitted in connection with this expedited review, except for information granted ''business confidential'' status pursuant to 15 CFR 2007.7, will be available for public inspection shortly after the filing deadline by appointment only with Brenda Webb of the USTR Public Reading Room at (202) 395–6186. The AMITA petition also is available for review at the Reading Room. Other requests and questions should be directed to the GSP Information Center at USTR by calling (202) 395–6971.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 97–13657 Filed 5–22–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of May 16, 1997

The followingAgreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–2505
Date Filed: May 12, 1997
Parties: Members of the International Air Transport Association
Subject:
TC3 Telex Mail Vote 870
Add-on Amounts in Thailand
Intended effective date: May 20, 1997

Docket Number: OST–97–2518
Date Filed: May 14, 1997
Parties: Members of the International Air Transport Association
Subject:

COMP Telex Mail Vote 871
Amend Currency of Guinea-Bissau
r–1–010q r–2–010ll
Intended effective date: June 1, 1997

Paulette V. Twine,

Chief Documentary Services.

[FR Doc. 97–13638 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending May 16, 1997

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–97–2516
Date Filed: May 13, 1997
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 10, 1997
Description: Amendment No. 1 to the Application of Continental Airlines, Inc. pursuant to 49 U.S.C. Sections 41108 and 41102 and Subpart Q of the Regulations to amend its application for renewal of its Route 381 authority currently pending in Docket 45131 now Docket OST–97–2516 to include a request for an amendment to that certificate adding authority to provide service between Newark, New Jersey and Caracas, Venezuela.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–13641 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular (AC) 25.571–1B, Damage-Tolerance and Fatigue Evaluation of Structure

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance of advisory circular.

SUMMARY: This notice announces the issuance of Advisory Circular (AC) 25.571–1B, Damage-Tolerance and Fatigue Evaluation of Structure. This AC, which sets for the acceptable means of compliance with the damage-tolerance and fatigue evaluation requirements for transport category airplanes, has been revised to provide rational guidelines for the evaluation of scatter factors for the determination of life for parts categorized as safe-life.

DATES: Advisory Circular 25.571–1B was issued on February 18, 1997, by the Manager of the Transport Airplane Directorate, Aircraft Certification Service, in Renton, Washington.

HOW TO OBTAIN COPIES: A copy of AC 25.571–1B may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, Ardmore East Business Center, 3341 Q 75th Ave, Landover, MD 20785.

Issued in Renton, Washington, on May 7, 1997.

Stewart R. Miller,

Manager, Transport Standards Staff, Transport Airplane Directorate, ANM–100.

[FR Doc. 97–13679 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Completion and Availability of the Final EIS JFK International Airport Light Rails System (LRS)

SUMMARY: The Federal Aviation Administration (FAA) and the New York State Department of Transportation (NYSDOT) are Joint Lead Agencies for purposes of implementing the procedures required by the National Environmental Policy Act of 1969, as amended, for a proposed transportation system access improvement project for John F. Kennedy International Airport (JFK), located in Queens, New York. The project is sponsored by the Port Authority of New York and New Jersey.

The project is an 8.4 mile light rail system (LRS) that would link the Central Terminal Area at JFK with the regional transit system through service to multimodal hubs at Jamaica Station and Howard Beach Station. The primary purpose of the proposed project is to improve ground access for air passengers and airport employees by providing a safe, quick reliable and efficient means of travel to, from and on the Airport.

The proposed LRS will be located primarily within existing transportation rights-of-way and on airport property. The FEIS examines and analyses the potential environmental impacts resulting from the construction of the proposed LRS.

Requests to obtain a copy of the Final Environmental Impact Statement and comments should be made to:

Mr. Laurence Schaefer, Federal Aviation Administration, AEA–610, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430, Telephone (718) 553–3340, Fax: (718) 995–9219

Mr. Victor Teglasi, New York State Department of Transportation, Region 11, Hunters Point Plaza, 47–40 21st Street, Long Island City, NY 11101, Telephone: (718) 482–4610, Fax: (718) 482–4660

For information purposes, copies of the DEIS (Airport Access Programs—LaGuardia—John F. Kennedy International Airports), the Written Reevaluation/Technical Report on Changes to the proposed JFK Airport Access Program and the FEIS for the Proposed JFK Light Rail System are available for public review at the following locations:

Manhattan

Mid Manhattan Library, 455 5th Ave., New York, NY 10017

Queens

Office of the Queens Borough President, Office of Planning and Environment, Room 220, Second Floor, 120–55 Queens Boulevard, Kew Gardens, NY 11424, 9am–5pm
Forest Hills Library, 108–19 7th Avenue, Forest Hills, NY 11375
Woodside Library, 54–22 Skillman Ave., Woodside, NY 11377
Community Board #1, 36–01 35th Avenue, Astoria, NY 11106
Community Board #3, 34–33 Junction Blvd., Jackson Heights, NY 11372
Community Board #8, Queens Borough Hall, Rm. 312, 120–55 Queens Blvd., Kew Gardens, NY 11424
Community Board #9, Queens Borough Hall, Rm. 312, 120–55 Queens Blvd., Kew Gardens, NY 11424
Community Board #10, 115–01 161st Street, South Ozone Park, NY 11420
Community Board #12, 90–28 161st Street, Jamaica, NY 11432
Community Board #13, Queens Reform Church, 219–41 Jamaica Ave., Queens Village, NY 11428
Community Board #14, 1831 Mott Avenue Rm. 311, Far Rockaway, NY 11691
Ozone Park Library, 92–94 Rockaway Blvd., Zone Park, NY 11471
Sunnyside Library, 43–06 Greenpoint Ave., Long Island City, New York 11104
North Forest Park Library, 98–27 Metropolitan Ave., Forest Park, NY 11375, (718) 261–5515

Brooklyn

Brooklyn Public Library, Social Science Division, Grand Army Plaza, Brooklyn, New York 11328

Long Island

Long Island Association, Inc., 80 Hauppauge Road, Commack, NY 11725, 9am–5pm
Nassau County Planning Commissioner, 400 County Drive, Mineola, NY 11501, 9am–5pm
Village of Valley Stream, Department of Planning, Village Hall, 123 S. Central Avenue, Valley Stream, NY 11580, 9am–5pm

Availability of the FEIS has also been published in the area newspapers.

Comments on the FEIS must be received within 30 days from the publication date of this Notice and addressed to both the FAA and the NYSDOT at the above addresses. All substantive comments will be considered in the FAA Record of Decision (ROD) which will conclude the environmental process for this federal action.

Issued in Jamaica, New York on May 16, 1997.

Robert B. Mendez,

Manager, Airports Division, Federal Aviation Administration, Eastern Region.

[FR Doc. 97–13680 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Joint RTCA Special Committee 189/EUROCAE Working Group 53; Air Traffic Services Safety and Interoperability Requirements

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a joint RTCA Special Committee (SC) 189/EUROCAE Working Group (WG) 53 meeting to be held June 2–6, 1997, starting at 8:00 a.m. The meeting will be held at The Boeing Company, 3003 West Casino Road, Everett, WA, Building 40–87, First Floor, Conference Room 12H6. This notice was delayed due to computer system changeover downtime.

The agenda will be as follows:

June 2, Plenary Session: Review and Approval of Minutes of the Previous Meeting; Review and Approval of Agenda; Review and Status of Action Items; Subgroup (SG) Program Updates and Status Reports (SG–1 Interoperability Requirements, SG–2 Safety Objectives, SG–3 Performance Objectives); SG Position Papers Submittal to the Plenary for Approval; Co-chair Summary and Action Item Review.

June 3 through 5, Separate SG Meetings: SG–1 Interoperability Requirements; SG–2 Safety Objectives; SG–3 Performance Objectives; CAA Advisory Group, as Necessary.

June 6, Plenary Session/Wrap-up: SG Reports (SG–1, SG–2, SG–3) and Work Program Updates; Summaries, Open Issues, and Action Item Review; Review of Preliminary Meeting Summary; Co-chair Wrap-up; Follow-on Meetings Venue and Schedules.

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, N.W., 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 15, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–13574 Filed 5–22–97; 8:45 am]

BILLING CODE 4810–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Special Committee 191; Collaborative Decisionmaking and Near-Term Procedures

Pursuant to section 10(a)(2) of the Federal Advisory committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for the Special Committee 191 meeting to be held May 29, 1997, starting at 1:00 p.m. The meeting will be held at TRW in Conference Room A, Main Building, Fair Lakes, Fairfax, VA. The need to continue working on the terms of reference soon after the previous meeting makes it necessary to publish this announcement with less than the customary advance notice.

The agenda will be as follows: (1) Chairman's Introductory Remarks; (2) Approval of Proposed Meeting Agenda; (3) Terms of Reference Discussion/ Approval; (4) Roadmap Discussion/ Working Group Formulation; (5) Other Business; (6) Set Agenda for Next meeting; (7) 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 15, 1997.

Janice L. Peters,

Designated Official.

[FR Doc. 97–13575 Filed 5–22–97; 8:45 am]

BILLING CODE 4810–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–034; Notice 1]

Receipt of Petition for Decision that Nonconforming 1988 Jaguar XJ6 Sovereign Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1988 Jaguar XJ6 Sovereign passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that a 1988 Jaguar XJ6 Sovereign that was not originally manufactured to comply with all applicable Federal motor vehicle safety standards is eligible for importation into the United States because (1) It is substantially similar to a vehicle that was originally manufactured for importation into and sale in the United States and that was certified by its manufacturer as complying with the safety standards, and (2) it is capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 23, 1997.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Motors of Kingsville, Maryland (''J.K.'') (Registered Importer 90–006) has petitioned NHTSA to decide whether 1988 Jaguar XJ6 Sovereign passenger cars are eligible for importation into the United States. The vehicle which J.K. believes is substantially similar is the 1988 Jaguar XJ6 Sovereign that was manufactured for importation into, and sale in, the United States and certified by its manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1988 Jaguar XJ6 Sovereign to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

J.K. submitted information with its petition intended to demonstrate that the non-U.S. certified 1988 Jaguar XJ6 Sovereign, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1988 Jaguar XJ6 Sovereign is identical to its U.S. certified counterpart with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence . . . .,* 103 *Defrosting and Defogging Systems,* 104 *Windshield Wiping and Washing Systems,* 105 *Hydraulic Brake Systems,* 106 *Brake Hoses,* 109 *New Pneumatic Tires,* 113 *Hood Latch Systems,* 116 *Brake Fluid,* 124 *Accelerator Control Systems,* 201 *Occupant Protection in Interior Impact,* 202 *Head Restraints,* 204 *Steering Control Rearward Displacement,* 205 *Glazing Materials,* 206 *Door Locks and Door Retention Components,* 207 *Seating Systems,* 209 *Seat Belt Assemblies,* 210 *Seat Belt Assembly Anchorages,* 212 *Windshield Retention,* 214 *Side Impact Protection,* 216 *Roof Crush Resistance,* 219 *Windshield Zone Intrusion,* 301 *Fuel System Integrity,* and 302 *Flammability of Interior Materials.*

Additionally, the petitioner states that the non-U.S. certified 1988 Jaguar XJ6 Sovereign complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays:* (a) Substitution of a lens marked ''Brake'' for a lens with a noncomplying symbol on the brake failure indicator lamp; (b) replacement of the speedometer with a unit calibrated in miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment:* (a) Installation of U.S.-model sealed headlamps and front sidemarker lights; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarker lights; (c) installation of a U.S.-model high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims:* installation of a tire information placard.

Standard No. 111 *Rearview Mirror:* replacement of the passenger side rearview mirror with a U.S.-model component.

Standard No. 114 *Theft Protection:* installation of a warning buzzer microswitch in the steering lock assembly and a warning buzzer.

Standard No. 118 *Power Window Systems:* installation of a relay in the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection:* installation of a seat belt warning buzzer, wired to the seat belt latch. The petitioner states that the non-U.S. certified 1988 Jaguar XJ6 Sovereign is equipped with seat belts and warning lamps identical to those found on its U.S.-certified counterpart.

The petitioner also states that a vehicle identification number plate must be affixed to the vehicle near the left windshield post and a reference and certification label must be affixed in the left front door post area to meet the requirements of 49 CFR part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 20, 1997.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 97–13637 Filed 5–22–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33393]

Coach USA, Inc.—Control Exemption—America Charters, Ltd.

AGENCY: Surface Transportation Board.

ACTION: Notice of filing of petition for exemption.

SUMMARY: Coach USA, Inc. (Coach), a noncarrier that controls 27 motor passenger carriers, seeks an exemption, under 49 U.S.C. 13541, from the prior approval requirements of 49 U.S.C. 14303(a)(5), to acquire control of America Charters, Ltd. (America Charters), a motor passenger carrier.

DATES: Comments must be filed by June 23, 1997. Petitioner may file a reply by July 2, 1997.

ADDRESSES: Send an original and 10 copies of comments referring to STB Finance Docket No. 33393 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–

0001. Also, send one copy of comments to petitioner's representatives: Betty Jo Christian and David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Ave., N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Coach seeks an exemption to acquire stock control over America Charters (MC–153814), a motor passenger carrier that operates in interstate and intrastate commerce.[1] Coach states that America Charters, which provides exclusively charter and special bus services, has a relatively small market share in the markets in which it operates.

Coach currently controls 27 motor passenger carriers.[2] Coach states that America Charters does not compete with any of the bus companies controlled by Coach and, therefore, that its acquisition of control of America Charters will have no significant impact on competition.

Following the acquisition of control, America Charters will continue to operate under its own name and in the same basic manner as before. Coach states that it will provide certain services to America Charters, including legal and accounting functions and coordinated purchasing services. In addition, Coach states that it will facilitate vehicle sharing arrangements and provide coordinated driver training services. Coach projects the annual efficiency savings generated by the proposed acquisition of control of America Charters to be $125,000, representing primarily interest, insurance and vehicle equipment cost savings. Over the long term, Coach states that it will provide centralized marketing and reservation services for the bus firms that it controls, thereby further enhancing the benefits resulting from the transaction. Coach submits that all collective bargaining agreements will be honored, that employee benefits will improve, and that no change in management personnel is planned. Additional information may be obtained from petitioner's representatives.

A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: May 15, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary

[FR Doc. 97–13634 Filed 5–22–97; 8:45 am]

BILLING CODE 4915–00–P

[1] The stock of America Charters was placed in an independent voting trust to avoid any unlawful control pending disposition of this proceeding.

[2] In Notre Capital Ventures II, LLC and Coach USA, Inc.—Control Exemption—Arrow Stage Lines, Inc.; Cape Transit Corp.; Community Coach, Inc.; Community Transit Lines, Inc.; Grosvenor Bus Lines, Inc.; H.A.M.L. Corp.; Leisure Time Tours; Suburban Management Corp.; Suburban Trails, Inc.; and Suburban Transit Corp., STB Finance Docket No. 32876 (Sub-No. 1) (STB served May 3, 1996), Coach was exempted from the prior approval requirements of 49 U.S.C. 14303(a)(4) to acquire control of Arrow Stage Lines, Inc. (MC–29592), Cape Transit Corp. (MC–161678), Community Coach, Inc. (MC–76022), Community Transit Lines, Inc. (MC–145548), Grosvenor Bus Lines, Inc. (MC–157317), H.A.M.L. Corp. (MC–194792), Leisure Time Tours (MC–142011), Surburban Management Corp. (MC–264527), Surburban Trails, Inc. (MC–149081), and Surburban Transit Corp. (MC–115116).

In Coach USA, Inc.—Control Exemption—American Sightseeing Tours, Inc.; California Charters, Inc.; Texas Bus Lines, Inc.; Gulf Coast Transportation, Inc.; and K–T Contract Services, Inc., STB Finance Docket No. 33073 (STB served Nov. 8, 1996), Coach was exempted from the prior approval requirements of 49 U.S.C. 14303(a)(5) to acquire control of American Sightseeing Tours, Inc., d/b/a ASTI (MC–252353), California Charters, Inc. (MC–241211), Texas Bus Lines, Inc. (MC–37640), Gulf Coast Transportation, Inc., d/b/a Gray Line Tours of Houston (MC–201397), and K–T Contract Services, Inc. (MC–218583).

In Coach USA, Inc.—Control Exemption—Progressive Transportation, Inc.; Powder River Transportation Services, Inc.; Worthen Van Service, Inc.; and PCSTC, Inc., STB Finance Docket No. 33343 (STB served May 15, 1997), Coach was exempted from the prior approval requirements of 49 U.S.C. 14303(a)(5) to acquire control of Progressive Transportation Services, Inc. (MC–247074), Powder River Transportation Services, Inc. (MC–161531), Worthen Van Service, Inc. (MC–142573), and PCSTC, Inc., d/b/a Pacific Coast Sightseeing/Gray Line of Anaheim-Los Angeles (MC–184852).

In Coach USA, Inc.—Control Exemption—Airport Bus of Bakersfield; Antelope Valley Bus, Inc.; Desert Stage Lines, Inc.; Bayou City Coaches, Inc.; Kerrville Bus Company, Inc.; Red & Tan Charter, Inc.; Red & Tan Tours, Inc.; and Rockland Coaches, Inc., STB Finance Docket No. 33377 (STB served May 15, 1977), Coach was exempted from the prior approval requirements of 49 U.S.C. 14303(a)(5) to acquire control of Airport Bus of Bakersfield (MC–163191), Antelope Valley Bus, Inc. (MC–125057), Desert Stage Lines, Inc. (MC–140919), Bayou City Coaches, Inc. (MC–245246), Kerrville Bus Company, Inc. (MC–27530), Red & Tan Charter, Inc. (MC–204842), Red and Tan Tours (MC–162174), and Rockland Coaches, Inc. (MC–29890).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB No. MC–F–20909]

East West Resort Express, LLC—Control—Resort Express, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance application.

SUMMARY: East West Resort Express, LLC (East West), a noncarrier in control of Colorado Mountain Express (CME), and Resort Express, Inc. (REI) jointly seek approval under 49 U.S.C. 14303(a)(5) for East West to acquire control, through purchase, of the assets and properties of REI, together with certain leases of motor vehicle equipment, and to assume certain liabilities of REI. In addition, Harry H. Frampton, III, John C. Goff, Gerald W. Haddock, and Charles I. Madison (collectively, the Control Persons) have joined in the application for approval under 49 U.S.C. 14303(a)(5) as persons in control, either through ownership, management, or the right to control management, of both REI and CME. Persons wishing to oppose the transaction must follow the rules at 49 CFR 1182, subpart B. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action. If opposing comments are timely filed, this tentative grant of authority will be deemed vacated, and the Board will consider the comments and any replies and will issue a further decision on the application.

DATES: Unless opposing comments are filed, this notice will be effective July 7, 1997. Comments are due by July 7, 1997 and, if any are filed, applicants may reply by July 22, 1997.

ADDRESSES: Send an original and 10 copies of comments referring to STB No. MC–F–20909 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, Room 713, 1925 K Street, N.W., Washington, DC 20423–0001. Also, send one copy of comments to applicants' representatives: Thomas J. Burke, Jr., 1625 Broadway, Suite 1600, Denver, CO 80202; and Lee E. Lucero, 651 Chambers Road, Suite 203, Aurora, CO 80011–7127.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Approval of the transaction is required under 49 U.S.C. 14303(a)(5) because East West controls CME, a motor common carrier, through its relationship to the Control Persons and its affiliations with following entities: East West Resorts Transportation, LLC, East West Resorts Transportation II, LLC, HF Holding Corp., Crescent Development Management Corp., and East West Resorts Management II, LLC.

REI (MC–181367), a motor common carrier of passengers, holds regular route interstate and intrastate operating rights authorizing operations between: (1) Denver International Airport at or near Denver, CO, and Breckenridge, CO, and various Colorado ski resorts; (2) Copper Mountain ski resort and Avon, CO; and (3) Cheyenne, WY, and Albuquerque,

NM, and Denver, CO; (4) Walsenburg, CO, and Santa Fe, NM; and (5) Raton, NM, and Taos, NM.

CME (MC–169174),[1] a motor common carrier of passengers, holds interstate and intrastate operating rights authorizing: (a) charter and special operations within CO; and (b) regular route service between Denver and Grand Junction and Aspen, CO.

Applicants state that the aggregate gross operating revenues conducted by REI and CME, for the 12-month period that ended on December 31, 1996, exceeded $2 million. They assert that the proposed transaction will not affect competition in the involved market because REI and CME do not compete materially in the same territory. They state that the availability of needed capital and management expertise from East West will improve REI's ability to meet the needs of the traveling public in the area. Additionally, applicants state that the transaction's total fixed charges are approximately $4.9 million, and East West anticipates offering employment to all of REI's employees.

REI holds a satisfactory safety rating from the U.S. Department of Transportation. Applicants certify that: (1) they have sufficient insurance to cover the services they intend to offer; (2) no party to the transaction is either domiciled in Mexico or owned or controlled by persons of that country; and (3) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction that we find consistent with the public interest, taking into consideration at least: (1) the effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result from the proposed transaction; and (3) the interest of carrier employees affected by the proposed transaction. We find, based on the application, that the proposed transaction is consistent with the public interest and should be authorized.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. This notice will be effective on July 7, 1997, but will be deemed vacated if opposing comments are filed on or before that date.

3. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Office of Motor Carriers-HIA 30, 400 Virginia Avenue, SW, Suite 600, Washington, DC 20024; and (2) the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: May 15, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13633 Filed 5–22–97; 8:45 am]

BILLING CODE 4915–00–P

[1] CME holds certificates of public convenience and necessity issued to CME's predecessor, Colorado Mountain Express Investors Inc., formerly known as Colorado Mountain Express, Inc., in Docket No. MC–169174 and subnumbers thereunder. In Airport Shuttle Colorado, Inc.-Control-Aspen Limousine Service, Inc., d/b/a Vans To Vail, Inc., Docket No. MC–F–20786 (ICC served Dec. 19, 1995), CME acquired certificates issued to Airport Shuttle Colorado, Inc., in Docket No. MC–174332 and subnumbers thereunder. In Colorado Mountain Express, Inc., and Airport Shuttle Colorado, Inc., d/b/a Aspen Limousine Service, Inc.—Consolidation and Merger—Colorado Mountain Express, STB No. MC–F–20902 (STB served Nov. 27, 1996), CME's predecessor, Colorado Mountain Express Investors, Inc., was authorized to be merged into CME.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–471 (Sub–No. 1X)]

South Kansas and Oklahoma Railroad, Inc.—Abandonment Exemption—in Neosho and Wilson Counties, KS

South Kansas and Oklahoma Railroad, Inc. (SKO) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 19-mile portion of its line of railroad between milepost 130.0, near Chanute, and milepost 149.0, near Fredonia, in Neosho and Wilson Counties, KS. The line traverses United States Postal Service Zip Codes 66720, 66714, 66726 and 66710.

SKO has certified that: (1) no local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 22, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29[3] must be filed by June 2, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by June 12, 1997, with: Office of the Secretary, Case Control Unit, Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Karl Morel, Ball Janik LLP, 1455 F St., N.W., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

SKO has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by May 28, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Service Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] 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).

[3] The Board will accept late-filed trail use requests as long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), SKO shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by SKO's filing of a notice of consummation by May 23, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: May 15, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–13632 Filed 5–22–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6468

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6468, How to Prepare Media Label for Form W–4.

DATES: Written comments should be received on or before July 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: How to Prepare Media Label for Form W–4.

OMB Number: 1545–0410.

Form Number: Form 6468.

Abstract: Internal Revenue Code section 3402 requires all employers making payment of wages to withhold tax on such payments. Employers are further required under regulation section 31.3402(f)(2)-1(g) to submit certain withholding certificates (Form W–4) to the Internal Revenue Service. Form 6468 is sent to employers who prefer to file this information on magnetic tape.

Current Actions: The IRS media label, Form 6469, has been eliminated. Filers will prepare their own pressure sensitive label containing the required information specified in Form 6468.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, not-for-profit institutions, farms, and Federal, state, local or tribal governments.

Estimated Number of Respondents: 400.

Estimated Time Per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 33.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–13681 Filed 5–22–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040A and Schedules 1,2,3, and EIC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040A and Schedules 1,2,3, and EIC, U.S. Individual Income Tax Return.

DATES: Written comments should be received on or before July 22, 1997, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Individual Income Tax Return.

OMB Number: 1545–0085.

Form Number: 1040A and Schedules 1,2,3, and EIC.

Abstract: This form is used by individuals to report their income subject to income tax and to compute their correct tax liability. The data are used to verify that the income reported on the form is correct and are also for statistics use.

Current Actions: Changes to Form 1040A.

(1) Lines 15 a and b were combined to reduce taxpayer burden. The new spousal IRA rules permit the maximum contribution for each spouse, so it is no longer necessary to know how much was contributed to each. As a result, the total adjustments line, line 15c, was deleted. Also, the IRA worksheets in the instructions were substantially shortened and simplified.

(2) New line 24c was added for taxpayers to take the adoption credit.

(3) On Schedule 2, lines 2 and 3 were deleted and new line 2 was added to enable taxpayers to separately report expenses paid for each qualifying person as required by Internal Revenue Code section 21(e)(10).

(4) Line 21 was deleted and new line 23 was added for taxpayers to report dependent care benefits separately as required by Code section 21(e)(10).

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 26,156,366.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 220,051,514.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: May 16, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–13682 Filed 5–22–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF VETERANS AFFAIRS

Fund Availability Under the VA Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs.

ACTION: Notice; extension of time for submitting grant applications.

SUMMARY: In a document published in the **Federal Register** on April 2, 1997, the Department of Veterans Affairs announced the availability of funds for applications for assistance under the grant component of VA's Homeless Providers Grant and Per Diem Program. This Notice contained information concerning the program, application process and amount of funding available. The Notice stated that the application for grants were to be submitted to the VA's Mental Health Strategic Healthcare Group by May 15, 1997. This document extends the time for submitting applications to June 12, 1997. This extension is made because a number of entities have complained that they need more time to complete their applications.

DATES: An original completed and collated grant application (plus three collated copies) for assistance under the VA Homeless Providers Grant and Per Diem Program must be received in Mental Health Strategic Healthcare Group, Washington, DC, by 5:00 PM Eastern Time on June 12, 1997. Applications may not be sent by facsimile (FAX). In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their material to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR A COPY OF THE APPLICATION PACKAGE, CONTACT: Veterans Industries, 10770 N. 46th Street (A 400), Tampa, FL, 33617–3465; (813) 228–2871 (this is not a toll-free call). For a document relating to the VA Homeless Providers Grant and Per Diem Program, see the final rule codified at 38 CFR Part 17.700.

SUBMISSION OF APPLICATION: An original completed and collated grant application (plus three copies) must be submitted to the following address: Mental Health Strategic Healthcare Group (116), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420. Applications must be received in the Mental Health Strategic Healthcare Group by the application deadline.

FOR FURTHER INFORMATION CONTACT: Roger Casey, Theresa Hayes, or Victor Harris, VA Homeless Providers Grant and Per Diem Program, Mental Health Strategic Healthcare Group (116), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 273–8442/8445/8443 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on April 2, 1997 (62 FR 15748), VA published a Notice announcing the availability of funds for assistance under VA's Homeless Providers Grant and Per Diem Program. This program is authorized by Public Law 102–590, the Homeless Veterans Comprehensive Service Programs Act of 1992. Funding applied for under this Notice may be used for: (1) Remodeling or alteration of existing buildings; (2) acquisition of buildings, acquisition and rehabilitation of buildings; (3) new construction. Applicants may apply for more than one type of assistance.

Grant applicants may not receive assistance to replace funds provided by any state or local government to assist homeless persons. For existing projects, VA will fund only the portion of the project that will house the new program or new component of an existing program. A proposal for an existing project that seeks to shift its focus by changing the population to be served or the precise mix of services to be offered is not eligible for consideration. No more than 25 percent of services available in projects funded through this grant program may be provided to clients who are not receiving those services as veterans.

Authority

VA's Homeless Providers Grant and Per Diem Program is authorized by Sections 3 and 4 of Public Law 102–590, the Homeless Veterans Comprehensive Service Programs Act of 1992 (38 U.S.C. 7721 note) and has been extended through fiscal year 1997 by Public Law 104–110. The program is implemented by the final rule codified at 38 CFR Part 17.700. The final rule was published in

the **Federal Register** on June 1, 1994 and February 25, 1995. Funds made available under this Notice are subject to the requirements of those regulations.

Allocation

Approximately $3.3 million is available for the grant component of this program.

Application Requirements

The specific grant application requirements will be specified in the application package. The package includes all required forms and certifications. Conditional selections will be made based on criteria described in the application. Applicants who are conditionally selected will be notified of the additional information needed to confirm or clarify information provided in the application. Applicants will then have one month to submit such information. If an applicant is unable to meet any conditions for grant award within the specified time frame, VA reserves the right to not award funds and to use the funds available for other components of the Grant and Per Diem Program.

Dated: May 19, 1997.

Jesse Brown,

Secretary of Veterans Affairs.

[FR Doc. 97–13595 Filed 5–22–97; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday
May 23, 1997

Part II

Department of Housing and Urban Development

Public and Indian Housing Drug Elimination Program; Funding Availability—FY 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4181–N–01]

Public and Indian Housing Drug Elimination Program; Notice of Funding Availability—FY 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Public and Indian Housing Drug Elimination Program Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: This NOFA announces HUD's FY 1997 funding of $250,649,052 under the Public and Indian Housing Drug Elimination Program (PHDEP) for use in reducing/eliminating drug-related crime. Hereafter, the term housing authority (HA) shall include public housing agencies (PHAs) and Indian housing authorities (IHAs).

In the body of this document is information concerning the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, financial requirements, management, and application processing, including how to apply, how selections will be made, and how applicants will be notified of results.

DATES: Applications must be received at the local HUD Field Office on or before *Friday, August 8, 1997, at 3:00 pm, local time*. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by any unanticipated or delivery-related problems. A FAX is not acceptable.

ADDRESSES:

(a) *Application Kit:* An application kit may be obtained, and assistance provided, from the local HUD Field Office with delegated public housing responsibilities over an applying public housing authority, or from the Area Offices of Native American Programs (AONAPs) having jurisdiction over an Indian housing authority making an application, or by calling HUD's Drug Information and Strategy Clearinghouse (DISC) on (800) 578–3472. The application kit contains information on all exhibits and certifications required under this NOFA. Applicants requiring additional information may use the funding cross-reference under HUD's Business and Community Partner HomePage on the Internet's World Wide Web (http://www.hud.gov/bushome.HTML).

(b) *Application Submission:* An applicant shall submit only one application per housing authority under each NOFA. Joint applications are not permitted under this program with the following exception: housing authorities under a single administration (such as housing authorities managing another housing authority under contract or housing authorities sharing a common executive director) shall submit a single application, even though each housing authority has its own operating budget. Applications *(Original and Three Identical Copies of the Original Application)* must be received by the deadline at the local HUD Field Office with responsibilities over the applying public housing authorities, Attention: Director, Office of Public Housing or, in the case of Indian housing authorities, to the local HUD Administrator, AONAPs with jurisdiction over the applying Indian housing authorities, as appropriate. A complete listing of these offices is provided in Appendix ''A'' of this NOFA. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline date of *Friday, August 8, 1997, at 3:00 pm, Local Time, Will Not be Considered*.

FOR FURTHER INFORMATION CONTACT: For questions concerning the PHDEP contact: the local HUD Field Office, Director, Office of Public Housing or the National Office of Native American Programs (NONAPs)/local Administrator, AONAPs (Appendix ''A'' of this NOFA), HUD's DISC on (800) 578–3472 and/or Malcolm (Mike) E. Main in the Office of Crime Prevention and Security, Office for Community Relations and Involvement, Office of Public and Indian Housing, Room 4112, on (202) 708–1197, extension 4232.

For questions concerning the Federally Assisted Housing Low-Income Housing Drug Elimination Program (AHDEP), and/or other Federally Assisted Housing Low-Income Housing programs contact Michael E. Diggs, Office of Multifamily Housing Programs, Office of Housing, Room 6130 on (202) 708–0614, extension 2514. A separate NOFA will be published by the Office of Multifamily Housing Programs, Office of Housing for AHDEP and other programs. The address for the above Headquarters persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. Hearing-or-speech impaired persons may call (800) 877–8339. (Federal Information Relay Service TTY). Except for the ''800'' number, these telephone numbers are not toll-free.

SUPPLEMENTARY INFORMATION:

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

The related NOFAs HUD is publishing elsewhere in this issue of the **Federal Register** are: the Federally Assisted Housing Drug Elimination NOFA, the Drug Elimination Technical Assistance NOFA, and the Safe Neighborhoods Grants NOFA.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. Additional steps on NOFA coordination may be considered for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

Coordination With Local Law Enforcement Agencies

In addition to working closely with residents and local governing bodies, it

is critically important that housing authorities establish ongoing working relationships with Federal, State and local law enforcement agencies in their efforts to address crime and violence in and around their housing developments. The Department firmly believes that the war on crime and violence in public and Indian housing can only be won through the concerted and cooperative efforts of housing authorities and law enforcement agencies working together in cooperation with housing authority residents and local governing bodies. As such, the Department expects housing authorities to demonstrate in their PHDEP grant applications and anti-crime plans how they propose to establish or enhance their working relationships and cooperation with law enforcement agencies.

Under the revised Public Housing Management Assessment Program (PHMAP) published on December 30, 1996 (61 FR 68894), Indicator #8, Security, calls for housing authorities to establish cooperative systems for tracking crime and reporting incidents of crime to police authorities to improve law enforcement and crime prevention. The Department encourages housing authorities participating in PHDEP to not only establish and implement such systems, but to engage in ongoing dialogue and special cooperative efforts with their local law enforcement agencies as a means of developing and putting into effect needed anti-crime initiatives at housing developments.

Operation Safe Home

Operation Safe Home was announced jointly by Vice President Albert Gore, former HUD Secretary Henry G. Cisneros, former Treasury Secretary Lloyd Bentsen, Attorney General Janet Reno, and representatives of the Office of National Drug Control Policy (ONDCP) at a White House briefing on February 4, 1994. Operation Safe Home is a major Departmental initiative focusing on violent and drug-related crime within public housing authorities. As such, it is a holistic enforcement approach which combines aggressive law enforcement interdiction efforts with a housing authority's crime prevention and intervention initiatives. Operation Safe Home is structured to combat the level of violent crime activities occurring within public and assisted housing, and enhance the quality of life within such complexes via three simultaneous approaches:

—Strong, collaborative law enforcement efforts focused on reducing the level of violent crime activities occurring within public and assisted housing;
—Collaboration between law enforcement agencies and public housing managers and residents in devising methods to prevent violent crime; and
—The introduction of HUD, DOJ and other agency initiatives specifically geared to preventing crime.

For more information on Operation Safe Home, contact Lee Isdell, Office of the Inspector General, Department of Housing and Urban Development, Room 8256, 451 Seventh Street, SW., Washington, DC. 20410, telephone (202) 708–0430, fax number (202) 401–2505, Internet E:mail www.hud.gov./oig/oigindex.html. A telecommunications device for hearing or speech impaired persons (TDD) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

Operation Weed and Seed

Operation Weed and Seed, conducted through the U.S. Department of Justice, is a comprehensive, multi-agency approach to combatting violent crime, drug use, and gang activity in high-crime neighborhoods. The goal is to ''weed out'' crime from targeted neighborhoods and then to ''seed'' the targeted sites with a wide range of crime and drug prevention programs, and human services agency resources to prevent crime from reoccurring. Operation Weed and Seed further emphasizes the importance of community involvement in combatting drugs and violent crime. Community residents need to be empowered to assist in solving crime-related problems in their neighborhoods. In addition, the private sector needs to get involved in reducing crime. All of these entities, Federal, State, and local government, the community and the private sector should work together in partnership to create a safer, drug-free environment.

The Weed and Seed strategy involves four basic elements:

Law enforcement must ''weed out'' the most violent offenders by coordinating and integrating the efforts of Federal, State, and local law enforcement agencies in targeted high-crime neighborhoods. No social program or community activity can flourish in an atmosphere poisoned by violent crime and drug abuse.

Local municipal police departments should implement community policing in each of the targeted sites. Under community policing, law enforcement should work closely with the housing authority and residents of the community to develop solutions to the problems of violent and drug-related crime. Community policing serves as a ''bridge'' between the ''weeding'' (law enforcement) and ''seeding'' (neighborhood revitalization) components.

After the ''weeding'' takes place, law enforcement and social services agencies, the private sector, and the community must work to prevent crime and violence from reoccurring by concentrating a broad array of human services—drug and crime prevention programs, drug treatment, educational opportunities, family services, and recreational activities—in the targeted sites to create an environment where crime cannot thrive.

Federal, State, local, and private sector resources must focus on revitalizing distressed neighborhoods through economic development and must provide economic opportunities for residents.

For further information on Operation Weed and Seed, contact the U.S Department of Justice, Office of Justice Programs, 366 Indiana Avenue, Room 304S, N.W., Washington, D.C., 20531 on (202) 616–1152, FAX number: (202) 616–1159, or Internet E:mail: mcwhorte@ojp.usdoj.gov.

Specific activities undertaken pursuant to Operation Safe Home and Operation Weed and Seed may be eligible for PHDEP funding if they meet the funding criteria outlined in this NOFA. All activities must relate to one of the four selection criteria. Selection Criterion 4, in section I.(d)(4) of this NOFA, below, identifies areas of collaboration between applicants and Federal, State, Tribal and local law enforcement agencies.

In this FY 1997 NOFA, the Department is focusing attention on three specific characteristics of the PHDEP program. First, the PHDEP program has proven to be one of the Department's most successful tools in assisting housing authorities in leveraging commercial, cash, non-profit and other local government resources for the purpose of reducing or eliminating drug-related crime. One of the other important characteristics of the PHDEP is that a large number of PHDEP activities are implemented in community facilities that are owned and operated by housing authorities. Finally, HUD wants to emphasize that a comprehensive anti-crime strategy in housing authorities should include effective administration of housing authority screening, leasing and eviction policies. Bearing these issues in mind, housing authorities applying for PHDEP funds are strongly encouraged:

- To use PHDEP resources to establish collaborative relationships with, and increase over and above existing levels, the efforts of local

municipal police departments and/or other law enforcement agencies, local social and/or religious organizations, and other public and private nonprofit organizations who provide community-wide services to offer substance abuse prevention, intervention, treatment, aftercare, education, assessment, and referral programs and services.

• To include in their comprehensive anti-crime strategies a discussion of how the proposed PHDEP drug and crime prevention activities will be coordinated with larger Empowerment and Enterprize Zone strategies and Welfare Reform efforts, especially in the areas of training and employment of PHA residents. The PHDEP application may include specific opportunities for resident employment and training with such activities as contracting or hiring of residents as security guard personnel, housing authority police officers, and for referrals to employment and training opportunities. The applicant must demonstrate how the employment and training qualifies as an eligible activity. PHDEP applicants should coordinate with Federal, Tribal, State and local agencies to increase employment and training opportunities for low-income residents, and thereby decrease drug-related crime. Many communities are already developing and providing such services, and housing authorities are strongly encouraged to provide community facility space to allow the provision of these services for residents living ''in and around'' public and Indian housing authorities.

• To increase the use of housing authority community facilities, and bring back a community focus to housing authority properties. Expenses related to community policing; police mini-stations; and resident training, substance abuse prevention, intervention, treatment, structured aftercare, and other human resources programs that comply with the requirements of this program *Are Eligible Program Expenses.* The Department encourages applicants to use housing authority community facilities in all eligible PHDEP activities. Community policing, resident training, substance abuse prevention, intervention and treatment (dependency, structured aftercare, and support systems) are all activities most effectively implemented in housing authority community facilities. While all PHDEP activities must be carried out ''in and around'' housing authorities, often the use of the community facilities is taken for granted, and not considered when planning effective implementation of PHDEP activities. The Department encourages applicants to consider current and future use of their community facilities for eligible activities, and to incorporate a strategy regarding facilities for on-site service delivery.

• As applicable, to incorporate ''One Strike and You're Out'' elements in applications to ensure PHAs have available the broadest range of tools for making and maintaining a safe residential community. ''One Strike and You're Out'' activities in applications may be eligible program expenses but to qualify as eligible activities, they must be included in the plan to address the crime problem in public housing developments required under Selection Criterion 2 in section I.(d)(2). Factors related to the One Strike initiative, such as screening applicants and lease enforcement, are examined under Selection Criterion 3 in section I.(d)(3) of this NOFA. As a part of the Public Housing Management Assessment Program (PHMAP), PHA performance will be measured, in part, by PHMAP indicator #8, ''Security'', which was included in the revised PHMAP rule published on December 30, 1996 (61 FR 68894). Any successful, comprehensive anti-crime strategy in public housing should address the elements of the PHMAP security indicator: tracking and reporting crime-related problems, screening applicants, enforcing lease requirements, and stating and achieving anti-crime strategies/goals in appropriate HUD grant programs.

Any application that proposes any of the above activities must relate the activity directly to one or more of the four selection criteria in section I.(d) of this NOFA.

In addition, the Department is very concerned about PHDEP program performance by grantees because of practices such as: lack of implementation of the approved PHDEP grant plan/timetables; inconsistent draw down of funds based upon the approved plan; inadequate tracking and measuring of performance regarding the reduction/elimination of crime in housing authorities and developments(s). With funding of some grantees provided for over seven years, tracking and measuring performance is necessary, and requirements for performance and outcome measurements are outlined in this NOFA. Applicants with previous unsatisfactory PHDEP, or other grant program, performance will be at a disadvantage with respect to the third selection criterion, the capability of the applicant to carry out the plan, at section I.(d)(3), below, of this NOFA.

Paperwork Reduction Act Statement

The information collection requirements contained in this Notice have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2577–0124, which expires October 31, 1999. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

I. Purpose and Substantive Authority

(a) *Authority.* These grants are authorized under Chapter 2, Subtitle C, Title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 *et. seq.*), as amended by section 581 of the National Affordable Housing Act of 1990 (NAHA), approved November 28, 1990, Pub. L. 101–625, and section 161 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992).

(b) *Allocation amounts.* (1) *Fiscal Year 1997 Funding.* The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, (approved September 26, 1996, Pub. L. 104–204), (97 App. Act) appropriated $290 million for the Drug Elimination Program. Of the total $290 million appropriated, $1 million will fund drug information clearinghouse services; $10 million will fund drug elimination technical assistance, contracts and other assistance training, program assessments, and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training); $10 million shall be used in connection with efforts to combat violent crime in public and assisted housing under the Operation Safe Home Program administered by the Inspector General of HUD; and $16.875 million for the Federally Assisted Low-Income Housing Drug Elimination Program, which is administered by the Office of Housing and is made available through a separate NOFA. Additionally, a funding amount of $39,000 in FY 1997 funds is being awarded to the Randolph County Housing Authority, Randolph County, IL, a successful FY 1996 PHDEP grantee which was mistakenly denied this amount in FY 1996 funding for eligible law enforcement activities; $1,524,501 is being awarded to the Chicago Housing Authority, Chicago, IL., which was mistakenly denied this amount in FY 1996 funding for treatment activities; $8,400 is being

awarded to the Tulsa Housing Authority which was incorrectly denied a project expense in its FY 1995 application, and finally $400,100 is being awarded to the Philadelphia Housing Authority, Philadelphia, PA, which was incorrectly denied this amount for an eligible law enforcement expense in its FY 1996 application. In addition, $496,053 of prior PHDEP carryover and recovery program funds will be made available under the FY 1997 PHDEP NOFA. Accordingly, the total funding available, to remain available until expended, for funding under this FY 1997 PHDEP NOFA is $250,649,052. HUD is not funding the Youth Sports Program (YSP) for FY 1997, although YSP-type activities under programs to reduce/eliminate drug activities are eligible program expenses under section I.(c)(6) of this NOFA.

(2) *Maximum Grant Award Amounts.* HUD is distributing grant funds under this NOFA on a national competition basis. Maximum grant award amounts are computed on a sliding scale, using an overall maximum cap, depending upon the number of housing authority units. The unit count includes rental, Turnkey III Homeownership, Mutual Help Homeownership and Section 23 leased housing bond-financed projects, although units in the Turnkey III Homeownership, Mutual Help Homeownership and Section 23 bond-financed programs are counted only if they have not been conveyed. Applicants should note that in determining the unit count for PHA-owned or IHA-owned rental housing, a long-term vacancy unit, as defined in 24 CFR 950.102 or 990.102, is still included in the count. Eligible projects must be covered by an annual contributions contract (ACC) during the period of the grant award. For information and specific guidance regarding PHA/IHA unit count contact the local HUD Field Office; or Headquarters, Joan Dewitt, Director, PIH Finance and Budget Division, on (202) 708–1872, extension 4035, and/or Deborah Lalancette, Director, NONAP, Housing Management on (303) 675–1600, extension 3300.

The maximum grant awards are as follows, although, as discussed below, in section I.(b)(4) of this NOFA (Reduction of Requested Grant Amounts and Special Conditions), the Department may adjust the amount of any grant award. These estimates of the maximum grant awards are based on the amount of funds available in FY 1997.

For housing authorities with 1–1,250 units: The *Minimum* grant award amount is $50,000 or a *Maximum* grant award cap of $300.00 per unit;

For housing authorities with 1,251–24,999 units: The *Maximum* grant award is a maximum grant award cap of $260.00 per unit;

For housing authorities with 25,000–49,999 units: The *Maximum* grant award is a maximum grant award cap of $230.00 per unit; and

For housing authorities with 50,000 or more units: The *Maximum* grant award is a maximum cap of $200.00 per unit; up to, but not to exceed, a *Maximum* grant award of $35 million.

An applicant shall not apply for more funding than is permitted in accordance with the maximum grant award amount as described above. Any application requesting funding that exceeds the maximum grant award amount permitted will be rejected and will not be eligible for any funding unless a computational error was involved in the FY 1997 PHDEP funding request. Section IV of this NOFA provides guidance regarding curable and noncurable deficiencies in the application. A computational error will be considered a curable deficiency in the application. Section III.(d) (Checklist of Application Requirements) of this NOFA requires applicants to compute the maximum grant award amount for which they are eligible. In accordance with sections I.(b)(2)(i) through (iii) of this NOFA, applicants are required to validate/confirm the housing authorities unit count with the local HUD Field Office prior to submission of the application. The amount computed in this way must be compared with the dollar amount requested in the application to make certain the amount requested does not exceed the maximum grant award. Units identified after the application deadline date will not be accepted as part of the unit count.

(3) *Reallocation.* All awards will be made to fully fund an application, except as provided in section I.(b)(4) of this NOFA (Reduction of Requested Grant Amounts and Special Conditions) below.

(4) *Reduction of Requested Grant Amounts and Special Conditions.* HUD may approve an application for an amount lower than the amount requested, withhold funds after approval, take other remedies that may be legally available, and/or the grantee will be required to comply with special conditions added to the grant agreement, in accordance with 24 CFR 85.12 (PHAs), and 24 CFR 950.135 (IHAs) as applicable, and the requirements of this NOFA, or where:

(i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;

(ii) The application does not otherwise meet applicable cost limitations established for the program;

(iii) The applicant has requested an ineligible activity;

(iv) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;

(v) The applicant failed under previous PHDEP grants to drawdown grant funds according to its plan, budget, and timetable, and/or failed to submit HUD required performance and financial reports in a timely manner. In addition, reports did not demonstrate satisfactory outcomes that reduced/eliminated drug-related crime; or

(vi) The applicant has demonstrated an inability to manage other HUD grants.

(c) *Eligibility.* Funding under this NOFA is available only for housing authorities. Although section 161 of the Housing and Community Development Act of 1992 (Pub. L. 102–550, approved October 28, 1992) makes public housing resident management corporations (RMCs) eligible for PHDEP funding, the 97 App. Act limited the funds appropriated ''for grants to public and Indian housing agencies.'' RMCs may continue to receive funding from housing authority grantees, as sub-grantees, to develop security programs and substance abuse prevention programs involving site residents as they have in the past. The Department has determined that the term ''in or around'' means within, or adjacent to, the physical boundaries of a public or Indian housing development. The effect of this definition is to make certain that program funds and program activities are targeted to benefit, as directly as possible, the residents of public and Indian housing developments, the intended beneficiaries of the program under the authorizing statute. The definition is also consistent with, but not as strictly limited as, the use of ''around'' in Federal criminal law, which makes it a Federal crime to dispense drugs within 1,000 feet of public housing property. An application for funding under this program may be for one or more of the eligible activities. Every application must describe how the proposed activities relate to the selection criteria in Section I.(d), below, of this NOFA, and how the proposed activities will reduce or eliminate drug-related crime. Concerning the definition of ''drug-related crime'', the 97 App. Act provides that the term ''drug-related crime'', as defined in 42 U.S.C.

11905(2), shall also include other types of crime as determined by HUD. Accordingly, for purposes of this NOFA, the term ''drug-related crime'' as defined in 42 U.S.C. 11905(2) shall also include other crimes as reported under the FBI's Uniform Crime Reporting Program (UCR) system. These crimes are divided into two sections, Part I and Part II crimes. Part I crimes are: criminal homicide, forcible rape, robbery, aggravated assault (to include domestic violence—use of a weapon or by means likely to produce death or great bodily harm), burglary-breaking or entering, larceny-theft (except motor vehicle theft), motor vehicle theft, and arson. Part II crimes are other assaults, forgery and counterfeiting, fraud, embezzlement, vandalism, weapons (carrying, possessing), prostitution and commercialized vice, sex offenses (except forcible rape, prostitution and commercialized vice), drug abuse violations, gambling, offenses against the family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, all other offenses, suspicion, and offenses related to curfew and loitering laws and runaways.

The following is a listing of eligible activities under this program and guidance as to their parameters:

(1) *Employment of Security Personnel.* Employment of security personnel *is permitted* under this section. Employment of security personnel is divided into two categories: Security personnel services, and housing authority police departments.

(i) *General requirements.* The following requirements apply to all employment of security personnel activities funded under this NOFA:

(A) *Compliance.* Security guard personnel and public housing authority police departments funded by this NOFA must meet, and demonstrate compliance with, all relevant Federal, State, Tribal or local government insurance, licensing, certification, training, bonding, or other similar law enforcement requirements.

(B) *Law enforcement service agreement.* The applicant and the local law enforcement agency, and if relevant, the contract provider of security personnel services, are required to enter into a law enforcement service agreement, in addition to the housing authority's cooperation agreement, that describes the following:

(*1*) The activities to be performed by security guard personnel or the public housing authority police department; the scope of authority, written policies, procedures, and practices that will govern security personnel or public housing authority police department performance (i.e., a policy manual as described in section I.(c)(1)(i)(C), below, of this NOFA); and how security guard personnel or the public housing authority police department shall coordinate activities with the local law enforcement agency;

(*2*) The types of activities that the approved security guard personnel or the public housing authority police department are expressly prohibited from undertaking.

(C) *Policy manual.* Security guard personnel services and public housing authority police departments funded under this NOFA shall be guided by a policy manual that directs the activities of its personnel and contains the policies, procedures, and general orders that regulate conduct and describe in detail how jobs are to be performed. The policy manual must exist before execution of the grant agreement. The housing authority shall ensure all security guard personnel and housing authority police officers are trained, at a minimum, in the following areas that must be covered in the policy manual: use of force, resident contacts, enforcement of HA rules, response criteria to calls, pursuits, arrest procedures, reporting of crimes and workload, feedback procedures to victims, citizens' complaint procedures, internal affairs investigations, towing of vehicles, authorized weapons and other equipment, radio procedures internally and with local police, training requirements, patrol procedures, scheduling of meetings with residents, reports to be completed, record keeping and position descriptions on all personnel, post assignments, monitoring, and self-evaluation program requirements.

(D) *Data management.* A daily activity and incident complaint form approved by the housing authority must be used by security personnel and officers funded under this NOFA for the collection and analysis of criminal incidents and responses to service calls. Security guard personnel and housing authority police departments funded under this NOFA must establish and maintain a system of records management for the daily activity and incident complaint forms that appropriately ensures the confidentially of personal criminal information. Management Informational Systems (MIS) (computers, software, and associated equipment) and management personnel in support of these activities are eligible for funding.

(ii) *Security Personnel Services.* Contracting for, or direct housing authority employment of, security personnel services in and around housing development(s) *is Permitted* under this program. Contracts for security personnel services must be awarded on a competitive basis.

(A) *Eligible services—over and above.* Security guard personnel funded by this program must perform services that are over and above those usually performed by local municipal law enforcement agencies on a routine basis. Eligible services may include patrolling inside buildings, providing personnel services at building entrances to check for proper identification, or patrolling and checking car parking lots for appropriate parking decals.

(B) *Employment of residents.* Housing authorities *are Permitted* and encouraged to demonstrate in plans the employment of qualified resident(s) as security guard personnel, and/or to contract with security guard personnel firms that demonstrate in a proposed contract a program to employ qualified residents as security guard personnel. An applicant's program of eliminating drug-related crime should promote ''welfare to work'' in housing authorities and development(s).

(iii) *Employment of Personnel and Equipment for HUD Authorized Housing Authority Police Departments.* Funding for equipment and employment of housing authority police department personnel *is Permitted* for housing authorities that already have their own public housing authority police departments. The below-listed eleven (11) housing authorities have been identified by HUD as having eligible public housing police departments/agencies under the FY 1997 PHDEP:

Baltimore Housing Authority and Community Development, Baltimore, MD
Boston Housing Authority, Boston, MA
Buffalo Housing Authority, Buffalo, NY
Chicago Housing Authority, Chicago, IL
Cuyahoga Metropolitan Housing Authority, Cleveland, OH
Housing Authority of the City of Los Angeles, Los Angeles, CA
Housing Authority of the City of Oakland, Oakland, CA
Philadelphia Housing Authority, Philadelphia, PA
Housing Authority of the City of Pittsburgh, Pittsburgh, PA
Waterbury Housing Authority, Waterbury, CT
Virgin Islands Housing Authority, Virgin Islands

(A) On September 22, 1995, the Department issued Notice PIH 95–58 (Guidelines for Creating, Implementing and Managing Public Housing Authority

Police Departments in Public Housing Authorities). This notice identifies the prerequisites for creating public housing police departments and provides guidance regarding technical assistance to housing authorities to assist in making decisions regarding public housing security, analysis of security needs, and performance measures and outcomes.

(B) Housing authorities that have established their own public housing authority police departments, but are not included on this list, may file a written request to be recognized by the Department as a public housing authority police department by contacting the Office of the Deputy Assistant Secretary for Community Relations and Involvement, Public and Indian Housing, Department of Housing and Urban Development, Room 4126, 451 Seventh Street, SW., Washington, DC 20410. This request must be submitted and approved by the Department prior to the submission of the FY 1997 PHDEP application. Hearing-or-speech impaired persons may call (800) 877–8339. (Federal Information Relay Service TTY.) Except for the ''800'' number, these telephone numbers are not toll-free.

(C) An applicant seeking funding for this activity must describe the current level of local law enforcement agency baseline services being provided to the housing authority/development(s) proposed for assistance. Local law enforcement baseline services are defined as ordinary and routine services provided to the residents as a part of the overall city and county-wide deployment of police resources, to respond to crime and other public safety incidents, including: 911 communications, processing calls for service, routine patrol officer responses to calls for service, and investigative follow-up of criminal activity.

(D) Applicants for funding of housing authority public housing authority police department officers must have car-to-car (or other vehicles) and portable-to-portable radio communications links between public housing authority police officers and local municipal law enforcement officers to assure a coordinated and safe response to crimes or calls for services. The use of scanners (radio monitors) is not sufficient to meet the requirements of this section. Applicants that do not have such links must submit a plan and timetable for the implementation of such communications links, which is an activity eligible for funding. A housing authority funded under the FY 1994, 1995, and/or 1996 PHDEP for public housing police departments shall demonstrate in its plan what progress has been made in implementing its communications links. The Department will monitor results of the housing authority's plan and timetable.

(E) Public housing authority police departments funded under this program that are not employing a community policing concept must submit a plan and timetable for the implementation of community policing. A housing authority funded under the FY 1994, 1995, and/or 1996 PHDEP for public housing police departments shall demonstrate in its plan what progress has been made in implementing its community policing program. The Department will monitor results of the housing authority's plan and timetable.

(*1*) Community policing has a variety of definitions; however, for the purposes of this program, it is defined as follows: Community policing is a method of providing law enforcement services that stresses a partnership among residents, police, schools, churches, government services, the private sector, and other local, State, Tribal, and Federal law enforcement agencies to prevent crime and improve the quality of life by addressing the conditions and problems that lead to crime and the fear of crime.

(*2*) This method of policing involves a philosophy of proactive measures, such as foot patrols, bicycle patrols, motor scooters patrols, KOBAN activities (community police officers who operate through community-based facilities in housing authorities [e.g., community center, police mini station] providing human resource activities as described in section I.(c)(6) of this NOFA with inner-city youth who demonstrate high risk behaviors which can lead to drug-related crime), and citizen contacts. For additional information regarding KOBAN community policing contact Malcolm (Mike) E. Main, (202) 708–1197, extension 4232. This concept empowers police officers at the beat and zone level and residents in neighborhoods in an effort to: Reduce crime and fear of crime; assure the maintenance of order; provide referrals of residents, victims, and the homeless to social services and government agencies; assure feedback of police actions to victims of crime; and promote a law enforcement value system on the needs and rights of residents.

(F) Housing authority police departments funded under this program that are not nationally or state accredited must submit a plan and timetable for such accreditation. Housing authorities may use either their State accreditation program, if one exists, or the Commission on Accreditation for Law Enforcement Agencies (CALEA) for this purpose. Use of grant funds for public housing police department accreditation activities *is permitted*. Housing authorities receiving grants under section I.(c)(1)(iii) of this NOFA (public housing police departments) are required to hire a public housing police department accreditation specialist to manage the accreditation program. Housing authority police departments must submit a plan and timetable in order to be funded for this activity. Any public housing police department funded under the FY 1994, 1995, and/or 1996 PHDEP shall demonstrate in its plan what progress has been made in implementing its accreditation program and the projected date of accreditation. The Department will monitor results of the housing authority's plan and timetable.

(G) Housing authorities that have been identified by HUD in section I.(c)(1)(iii), (public housing police departments) above, of this NOFA as having authorized public housing police departments *are permitted* to use PHDEP funds to purchase or lease any law enforcement clothing or equipment, such as, vehicles, uniforms, ammunition, firearms/weapons, police vehicles; including cars, vans, buses, and protective vests, or any other equipment that supports their crime prevention and security mission. Housing authorities not identified by HUD in Section I.(c)(1)(iii), above, of this NOFA as having an authorized public housing police department *are not permitted to use PHDEP funds* to directly purchase any clothing or equipment for use by local municipal police departments and/or other law enforcement agencies.

(2) *Reimbursement of Local Law Enforcement Agencies for Additional (Supplemental—Over and Above Baseline Services) Security and Protective Services*.

(i) Additional (supplemental) security and protective services *Are Permitted* under this program, but such services must be over and above the local police department's current level of baseline services. Housing authorities are required to identify the level of local law enforcement services that they are required to receive pursuant to their local cooperation agreements, as well as the current level of services being received. For purposes of this NOFA, local police department baseline services are defined as ordinary and routine services, including patrols, police officer responses to 911 communications and other calls for service, and investigative follow-up of

criminal activity, provided to HA residents as a part of the overall deployment of police resources by the local jurisdiction in which the HA is located.

In addition to providing reimbursement to local law enforcement agencies for an increase over current baseline services to housing authorities, funds may be used in a manner consistent with the requirements of this NOFA for the equipment and employment of a local police division or bureau dedicated exclusively to providing law enforcement services (over and above local law enforcement baseline services) to a housing authority. For convenience of reference, the particular eligible activity of the equipment and employment of a local police division or bureau dedicated exclusively to providing law enforcement services (over and above local law enforcement baseline services) to a housing authority is referred to as an HA-dedicated police division/bureau. All of the requirements of this section I.(c)(2) apply to this activity. In addition, specific requirements for an HA-dedicated police division/bureau appear at section I.(c)(2)(viii), below.

(ii) An applicant seeking funding for activities under this section I.(c)(2) of the NOFA must first define the local police department's current level of baseline services to the HA residents. The description of baseline services must include the number of officers and equipment and the actual percent of their time assigned to the housing authority's development(s) proposed for funding. The applicant must then demonstrate in its plan to what extent the proposed funded activity will represent an increase over and above these baseline services.

(iii) Equipment and personnel funded under this NOFA shall be used exclusively for the housing authority's crime prevention and comprehensive security efforts, which must be conducted in connection with the establishment of a law enforcement mini-station facility and/or presence on the funded premises or scattered site developments of the housing authority. Housing authorities are permitted to purchase, but must demonstrate accountability for, communications and security equipment to improve collection, analysis, and use of information about drug-related crime in their development(s), such as surveillance equipment (e.g., Closed Circuit Television (CCTV), software, cameras, monitors, components and supporting equipment), computers accessing national, Tribal, State or local government security networks and databases, facsimile machines, telephone equipment, bicycles, and motor scooters, or other communications and security equipment. The communications and security equipment must be used in connection with the establishment of law enforcement mini-station(s) and/or other law enforcement facility(s) on the funded premises or scattered site developments of the housing authority. The communication and security equipment shall be the property of, and maintained by, the housing authority.

(iv) The local law enforcement agency shall collect its police officer's PHDEP-funded activity (not just hours of work) information for the housing authority. The local law enforcement agency must use a housing authority-approved activity form for the collection, analysis and reporting of activities by officers funded under this NOFA.

(v) Expenditures for activities under this section must not be incurred by the housing authority (grantee) and funds will not be released by the local HUD Field Office until the grantee and the local law enforcement agency execute a contractual agreement, with an operational plan, for the additional (supplemental) law enforcement services. The agreement must state that the funding to be provided by the HA for additional services is over and above the police agency's approved budget and that the PHDEP funds will not be used to replace funds for law enforcement services in the local government's approved budget. The local police department or law enforcement agency shall be reimbursed in accordance with this contractual agreement.

(vi) The Department advocates and strongly encourages local community policing collaborations, between housing authorities and local police departments and agencies, regarding reduction/elimination of drug-related crime to improve safety and security for residents in housing authorities. For additional background on community policing strategy, see the discussion at section I.(c)(1)(iii)(E) of this NOFA.

(vii) The Department advocates and strongly encourages housing authorities to work closely with local police departments to permit the admission to public housing of police officers and other security personnel, whose visible presence may serve as a deterrent to drug-related crime. Section 519 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437a–1) permits housing authorities to allow police officers and other security personnel not otherwise eligible for occupancy to reside in public or Indian housing dwelling units under a plan that will increase security for residents while minimizing both the reduction of available dwelling units and loss of housing authority income. HUD's final rule implementing section 519 is located at subpart E of 24 CFR part 960. For assistance regarding this program, contact the local HUD Field Office and/or the Office of the Deputy Assistant Secretary for Public and Assisted Housing Operations, Linda Campbell, Director, Marketing and Leasing Management Division, (202) 708–0744 and/or Malcolm (Mike) Main, (202) 708–1197, extension 4232.

(viii) *HA-dedicated police division/bureau.* The following additional requirements apply to an application proposing to establish an HA-dedicated police division/bureau, which is a police division or bureau of the local law enforcement agency, consisting of full-time officers, dedicated *exclusively* to providing law enforcement services to a housing authority:

(A) To be an eligible activity for funding under this NOFA, an HA-dedicated police division must first be recognized by HUD. Local governments who wish to establish an HA-dedicated police division must file a written request to be recognized by the Department by contacting the Office of the Deputy Assistant Secretary for Community Relations and Involvement, Public and Indian Housing, Department of Housing and Urban Development, Room 4126, 451 Seventh Street, SW., Washington, DC 20410. This request must be submitted to and approved by HUD prior to the submission of the FY 1997 PHDEP application. Hearing-or-speech impaired persons may call (800) 877–8339. (Federal Information Relay Service TTY.) Except for the ''800'' number, these telephone numbers are not toll-free.

(B) The HA and the local law enforcement agency must have executed a written law enforcement service agreement that includes: a short (up to two years) and long (up to three years) range operational plan that identifies the strategy, number of law enforcement personnel and the equipment that will be dedicated exclusively to providing law enforcement services to the HA's developments; specific performance measurements; procedures for communications and coordination with the housing authority; job descriptions of the officers; and the local government's and the housing authority's roles and responsibilities.

(viii) In order to assist housing authorities to develop and administer relevant, fair, and productive law enforcement service contracts with local

police departments for the delivery of effective security services to the housing authority residents, a sample contract for law enforcement services is provided with the application kit. A sample model law enforcement contract is provided in the application kit and also may be obtained by calling HUD's DISC, on 1–800–578–3472.

(3) *Physical Improvements to Enhance Security.*

(i) Physical improvements that are specifically designed to enhance security *are permitted* under this program. These improvements may include (but are not limited to) the installation of barriers, speed bumps, lighting systems, fences, surveillance equipment (e.g., Closed Circuit Television (CCTV), software, fax, cameras, monitors, components and supporting equipment) bolts, locks; and the landscaping or reconfiguration of common areas so as to discourage drug-related crime in the housing authorities and development(s) proposed for funding.

(ii) An activity cost that is funded under any other HUD program, such as the modernization program at 24 CFR part 968, shall not also be funded by this program. Housing authorities are encouraged to fund physical security improvements under their approved modernization programs whenever possible since the PHDEP program is designed essentially to fund ''soft'' costs rather than ''hard'' costs. The applicant must demonstrate program compliance, accountability, financial and audit controls of PHDEP funds and prevent duplication of funding any activity. Housing authorities shall not co-mingle funds of HUD multiple programs such as: CIAP, CGP, OTAR, ED/SS, TOP, HOPE projects, Family Investment, Elderly Service Coordinator, and Operating Subsidy.

(iii) *Funding is not permitted* for physical improvements that involve the demolition of any units in a development.

(iv) *Funding is not permitted* for any physical improvements that would result in the displacement of persons.

(v) *Funding is not permitted* for the acquisition of real property.

(vi) *Funding is permitted* for purchase or lease of house trailers used for eligible community policing, educational, employment, and youth activities.

(vii) All physical improvements must also be accessible to persons with disabilities. For example, some types of locks, buzzer systems, and doors, are not accessible to persons with limited strength or mobility, or to persons who are hearing impaired. All physical improvements must meet the accessibility requirements of 24 CFR part 8.

(4) *Employment of Investigators.*

(i) Employment of and equipment for one or more individuals *is permitted* under this program to:

(A) Investigate drug-related crime ''in or around'' the real property comprising any housing authority's development(s); and

(B) Provide evidence relating to any such crime in any administrative or judicial proceedings.

(ii) Housing authorities that employ investigators funded by this program must meet and demonstrate compliance with all relevant Federal, Tribal, State or local government insurance, licensing, certification, training, bonding, or other similar law enforcement requirements.

(iii) The housing authority (grantee), and the provider of the investigative services are required to enter into and execute a written agreement that describes the following:

(A) The nature of the activities to be performed by the housing authority investigators, their scope of authority, reports to be completed, established policies, procedures, and practices that will govern their performance (i.e., a Policy Manual as described in section I.(c)(1)(i)(C) of this NOFA) and how housing authority investigators will coordinate their activities with local, State, Tribal, and Federal law enforcement agencies; and

(B) The types of activities that the housing authority investigators are expressly prohibited from undertaking.

(iv) Under this section, reimbursable costs associated with the investigation of drug-related crimes (e.g., travel directly related to the investigator's activities, or costs associated with the investigator's testimony at judicial or administrative proceedings) may only be those directly incurred by the investigator.

(v) Housing authority investigator(s) shall report on drug-related crime and other part I and part II crimes in the housing authority and developments. Housing authorities shall establish, implement and maintain a system of records management that ensures confidentiality of criminal records and information. Housing authority-approved activity forms must be used for the collection, analysis and reporting of activities by housing authority investigators funded under this section. Management Informational Systems (MIS) (Computers, software, hardware, and associated equipment) and management personnel are encouraged and are eligible program expenses in support of a housing authority's crime and workload data collection activity and its crime prevention and security mission.

(vi) *Funding is permitted* for housing authority investigator(s) to use PHDEP funds to purchase or lease any law enforcement clothing or equipment, such as vehicles, uniforms, ammunition, firearms/weapons, or vehicles; including cars, vans, buses, protective vests, and any other supportive equipment, to support the activities of the investigators.

(vii) Expenditures for activities under this section will not be incurred by the housing authority (grantee) and funds will not be released by the local HUD Field Office until the grantee has met all of the above requirements.

(5) *Voluntary tenant patrols.* Active voluntary tenant patrol activities, to include purchase of uniforms, equipment and related training, *are permitted* under this section. For the purposes of this section, the elimination of drug-related crime within and around the housing authority/development(s) requires the active involvement and commitment of residents and their organizations.

(i) The provision of training and equipment (including uniforms) for use by voluntary tenant patrols acting in cooperation with officials of local law enforcement agencies is permitted under this program. Members must be volunteers and must be residents of the housing authority's development(s). Voluntary tenant patrols established under this program are expected to patrol in the housing authority's development(s) proposed for assistance, and to report illegal activities to appropriate housing authority staff, and local, State, Tribal, and Federal law enforcement agencies, as appropriate. Housing authorities are required to obtain liability insurance to protect themselves and the members of the voluntary tenant patrol against potential liability for the activities of the patrol under this program. The cost of this insurance is an eligible program expense.

(ii) The housing authority (grantee) and cooperating local law enforcement agency, and the members of the voluntary tenant patrol are required, prior to expending any grant funds, to enter into and execute a written housing authority/local municipal police department agreement that describes the following:

(A) The nature of the activities to be performed by the voluntary tenant patrol, the patrol's scope of authority, assignment, the established policies, procedures, and practices that will govern the voluntary tenant patrol's

performance and how the patrol will coordinate its activities with the law enforcement agency;

(B) The types of activities that a voluntary tenant patrol is expressly prohibited from undertaking, including, but not limited to, the carrying or use of firearms or other weapons, nightstick, clubs, handcuffs, or mace in the course of their duties under this program;

(C) The initial and follow-up voluntary tenant patrol training the members receive from the local law enforcement agency (training by the local law enforcement agency is required before putting the voluntary tenant patrol into effect); and

(D) Voluntary tenant patrol members must be advised that they may be subject to individual or collective liability for any actions undertaken outside the scope of their authority and that such acts are not covered under a housing authority's liability insurance.

(iii) Uniforms, communication and related equipment eligible for funding under this program shall be reasonable, necessary, justified and related to the operation of the voluntary tenant patrol and must be otherwise permissible under local, State, Tribal, or Federal law.

(iv) Under this program, bicycles, motor scooters, all season uniforms and associated equipment (voluntary tenant patrol uniforms and equipment must be identified with specific housing authority/development(s) identification and markings) to be used, exclusively, by the members of the housing authority's voluntary tenant patrol *are eligible items.*

(v) PHDEP grant funds shall not be used for any type of financial compensation, such as any full-time wages or salaries for voluntary tenant and/or patrol participants. Funding for housing authority personnel or resident(s) to be hired to coordinate this activity is permitted.

(6) *Programs to reduce/eliminate the use of drugs (prevention, intervention, treatment, short/long range structured aftercare and individual support systems*). Programs that reduce/eliminate drug-related crime ''in or around'' the premises of the housing authority/development(s), including substance abuse prevention, intervention, and referral programs, and programs of local social and/or religious and other organizations that provide treatment services [contractual or otherwise] for dependency/remission, and structured aftercare/support system programs, *are permitted* under this program. The applicant must establish a confidentiality policy regarding medical and disability-related information. For purposes of this section, the goals of this program are best served by focusing resources directly upon housing authority residents and families. Successful strategies (best practices) have incorporated substance abuse prevention, intervention and treatment (dependency/remission and short and long term aftercare) activities into a ''continuum of care'' approach that assists persons that are using or are at-risk of using drugs and/or committing drug-related crime by providing alternative activities, such as; education, training and employment development opportunities. The applicant's goal must be to reduce/eliminate drug-related crime through a program designed to provide education, training and employment opportunities for residents. Such programs create a prime opportunity for housing authorities to leverage resources and bring additional Federal, State and local resources into the housing authority community. While housing authorities provide space and other infrastructure, other public or private agencies can provide staff and other resources with limited cost or no cost. Applicants are encouraged to use the PHDEP resources in this fashion. A community-based approach requires a culturally appropriate strategy. Curricula, activities, and staff should address the cultural issues of the local community, which requires familiarity and facility with the language and cultural norms of the community. As applicable, this strategy should discuss cultural competencies associated with Hispanic, African-American, Asian, Native American or other racial or other ethnic communities. Applicants are encouraged to develop a substance abuse/sobriety (remission)/treatment (dependency) strategy to facilitate substance abuse prevention, intervention, treatment, and structured aftercare efforts, that include outreach to community resources, youth activities, and that facilitate bringing these resources onto the premises, or providing resident referrals to treatment programs or transportation to out-patient treatment programs away from the premises. *Funding is permitted* for reasonable, necessary and justified purchasing or leasing (whichever can be documented as the most cost effective) of vehicles for grant administration, resident youth and adult education, and training and employment opportunity activities directly related to reducing/eliminating drug-related crime. Based upon the current Diagnostic and Statistical Manual (DSM) of Mental Disorders, of the American Psychiatric Association dated May 1994, as it applies to substance abuse, dependency and structured aftercare, related activities and programs *are eligible* for funding under this program. For additional information regarding the DSM Manual contact APPI, 1400 K Street, NW., Suite 1100, Washington, DC 20005 on 1 (800) 368–5777 or World Wide Web site at http:\\www.appi.org. *Funding is permitted* for reasonable, necessary and justified program costs, such as meals, beverages and transportation, incurred only for training, education and employment activities, as set forth in OMB Circular A–87, directly related to reducing/eliminating drug-related crime.

(i) *Prevention.* Prevention programs that will be considered for funding under this part should provide a comprehensive prevention approach for the housing authority resident(s) that addresses the individual resident and his or her relationship to family, peers, and the community and that reduces/eliminates drug-related crime. Prevention programs should include activities designed to identify and change the factors present in housing authorities that lead to drug-related crime, and thereby lower the risk of drug usage. Many components of a comprehensive approach, such as refusal and restraint skills training programs or drug, substance abuse/dependency, family counseling, may already be available in the community of the applicant's housing developments.

(A) *Educational Opportunities.* The causes and effects of illegal drug/substance abuse must be discussed in a culturally appropriate and structured setting to educate young people with the working knowledge and skills they need to reject illegal drugs, which has been identified by the Office of National Drug Control Policy as one of the top five goals and objectives to address in their 10-Year Strategy Commitment. Grantees may contract (in accordance with 24 CFR 85.36) with professionals to provide such knowledge and skills with training programs or workshops. The professionals contracted to provide these services shall be required to base their services upon the needs assessment and program plan of the grantee. These educational opportunities may be a part of resident meetings, youth activities, or other gatherings of public and Indian housing residents.

(B) *Family and Other Support Services.* For purposes of this section, the term ''supportive services'' means services to provide housing authority families with access to prevention, educational and employment

opportunities, such as: Child care; employment training; computer skills training; remedial education; substance abuse counseling; assistance in the attainment of certification of high school equivalency; and other services to reduce drug-related crime. In addition, substance abuse and other prevention programs must demonstrate that they will provide directly, or otherwise make available, services designed to distribute substance/drug education information, to foster effective parenting skills, and to provide referrals for treatment and other available support services in the housing development or the community for housing authority families.

(C) *Adult and Youth Services.* Prevention programs must demonstrate that they have included groups composed of young people as a part of their prevention programs. These groups should be coordinated by adults with the active participation of youth to organize youth leadership, sports, recreational, cultural and other activities involving housing authority youth. The dissemination of information designed to reduce drug-related crime, such as, prevention programs, employment opportunities; employment training; literacy training; computer skills training; remedial education; substance abuse and dependency/ remission counseling; assistance in the attainment of certification of high school equivalency; and other appropriate services and the development of peer leadership skills and other prevention activities must be a component of youth services.

(D) *Economic and Educational Opportunities for Resident Adult and Youth Activities.* Prevention programs must demonstrate a capacity to provide housing authority residents the opportunities for interaction with or referral to established higher education or vocational institutions with the goal of developing or building on the residents' skills to pursue educational, vocational and economic goals. Programs such as computer learning centers for both adults and youth, employment service centers coordinated with Federal, Tribal, State and local employment offices, and micro-business centers *are eligible* under this program. The application should demonstrate that the proposed activities will provide housing authority residents the opportunity to interact with private sector businesses in their immediate and surrounding communities for the same desired goals. Economic and educational opportunities for residents and youth activities should be discussed in the context of ''welfare to work'' and related Federal, Tribal, State and local government efforts for employment training, education and employment opportunities related to ''welfare to work'' goals. Limited educational scholarships *are permitted* under this section. No one individual award may exceed $500.00, and there is a total maximum cap scholarship program award of $25,000. Educational scholarship FY 1997 PHDEP funds must be obligated and expended during the term of the grant. The applicant must demonstrate in its plan and timetable the scholarship strategy; the financial and audit controls that will be used; and projected outcomes. Student financial assistance *is permitted* for individual public housing scholarship activities. These activities must be reasonable, necessary and justified.

(ii) *Intervention.* The aim of intervention is to provide housing authority residents' substance abuse/ dependency remission services, and assist them in modifying their behavior and maintaining remission, and in obtaining early substance abuse, treatment and structured aftercare, if necessary.

(iii) *Substance Abuse/Dependency Treatment.*

(A) Treatment funded under this program should be ''in or around'' the premises of the housing authority/ development(s) proposed for funding. The Department has defined the term ''in or around'' to mean within, or adjacent to, the physical boundaries of a public or Indian housing development. The intent of this definition is to make certain that program funds and program activities are targeted to benefit, as directly as possible, public and Indian housing developments, the intended beneficiaries of PHDEP. The goals of this program are best served by focusing its resources directly upon the residents of housing authorities and development(s). The applicant must establish a confidentiality policy regarding medical and disability-related information.

(B) Funds awarded under this program shall be targeted towards the development and implementation of sobriety maintenance, substance-free maintenance support groups, substance abuse counseling, referral treatment services and short or long range structured aftercare, or the improvement of, or expansion of, such program services for housing authority residents.

(C) Each proposed drug program must address, but is not limited to, the following goals:

(*1*) Increase resident accessibility to treatment services;

(*2*) Decrease drug-related crime ''in or around'' the housing authority/ development(s) by reducing and/or eliminating drug use among residents; and

(*3*) Provide services designed for youth and/or adult drug abusers and recovering addicts, e.g., prenatal and postpartum care, specialized family and parental counseling, parenting classes, or other supportive services such as domestic or youth violence counseling.

(D) Independent approaches that have proven effective with similar populations will be considered for funding. Applicants must consider in the overall strategy the following criteria:

(*1*) Formal referral arrangements to other treatment programs in cases where the resident is able to obtain treatment costs from sources other than this program.

(*2*) Family/youth counseling.

(*3*) Linkages to educational and vocational training and employment counseling.

(*4*) Coordination of services from and to appropriate local substance abuse/ treatment agencies, HIV-related service agencies, mental health and public health programs.

(E) As applicable, applicants must demonstrate a working partnership with the Single State Agency or local, Tribal or State license provider or authority with substance abuse program(s) coordination responsibilities to coordinate, develop and implement the substance dependency treatment proposal.

(F) Applicants must demonstrate that counselors (contractual or otherwise) meet Federal, State, Tribal, and local government licensing, bonding, training, certification and continuing training re-certification requirements.

(G) The Single State Agency or authority with substance abuse and dependency programs coordination responsibilities must certify that the proposed program is consistent with the State plan; and that the service(s) meets all Federal, State, Tribal and local government medical licensing, training, bonding, and certification requirements.

(H) *Funding is permitted* for drug treatment of housing authority residents at local in-patient medical (contractual or otherwise) treatment programs and facilities. PHDEP funding for structured in-patient drug treatment under PHDEP funds is limited to 60 days, and structured drug out-patient treatment, which includes individual/family aftercare, is limited to 6 months. The applicant must demonstrate how individuals that complete drug treatment will be provided employment

training, education and employment opportunities related to ''welfare to work,'' if applicable.

(I) *Funding is permitted* for detoxification procedures designed to reduce or eliminate the short-term presence of toxic substances in the body tissues of a patient.

(J) *Funding is not permitted for maintenance drug programs.* Maintenance drugs are medications that are prescribed regularly for a short/long period of supportive therapy (e.g. methadone maintenance), rather than for immediate control of a disorder.

(K) All activities described in this section I.(c)(6) of the NOFA to reduce/eliminate the use of drugs and reduce/eliminate drug-related crime should demonstrate efforts to coordinate with Federal, Tribal, State and local employment training and development services, ''welfare to work'' efforts, or other new ''welfare reform'' efforts related to education, training and employment of housing authority residents receiving Federal, Tribal, State or local assistance, in public and Indian housing authorities/development(s).

(L) *Funding is Permitted* to contractually hire organizations and/or consultant(s) to conduct independent assessments and evaluations of the effectiveness of the PHDEP program.

(7) *Resident management corporations (RMCs), resident councils (RCs), and resident organizations (ROs).* Funding under this program *is permitted* for housing authorities RMCs and incorporated RCs and ROs to develop security and substance abuse prevention programs involving site residents. Such programs may include (but are not limited to) voluntary tenant patrol activities, substance abuse education, intervention, and referral programs, youth programs, and outreach efforts. For the purposes of this section I.(c)(7), the elimination of drug-related crime within housing authorities/developments requires the active involvement and commitment of public housing residents and their organizations. To enhance the ability of housing authorities to combat drug-related crime within their developments, Resident Councils (RCs), Resident Management Corporations (RMCs), and Resident Organizations (ROs) will be permitted to undertake program management functions specified in this part, notwithstanding the otherwise applicable requirements of 24 CFR parts 950 and 964. In order to implement the approved activity, the housing authority shall be the grantee and enter into a sub-contract with the RMC/RC/RO setting forth the amount of funds, applicable terms, conditions, financial controls, payment mechanism schedule, performance and financial report requirements, special conditions, including sanctions for violation of the agreement, and monitoring. Expenditures for activities under this section will not be incurred by the housing authority (grantee) and/or funds will not be released by the local HUD Field Office until the grantee has met all of the above requirements. Activities described in this section of the NOFA should demonstrate efforts to coordinate with Federal, Tribal, State and local employment training and development services, ''welfare to work'' efforts, or other new but related ''welfare reform'' efforts related to education, employment training and employment of housing authority residents receiving Federal, Tribal, State or local assistance.

(8) *FY 1997 PHDEP program performance measurements and outcomes in reducing and eliminating drug-related crime in housing authorities.* HUD will evaluate an applicant's performance under previous PHDEP grant(s). The local HUD Field Office will evaluate the applicant's: financial controls; audit compliance; program performance; drawdown of funds; performance and financial reporting; grant agreement special condition compliance; accomplishment of stated goals and objectives in reducing and eliminating drug-related crime; and program adjustments made in response to previous ineffective and/or unsatisfactory grant performance. If the evaluation discloses a pattern under past PHDEP grants of ineffective or unsatisfactory grant performance with no corrective measures attempted, and with a lack of positive outcomes, it will result in a deduction of points from the FY 1997 PHDEP application under Selection Criterion 3, below. Since this is a competitive program, HUD does not guarantee continued funding of any previously funded PHDEP grant(s) or future PHDEP grants.

(9) *PHA-owned housing.* Funding may be used for the activities described in Sections I.(c)(1) through (7) (eligible activities) of this NOFA, to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted (for example, housing that receives tenant subsidies under Section 8 is federally assisted and would not qualify, but housing that receives only State, Tribal or local assistance would qualify), but only if they meet all of the following:

(i) The housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988; and

(ii) The PHA owning the housing demonstrates, on the basis of information submitted in accordance with the requirements of sections I.(d)(1), below, of this NOFA, that drug-related crime at the housing has a detrimental affect on or about the housing.

The High Intensity Drug Trafficking Areas (HIDTAs) are areas identified as having the most critical drug trafficking problems that adversely impact the rest of the country. These areas are designated as HIDTAs by the Director, Office of National Drug Control Policy (ONDCP), pursuant to the Anti-Drug Abuse Act of 1988. As of April 1997 the following areas were confirmed by the ONDCP as designated HIDTAs:

—New York City HIDTA: consists of the city of New York and all the municipalities therein and Nassau, Suffolk, and Westchester Counties (in New york), and Union, Hudson, Essex, Bergen, and Passaic Counties and all municipalities therein (in New Jersey);

—Washington, DC—Baltimore, MD HIDTA: consists of Washington, DC; the city of Baltimore, and Baltimore, Howard, Anne Arundel, Prince George's, Montgomery and Charles Counties (in Maryland); and the city of Alexandria and Arlington, Fairfax, Prince William, and Loundoun Counties (in Virginia) and all municipalities therein;

—Miami HIDTA: consists of the city of Miami and the surrounding areas of Broward, Dade, and Monroe Counties and all municipalities therein;

—Houston HIDTA: consists of the city of Houston and surrounding areas of Harris, and Galveston Counties and all municipalities therein;

—Lake County HIDTA: consists of Lake County, Indiana, and all municipalities therein;

—Gulf Coast HIDTA: consist of Baldwin, Jefferson, Mobile, and Montgomery Counties (in Alabama); Caddo, East Baton Rouge, Jefferson, and Orleans Parishes (in Louisiana); and Hancock, Harrison, Hinds, and Jackson Counties (in Mississippi) and the municipalities therein;

—Midwest HIDTA: consists of Muscatine, Polk, Pottawattamie, Scott and Woodbury Counties (in Iowa); Cherokee, Crawford, Johnson, Labette, Leacenworth, Saline, Seward, and Wyandotte Counties (in Kansas); Cape Garardeau, Christian, Clay, Jackson, Lafayette, Lawrence, Ray, Scott, and St. Charles Counties, and the City of St. Louis, MO (in Missouri); Dakota,

Dawson, Douglas, Hall, Lancaster, Sarpy, and Scott's Bluff Counties (in Nebraska); Clay, Codington, Custer, Fall River, Lawrence, Lincoln, Meade, Minnehaha, Pennington, Union, and Yankton Counties (in South Dakota); and all municipalities therein;

—Rocky Mountains HIDTA: consists of Adams, Arapahoe, Denver, Douglas, Eagle, El Pasco, Garfield, Jefferson, La Plate, and Mesa Counties (in Colorado); Davis, Salt Lake, Summit, Utah, and Weber Counties (in Utah); Laramie, Natrona, and Sweetwater Counties (in Wyoming) and all municipalities therein;

—Southwest Border HIDTA: consists of San Diego and Imperial Counties (in California), and all municipalities therein; Yuma, Maricopa, Pinal, Pima, Santa Cruz, and Cochise Counties, (in Arizona) and all municipalities therein; Bernalillo, Hidalgo, Grant, Luna, Dona Ana, Eddy, Lea, and Otero Counties, (in New Mexico) and all municipalities therein; El Paso, Hudspeth, Culberson, Jeff Davis, Presidio, Brewster, Pecos, Terrell, Crockett Counties (in West Texas) and all municipalities therein; exar, Val Verde, Kinney, Maverick, Zavala, Dimmit, La Salle, Webb, Zapata, Jim Hogg, Starr, Hildago, Willacy and Cameron Countries (in South Texas) and all municipalities therein;

—Northwest HIDTA: consists of King, Pierce, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties (in the State of Washington) and all municipalities therein;

—Los Angeles HIDTA: consists of the city of Los Angeles and surrounding areas of Los Angeles, Orange, Riverside, and San Bernadino Counties, and all municipalities therein; and

—Puerto Rico/U.S. Virgin Islands HIDTA: consists of the U.S. territories of Puerto Rico and the Virgin Islands.

For further information on HIDTAs contact Rich Yamamoto, at the ONDCP, Executive Office of the President, Washington, DC 20500 on (202) 395–6755, and/or La'Wan A. Sweetenberg on (202) 395–6603, fax (202) 395–6721.

(10) *Ineligible Activities.* PHDEP funding *is not permitted* for any of the activities listed below, unless otherwise specified in this NOFA.

(i) *Funding is not permitted* under this NOFA for costs incurred before the effective date of the grant agreement (Form HUD–1044), including, but not limited to, consultant fees related to the development of an application or the actual writing of the application.

(ii) *Funding is not permitted* under this NOFA for the purchase of controlled substances for any purpose. Controlled substance shall have the meaning provided in section 102 of the Controlled Substance Act (21 U.S.C. 802).

(iii) *Funding is not permitted* under this NOFA for compensating informants, including confidential informants. These should be part of the baseline services provided and budgeted by local law enforcement agencies.

(iv) *Funding is not permitted* under this NOFA for the direct purchase or lease of any law or military enforcement clothing or equipment, such as vehicles, including cars, vans, buses, uniforms, ammunition, firearms/weapons, protective vests, and any other supportive equipment. Exceptions are set forth in sections I.(c)(1)(iii)(G) and I.(c)(4)(vi) (public housing police departments, and investigator activities) of this NOFA. In addition, funds may be used to contract for the equipment and employment of a HA-dedicated police division under section I.(c)(2) of this NOFA.

(v) *Funding is not permitted* under this NOFA for any wages or salaries for voluntary tenant patrol participants. Housing authorities *are permitted* to fund housing authority/resident coordinator(s) to be hired for this activity. Staffing must be reasonable, necessary and justified. Excessive staffing *is not permitted*.

(vi) *Funding is not permitted* under this NOFA for the costs of constructing any facility space in a building or unit, although *funding is permitted* for the costs of retrofitting/modifying existing building space owned by the housing authorities for eligible activities/ programs such as: community policing mini-station operations, adult/youth education, and employment training facilities. The goal of this funding is to reduce/eliminate drug-related crime and form partnerships with Federal, Tribal, State and local government resources. Program costs *are permitted* if shared among other HUD programs. The applicant must demonstrate the use of program compliance, accountability, financial and audit controls of PHDEP funds and controls to prevent duplicate funding of any activity. Housing authorities shall not co-mingle funds of multiple programs such as CIAP, CGP, OTAR, TOP, ED/SS, Family Investment Center, Elderly Service Coordinators, and Operating Subsidy. House trailers of any type that are not designated as a building *are eligible items* for purchase or lease for specific community policing, educational, employment, and youth activities.

(vii) *Funding is not permitted* under this NOFA for organized fund raising, advertising, financial campaigns, endowment drives, solicitation of gifts and bequests, rallies, marches, community celebrations and similar expenses.

(viii) *Funding is not permitted* under this NOFA for the costs of entertainment, amusements, or social activities and for the expenses of items such as meals, beverages, lodgings, rentals, transportation, and gratuities related to these ineligible activities. However, under section I.(c)(6) of this NOFA, funding *is permitted* for reasonable, necessary and justified program costs, as defined in OMB Circular A–87, such as meals, beverages and transportation, incurred only for prevention programs, employment training, education and youth activities directly related to reducing/eliminating drug-related crime.

(x) *Funding is not permitted* under this NOFA for the costs (such as, court costs, attorneys fees) related to screening or evicting residents for drug-related crime. However, housing authority investigators funded under this program may participate in judicial and administrative proceedings as provided in Section I.(c)(4), Employment of Investigator(s), of this NOFA.

(xi) Although participation in activities with Federal drug interdiction or drug enforcement agencies *is encouraged*, the transfer of PHDEP grant funds to any Federal agency *is not permitted* under this NOFA.

(xii) *Funding is not permitted* under this NOFA for establishing councils, resident associations, resident organizations, and resident corporations since HUD funds these activities under a separate NOFA. (xiii) Indirect costs as defined in OMB Circular A–87 *are not permitted under this program*. Only direct costs are permitted.

(xiv) PHDEP grant funds shall not be used to supplant existing positions/ activities. For purposes of the PHDEP program supplanting is defined as ''taking the place of or to supersede''.

(xv) The PHDEP is targeted by statute at controlled substances as defined at section 102 of the Controlled Substances Act (21 U.S.C. 802). Since alcohol is a legal substance, alcohol exclusive activities and programs *are not eligible* for funding under this NOFA. When an individual's condition meets medical criteria for more than one substance abuse disorder, multiple diagnoses will generally be made, which may include alcohol.

(d) *Selection Criteria.* HUD will review each application that it determines meets the requirements of this NOFA and evaluate it by assigning

points in accordance with the selection criteria. An application for funding under this program may be for one or more eligible activities.

An applicant shall submit only one application under each NOFA. Joint applications are *not permitted* under this program with the following exception: Housing authorities under a single administration (such as housing authorities managing another housing authority under contract or housing authorities sharing a common executive director) shall submit a single application, even though each housing authority has its own operating budget.

The number of points that an application receives will depend on the extent to which the application is responsive to the information requested in the selection criteria. An application must receive a score of at least 70 points out of the maximum of 100 points that may be awarded under this competition to be eligible for funding.

The scoring of applications under the first two criteria will be done by a panel at the national PHDEP application processing site. Scoring under Selection Criterion 3 will be done by the Field Offices that receive the applications, and scoring under Selection Criterion 4 will be done by the Secretary's Representative for the area of the country from which an application originates. After applications have been scored, Headquarters will rank the applications on a national basis. Awards will be made in ranked order until all funds are expended. HUD will select the highest ranking applications that can be fully funded. Applications with tie scores will be selected in accordance with the procedures in Section I.(e) (Ranking Factors). The terms ''housing'' and ''development(s)'' as used in the application selection criteria and submission requirements may include, as appropriate, housing described in Section I.(c)(9) (PHA-Owned Housing), above, of this NOFA. Each application submitted for a grant under this NOFA will be evaluated on the basis of the following selection criteria:

(1) *First criterion: the extent of the drug-related crime associated with drug-related crime problems in the applicant's development or developments proposed for assistance. (Maximum Points: 35)* To permit HUD to make an evaluation on the basis of this criterion, an application must include a description of the extent and nature of drug-related crime, ''in or around'' the housing authority/ development(s) proposed for funding. The description must provide the following information:

(i) *Objective crime data.* The best available objective data on the nature, source, and frequency of drug-related crime ''in and around'' the housing authority and development(s) proposed for activity in this grant. Such data should consist of verifiable records, and not anecdotal reports. The requirements related to such data may include (but not necessarily be limited to), as appropriate:

(A) The nature and frequency of drug-related crime ''in or around'' housing authorities/development(s) as reflected by crime statistics and other supporting data from Federal, State, Tribal, or local law enforcement agencies.

(B) Housing authority, police, or other verifiable information from records on the types and sources of drug-related crime in the housing authority's development(s) proposed for assistance.

(C) Verifiable, descriptive data as to the types of offenders committing drug-related crime associated with drug-related local problems in the applicant's housing authority and development(s) (e.g., age, residence).

(D) The number of lease terminations or evictions for drug-related crime at the housing authority and development(s).

(E) The number of local emergency room admissions for drug use or that result from drug-related crime. Such information may be obtained from police departments and/or fire departments, emergency medical services agencies and hospitals.

(F) The number of police calls for service from housing authorities development(s) that include resident initiated calls, officer-initiated calls, domestic violence calls, drug distribution complaints, found drug paraphernalia, gang activity, graffiti that reflects drugs or gang-related activity, vandalism, drug arrests, and abandoned vehicles.

(G) The number of residents placed in treatment and structured aftercare, the number of residents that successfully completed treatment, and number of residents that successfully completed long range after-care treatment for substance abuse/dependency.

(H) Where appropriate, the statistics should be reported both in real numbers and as an annual percentage of the residents in each development (e.g., 20 arrests in a two-year period for distribution of heroin in a development with 100 residents reflects a 20% occurrence rate). The data should cover the most recent two-year period. If the data from the most recent two-year period is not used, an explanation should be provided. To the extent feasible, the data provided should be compared with data from the prior two year period to show whether the current data reflects a percentage increase or decrease in drug-related crime during that prior period of time within housing authorities.

(I) A reduction in drug-related crime in the housing authorities and development(s) where previous PHDEP grants have been in effect will not be considered a disadvantage to the applicant.

(J) If funding is being sought for housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise Federally assisted, the application should demonstrate that the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988, and the application must demonstrate that drug-related crime at the housing has a detrimental affect in or around the real property comprising the public or other federally assisted low-income housing. For the purposes of this NOFA in or around means: within, or adjacent to, the physical boundaries of a housing development. (Maximum Points: 25)

(ii) *Other supporting data* on the extent of drug-related crime. To the extent that objective data as described above may not be available, or to complement that data, the assessment may use data from other verifiable sources that have a direct bearing on drug-related crime in the developments proposed for assistance under this program. However, if other relevant information is to be used in place of, rather than to complement, objective data, the application must indicate the reasons why objective data could not be obtained and what efforts were made to obtain it and what efforts will be made during the grant period to begin obtaining the data. Examples of these data include (but are not necessarily limited to):

(A) Surveys of residents and staff in the housing authority and targeted developments surveyed on drug-related crime or on-site reviews to determine drug/crime activity; and government or scholarly studies or other research in the past year that analyze drug-related crime activity in the targeted developments.

(B) Vandalism cost at the housing authority and targeted developments, to include elevator vandalism (where appropriate) and other vandalism attributable to drug-related crime.

(C) Information from schools, health service providers, residents and Federal, State, local, and Tribal officials, and the verifiable opinions and observations of

individuals having direct knowledge of drug-related crime and the nature and frequency of these problems in the developments proposed for assistance. (These individuals may include Federal, State, Tribal, and local government law enforcement officials, resident or community leaders, school officials, community medical officials, substance abuse, treatment (dependency/remission) or counseling professionals, or other social service providers.)

(D) The school dropout rate and level of absenteeism for youth that the applicant can relate to drug-related crime. If crime or other statistics are not available at the development or precinct level the applicant may use other verifiable, reliable and objective data.

(iii) In awarding points, HUD will evaluate the extent to which the applicant has provided the above data that reflects drug-related crime in the developments targeted for activity, both in terms of the frequency and nature of the drug-related crime in the housing authority's development(s) proposed for funding as reflected by information submitted under paragraphs (1)(i)(ii) and (iii) of this section; and the extent to which such data reflects an increase in drug-related crime over a period of two year(s) in the housing authority and development(s) proposed for assistance. (Maximum points: 5)

(iv) In awarding points, HUD will evaluate the extent to which the applicant has analyzed the data compiled under paragraphs (1)(i)(ii) and (iii) of this section, and has articulated its needs, analyzed the data, performance measurements/outcomes, and strategies for reducing drug-related crime in the housing authority and development(s) proposed for assistance. (Maximum points: 5)

(2) *Second criterion: the quality of the plan to address the crime problem in the public or Indian housing developments proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years. (Maximum points: 35)* In assessing this criterion, HUD will consider the following factors:

(i) To permit HUD to make an evaluation on the basis of this criterion, an application must include the applicant's plan for addressing drug-related crime. The narrative must demonstrate the relationship between the extent of the crime detailed in Selection Criterion 1, section I.(d)(1) of this NOFA, and the potential crime reduction and elimination of specific drug-related crime described in the implementation of the plan. The narrative must include a description of the applicant's activities for addressing (solutions and prevention) and the strategy to reduce the specific drug-related crime in each of the developments proposed for assistance under this part. The activities eligible for funding under this program are listed in Section I.(c) of this NOFA, above. The applicant's plan must include all of the activities that will be undertaken to address the problem, whether or not they are funded under this program. If the same activities are proposed for all of the developments that will be covered by the plan, the activities do not need to be described separately for each development. Where different activities are proposed for different developments, these activities and the developments where they will take place must be separately described and the narrative must demonstrate the relationship between the extent of the crime detailed in Selection Criterion 1, section I.(d)(1) of this NOFA, and the potential crime reduction and elimination of specific drug-related crime described in the implementation of the plan.

The description of the plan in the application must include (but not necessarily be limited to) the following information:

(A) A *detailed narrative describing* each activity proposed for PHDEP funding in the applicant's plan, any additional relevant activities being undertaken by the applicant (e.g., law enforcement services, prevention, treatment, aftercare programs for residents provided by an agency other than HUD, and modifications to community facilities), and how the narrative demonstrates the relationship between the extent of the crime detailed in Selection Criterion 1, section I.(d)(1) of this NOFA, and the potential crime reduction and elimination of drug-related crime described in the implementation of the plan, and how all of these activities interrelate. The applicant should specifically address how the activities form a comprehensive strategy relating to drug-related crime. The strategy should include (as applicable) management practices such as ''One Strike and You're Out'' policy [Refer to Notice PIH 96–16 (HA) Subject: ''One Strike and You're Out'' Screening and Eviction Guidelines for Public Housing Authorities published April 12, 1996] that improves resident screening and eviction policies and procedures, local law enforcement techniques (such as community policing), and a combination of substance/drug abuse prevention, intervention, referral, and treatment (dependency) and aftercare programs. As applicable, the narrative should demonstrate how the proposed activities will be coordinated with Federal, Tribal, local, and State Empowerment or Enterprise Zones, ''welfare to work'' or other welfare reform measures related to specific drug-related crime prevention through employment training, education, and employment opportunities for housing authority residents. In addition, the applicant should demonstrate how its proposed activities will complement, and be coordinated with, current activities.

(B) The narrative must demonstrate how the applicant will provide qualified staff/contractors to manage the proposed PHDEP activities. The applicant must include the portion of the staff's time that will be spent administering this grant, and the skills which qualify him/her for administering the types of proposed activities (management, law enforcement, security personnel, programs to reduce/eliminate drugs such as: intervention, prevention, treatment). The applicant must include a reasonable staffing plan and position descriptions which relate to the proposed activities, and must justify the need for the proposed staff.

(C) If grant amounts are to be used for contracting for/or employment of security guard personnel services in housing authorities/development(s), the application must describe how the requirements of section I.(c)(1)(i) (Employment of Security Personnel) of this NOFA will be met.

(D) If grant amounts are to be used for housing authority police department equipment and personnel, the application must describe how the requirements of Section I.(c)(1)(ii) (Housing Authority Police Departments) of this NOFA will be met.

(E) If grant amounts are to be used for a dedicated district/precinct/zone municipal public housing division and/or bureau, the application must describe how the requirements of Section I.(c)(1)(iii) (dedicated district/precinct/zone municipal public housing division and/or bureau) of this NOFA will be met.

(F) If grant amounts are to be used for reimbursement of local municipal law enforcement agencies for additional security and protective services, the application must describe how the requirements of Section I.(c)(2) (Reimbursement of Local Law Enforcement Agencies) of this NOFA will be met.

(G) If grant amounts are to be used for physical improvements in housing authority/development(s) proposed for funding under Section I.(c)(3) (Physical Improvements) of this NOFA, the application must describe how these

improvements will be coordinated with the applicant's modernization program, if any, under 24 CFR part 950, subpart I, or 24 CFR part 968.

(H) If grant amounts are to be used for employment of investigators, the application must describe how the requirements of Section I.(c)(4) (Employment of Investigators) of the NOFA will be met.

(I) If grant amounts are to be used for voluntary tenant patrols, the application must describe how the requirements of Section I.(c)(5) (Voluntary Tenant Patrol) of this NOFA will be met.

(J) If grant amounts are to be used for a ''Program to reduce/eliminate criminal activity/drug use, etc.'' i.e.; prevention, intervention or treatment, structured aftercare programs, to eliminate crime/drug use ''in or around'' the premises of the housing authority/development(s) as provided in I.(c)(6) of this NOFA, the application should demonstrate the nature of the program, how the program represents a prevention or intervention, treatment and aftercare strategy, and how the housing authority's strategy will achieve and demonstrate the relationship between the extent of the crime detailed in Selection Criterion 1, section I.(d)(1) of this NOFA, and the potential crime reduction and elimination of specific drug-related crime described in the implementation of the plan. The application must include a description of how funding decisions were reached (specifically how costs were determined for each element of each activity in the same format as shown in the application kit) and financial and other resources (including funding under this program, and from other resources) that may reasonably be expected to be available to carry out each activity.

(K) Implementation timetable and performance measurements/outcomes that includes tasks, personnel assignments, deadlines, budget cost/analysis, performance measurements and outcomes, that demonstrate the relationship between the extent of the crime detailed in Selection Criterion 1, section I.(d)(1) of this NOFA, and the comprehensive crime reduction/elimination of specific drug-related crime described in the implementation of the plan, and a PHDEP manager responsible for implementing (achieving identified milestones, measurements, outcomes) each activity in the plan. The applicant shall demonstrate in its application hiring of qualified personnel to manage its activities (full-time, part time, and/or housing authority staff), including a PHDEP manager.

(L) The resources that the applicant may reasonably expect to be available at the end of the grant term to continue the plan, and how they will be allocated to plan activities that can be sustained over a period of years.

(M) A discussion of how the applicant's plan will serve to provide training and employment or business opportunities for lower income persons and businesses located in, or substantially owned by persons residing within the area of the section 3 covered project (as defined in 24 CFR part 135) in accordance with 24 CFR 761.40 and 24 CFR part 5, subpart A, and how this plan will be coordinated with Federal, Tribal or State ''welfare to work'' or other employment training and employment creation efforts. Housing authorities are encouraged to hire qualified residents to fill PHDEP positions.

(N) *Program Evaluation.* The plan must specifically demonstrate how the activities funded under this program will be evaluated by the applicant, so that the program's progress can be measured and provide satisfactory outcomes. Performance measurements and outcomes must be developed to demonstrate the relationship between the extent of the crime detailed in Selection Criterion 1, Section I.(d)(1) of this NOFA, and the potential crime reduction/elimination described in the implementation of the plan. The evaluation shall also be used to modify activities to make them more successful or to identify unsuccessful strategies. The evaluation must identify the types of information the applicant will use to measure the plan's success (e.g. tracking changes in identified crime statistics); and indicate each crime or drug indicator to be measured, the activities targeted to reducing that indicator, and the method the applicant will use to gather and analyze this information. Funding *is permitted* to hire an outside consultant to conduct an independent assessment/evaluation of the effectiveness of the PHDEP program and its goals/outcomes.

(ii) In assessing this criterion, HUD will consider the quality and thoroughness of an applicant's plan in terms of the information requested in Section I.(d)(2)(i), ''Quality of the plan,'' of this NOFA, including the extent to which:

(A) The applicant's plan specifically describes the activities that are being proposed by the applicant, including those activities to be funded under this program and those to be funded or provided from other sources; describes the status and effectiveness of the applicant's current working relationship with local law enforcement agencies, as well as other law enforcement agencies, including the extent of its participation in any special Federal, State or local law enforcement programs aimed at reducing and preventing crime in and around its housing developments (e.g., Operation Safe Home, Weed and Seed, etc.); demonstrates how such working relationships will be sustained during and after the period of PHDEP funding and will further the objectives of the PHDEP program; describes the potential crime reduction/elimination of specific drug-related crime detailed in Selection Criterion 1, section I.(d)(1) of this NOFA; describes the activities that are successful initiatives such as: improved screening, leasing and eviction, community building, and the training, education and employment of residents, and indicates how these proposed activities provide for a comprehensive approach to reduce/eliminate drug-related crime (as described under Selection Criterion 1, section I.(d)(1) above) in the housing authority/development(s) proposed for funding. (Maximum Points: 12)

(B) The applicant's plan provides a detailed budget narrative that is realistic in terms of time, personnel and other resources. The extent to which plan has supporting documentation (specifically how costs were determined for each element of each activity in the same format as shown in the application kit) for each activity and describes the financial and other resources (under this program and other sources) that may reasonably be expected to be available to carry out each activity. (Maximum Points: 3)

(C) The plan describes how other entities (e.g., Federal, Tribal, and State governments and community organizations) are involved in planning and carrying out the applicant's plan. (Maximum Points: 2)

(D) The plan includes activities, to include resident training and employment training and employment opportunities, that can be sustained over a period of years and identifies resources that the applicant may reasonably expect to be available for the continuation of the activities at the end of the grant term. (Maximum Points: 2)

(E) The applicant's plan will serve to provide training and employment or business opportunities for lower income persons and businesses located in, or substantially owned by persons residing within the area of the section 3 covered project (as defined in 24 CFR part 135) in accordance with 24 CFR 761.40 and 24 CFR part 5, subpart A, and will be coordinated with other Federal, Tribal, State or other efforts to provide education, training, employment training and employment opportunities

for ''welfare to work'' or related strategies. (Maximum Points: 3)

(F) The applicant's plan contains a description of its process to collect, maintain, analyze and report specific data related to the drug-related crime problems and workload. Specifically this will include Part I and II crimes, as defined by the Uniform Crime Reporting (UCR) system; as well as other police workload data to include, but not limited to, all calls for service at the housing authority and development(s) proposed for funding; the process used to analyze the data according to individual development, patterns over a period of time, by type of crime, etc., and plans to improve the collection and reporting of the data. (Maximum Points: 3)

(G) The applicant's plan includes an evaluation plan with a specific process that measures performance and demonstrates outcomes relative to crime workload and the extent of the crime detailed in Selection Criterion 1, section I.(d)(1) of this NOFA, in the housing authority/development(s) proposed for funding. (Maximum Points: 10)

(3) *Third Criterion: the Capability of the Applicant to Carry out the Plan. (Maximum Points: 15)* In assessing this criterion, HUD will consider the following factors:

(i) The extent of the applicant's successful and effective administrative capability to manage its housing authority, as measured by its performance with respect to operative HUD requirements under the ACC or ACA and the Public Housing Management Assessment Program at 24 CFR part 901. In evaluating administrative capability under this factor, HUD will also consider, and the application must include in the form of a narrative discussion, the following information:

(A) Whether there are any unresolved findings from prior HUD reports (e.g. performance or finance), reviews or audits undertaken by HUD, the Office of the Inspector General, the General Accounting Office, or independent public accountants;

(B) Whether the applicant is operating under court order.

(C) If the applicant is designated a ''troubled agency'' HUD will not consider this status against the applicant provided the applicant substantiates capability with the assignment of housing authority staff employee(s) (Full-time/part-time), and a PHDEP manager, or contractually hires a PHDEP manager.

(D) Whether the applicant has adopted and implemented policies, procedures and practices and can document that it: Tracks drug-related crime, screens applicants, and enforces lease requirements, for the purpose of ensuring the health, safety/security, and the right to peaceful enjoyment of the premises by residents and housing authority personnel. (Maximum Points Under Paragraph (3)(I) (A) Through (D) of this Section: 4)

(ii) The application must demonstrate, as authorized by applicable Federal, Tribal, State and local law enforcement, the extent to which the applicant has formed a collaboration with the Federal, Tribal, State, and law enforcement officials and courts to gain access regarding the criminal conviction records of applicants for, or tenants of, housing authorities regarding applicant screening, lease enforcement, and eviction. The application demonstrates the extent to which the applicant has implemented effective screening procedures to determine an individual's suitability for public housing (consistent with the requirements of 42 U.S.C. 3604(f), 24 CFR 100.202, 29 U.S.C. 794 and 24 CFR 8.4 which deal with individuals with disabilities); implemented a plan to reduce vacancies; implemented eviction and lease enforcement procedures in accordance with 24 CFR part 966, subpart B, 25 CFR 950.340 and Section 503 of NAHA; or undertaken other innovative management actions to reduce/eliminate drug-related crime in its developments. The application demonstrates that the housing authority has established and implemented effective systems for tracking crime and reporting incidents of crime to local law enforcement agencies, and is effectively cooperating with such agencies to reduce and prevent crime in and around its housing developments. (Maximum Points: 2)

(iii) The application must identify the applicant's participation in HUD grant programs (such as CGP, CIAP, child care, resident management, PHDEP, HOPE VI, Tenant Opportunities Program (TOP), Family Investment Centers (FIC) grants, OTAR, ED/SS) within the preceding three years, and discuss the degree of the applicant's success in implementing and managing (program implementation, timely drawdown of funds, timely submission of required reports with satisfactory outcomes related to the plan and timetable, audit compliance and other HUD reviews) these grant programs. (Maximum Points: 4)

(iv) *The local HUD field office/ AONAPS shall evaluate* the extent of the applicant's success or failure in implementing and managing an effective program under previous PHDEP grants and/or other grants (preceding three years). This evaluation will be based upon (but not limited to) the relationship between the extent of the crime detailed in Selection Criterion 1, section I.(d)(1) of grants during the preceding years, and outcomes regarding reducing/eliminating drug-related crime described in the implementation of the plans and timetables, a review of how timely the grantee has drawn down PHDEP funds from HUD's Line of Credit Control System (LOCCS) reports compared to the timetable of proposed activities, achievements of proposed strategy regarding crime reduction goals outlined in previous PHDEP and/or other HUD program performance and financial reports, audits, performance outcome measurements as related to reductions in drug and crime activities at previously targeted developments, and HUD reviews. (Maximum Points: 5 Points)

(4) *Fourth criterion: the extent to which tenants, the local Government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application. (Maximum Points: 15)* In assessing this criterion, HUD will consider the following factors:

(i) To permit HUD to make an evaluation based on this criterion, an application must describe what role residents in the targeted developments, applicable community leaders and organizations, and *law enforcement agencies* have had in planning the activities described in the application and what role they will have in carrying out such activities.

(ii) The application must include a discussion of the extent to which community representatives and Tribal, local, State and Federal government officials, including *law enforcement agency* officials were actively involved in the design and implementation of the applicant's plan, and will continue to be involved in implementing such activities during and after the period of PHDEP funding. This must be evidenced by descriptions of planning meetings held with community representatives and local government and *law enforcement agency* officials; letters of commitment to provide funding, staff, or in-kind resources, partnership agreements; and ongoing or planned cooperative efforts with *law enforcement agencies* designed to complement and further the objectives of PHDEP. This also includes interagency activities already undertaken, participation in local, State, Tribal or Federal anti-drug related crime

efforts, such as: education, training and employment provision components of Welfare Reform efforts, Operation Weed and Seed, Operation Safe Home, local law enforcement initiatives and/or successful coordination of its law enforcement or other activities with local, State, Tribal or Federal law enforcement agencies. In evaluating this factor HUD will also consider the extent to which these initiatives are used to leverage resources for the housing authority community, and are part of the comprehensive plan and performance measures outlined in Selection Criteria Two. (Maximum Points: 5)

(iii) The application must demonstrate the extent to which the relevant governmental jurisdiction has met its local law enforcement obligations under the Cooperation Agreement with the applicant (as required by the grantee's Annual Contributions Contract with HUD). The application must also include a certification by the Chief Executive Officer (CEO) of a State or a unit of general local government in which the developments proposed for assistance are located that the city is meeting its obligations under the Cooperation Agreement with the housing authority, particularly with regard to the current level of baseline local law enforcement services including a cost analysis, deployment of personnel, and provision and analysis of crime data and trends for the targeted developments. If the jurisdiction is not meeting its obligations under the cooperation agreement, the CEO should identify any special circumstances relating to its failure to do so. Whether or not a locality is meeting its obligations under the Cooperation Agreement with the applicant, the applicant must describe the current level of baseline local law enforcement services being provided to the housing authority/development(s) proposed for assistance. (Maximum Points: 4)

(iv) The extent to which housing authority/development residents, and/or an RMC, RC or RO, where they exist, are involved in the planning and development and the implementation of the grant application and plan strategy, and support and participate in the design and implementation of the activities proposed to be funded under the application. The application must include a description of how the residents were involved, a resolution of support from any duly elected resident council or RMC, a summary of resident and resident organization meetings, with supporting documentation that addresses (but is not limited to) subject matter, names of residents on committees, copies of resident surveys and evaluations, as required by 24 CFR 761.25, and the applicant's response to and action on these comments and suggestions. If there are no resident or resident organization comments, the applicant must provide an explanation of the steps taken to encourage resident participation, even though they were not successful. (Maximum Points: 3)

(v) The extent to which the applicant is already undertaking, or has undertaken, participation in local, State, Tribal or Federal anti-drug related crime efforts, such as educational, training and employment components of Welfare Reform efforts, Operation Weed and Seed, Operation Safe Home, and/or has successfully coordinated its local law enforcement or other activities with local, State, Tribal or Federal law enforcement agencies. In evaluating this factor HUD will also consider the extent to which these initiatives are used to leverage resources for the housing authority community, and are part of the comprehensive plan and performance measures outlined in Selection Criteria 2. (Maximum Points: 3)

(e) *Ranking factors.*

(1) Each application for a grant award that is submitted in a timely manner to the HUD Field Office with delegated public housing responsibilities or, in the case of IHAs, to the appropriate AONAPs, that otherwise meets the requirements of this NOFA, will be evaluated in accordance with the selection criteria specified above.

(2) An application must receive a score of at least 70 points out of the maximum of 100 points that may be awarded under this competition to be eligible for funding.

(3) After applications have been scored, Headquarters will rank the applications on a national basis.

(4) In the event that two eligible applications receive the same score, and both cannot be funded because of insufficient funds, the application with the highest score in Selection Criterion 3 ''The capability of the applicant to carry out the plan'' will be selected. If Selection Criterion 3 is scored identically for both applications, the scores in Selection Criteria 1, 2, and 4 will be compared in this order, one at a time, until one application scores higher in one of the factors and is selected. If the applications score identically in all factors, the application that requests less funding will be selected to promote the more efficient use of resources.

(5) All awards will be made to fund fully an application, except as provided in Section I.(b)(4) of this NOFA (Reduction of Requested Grant Amounts and Special Conditions).

(f) *General PHDEP Grant Administration/Management.*

(1) Each grantee is responsible for ensuring that grant funds are administered in accordance with the requirements of 24 CFR part 761, any specific Notices of Funding Availability (NOFAs) issued for these programs, 24 CFR part 85 (as applicable), applicable laws and regulations, applicable OMB circular, HUD fiscal and audit controls, grant agreements, grant special conditions, the grantee's approved budget (SF–424A)/budget revisions, and supporting budget narrative, plan, and activity timetable.

(2) Applicability of OMB Circular and HUD fiscal and audit controls. The policies, guidelines, and requirements of this NOFA, 24 CFR part 761, 24 CFR part 85, 24 CFR part 84, and OMB Circular A–87 apply to the acceptance and use of assistance by grantees under this program; and OMB Circular Nos. A–110 and A–122 apply to the acceptance and use of assistance by private nonprofit organizations (including RMCs, RCs and ROs). In addition, grantees and sub-grantees must comply with fiscal and audit controls and reporting requirements prescribed by HUD, including the system and audit requirements under the Single Audit Act, OMB Circular No. A–128 and HUD's implementing regulations at 24 CFR part 44; and OMB Circular No. A–133. The provisions of 24 CFR 24 apply regarding ineligible contractors relating to employment, engagement of services, awarding of subcontracts during any period of debarment, suspension, or placement in ineligibility status.

(3) *Cost Principles.* Specific guidance in this NOFA, 24 CFR part 761, 24 CFR part 85, 24 CFR part 84, OMB Circular A–87, other applicable OMB cost principles, HUD program regulations, Notices, HUD Handbooks, and the terms of the grant agreement (Form HUD–1044 that includes special conditions and subgrant agreements) will be followed in determining the reasonableness and allocability of costs. All costs must be reasonable, necessary and justified with cost analysis. PHDEP Funds must be disbursed by the grantee within seven calendar days after receipt of drawdown. Grant funds must be used only for PHDEP purposes. Direct costs are those that can be identified specifically with a particular activity or function in this NOFA and cost objectives in OMB Circular A–87. Indirect cost are not permitted in this program. Administrative requirements

for the PHDEP grants will be in accordance with 24 CFR part 85. Acquisition of property or services shall be in accordance with 24 CFR 85.36. All equipment acquisitions will remain the property of the grantee in accordance with 24 CFR 85.32. NONAPs procurement standards are in 24 CFR part 950. Housing authorities shall not co-mingle funds of multiple HUD programs such as: CIAP, CGP, OTAR, Operating subsidy, PHDEP.

(4) *FY 1997 PHDEP Grant Staff Personnel.* Compensation for personnel hired for grant activities, including supervisory personnel, such as a grant program managers, public housing police department accreditation specialist (under section I.(c)(1)(iii)(F) of this NOFA), youth sports coordinators, voluntary tenant patrol program coordinators, and support staff such as counselors, security coordinators, public housing police department CALEA coordinators, and clerical staff, *is permitted* and may include wages, salaries, and fringe benefits. Housing authorities awarded PHDEP funds are required and must demonstrate in their applications plans to employ a PHDEP program manager (Full-time, part-time, contractual). These positions must be described in the applicants' plans. Appropriate PHDEP administrative costs include, but are not limited to: Purchase of computer(s) (hardware/software), printers, office supplies, furniture, HA staff training, and other supportive administrative services. Administrative costs do not include grant management personnel. The grantee must justify the need for the above and relate it to the approved grant activities.

(iii) All grant personnel must be necessary, reasonable and justified. Job descriptions must be provided, in the application, for all grant personnel. Excessive PHDEP staffing is *not permitted.*

(iv) Housing authority staff responsible for management and coordination of PHDEP programs may be compensated with grant funds only for work performed directly for PHDEP grant-related activities and shall document the time and activity involved in accordance with 24 CFR 85.20.

(5) *Grant Agreement.* After an application has been approved, HUD and the applicant shall enter into a grant agreement (Form HUD–1044) setting forth the amount of the grant and its applicable terms, conditions, financial controls, payment mechanism, schedule, measurements/outcomes, monitoring schedule and special conditions, including sanctions for violation of the agreement. The grant agreement will be effective immediately upon execution of Form HUD–1044 by the Director, Office of Public Housing or Administrator, AONAP and terminate within 24 months.

(6) *Term of Grant Agreement.* Terms of the FY 1997 PHDEP grant agreement shall not exceed 24 months from the execution date of the grant agreement (Form HUD–1044). Grant extensions during the FY 1997 PHDEP round *are not permitted.* Any funds not expended at the end of the FY 1997 PHDEP grant term shall be remitted to HUD.

(7) *Duplication of funds.* To prevent duplicate funding of any activity, the grantee must establish controls to assure that an activity or program that is funded by other HUD programs, or programs of other Federal agencies, shall not also be funded by the PHDEP. The grantee must establish an auditable system to provide adequate accountability for funds that it has been awarded. The grantee is responsible for ensuring that there is no duplication of funds.

(8) *Insurance.* Each grantee shall obtain adequate insurance coverage to protect itself against any potential liability arising out of the eligible activities under this part. In particular, applicants shall assess their potential liability arising out of the employment or contracting of security personnel, law enforcement personnel, investigators, and drug treatment providers, and the establishment of voluntary tenant patrols; evaluate the qualifications and training of the individuals or firms undertaking these functions; and consider any limitations on liability under Tribal, State, or local law. Grantees shall obtain liability insurance to protect the members of the voluntary tenant patrol against potential liability as a result of the patrol's activities under § 761.15(b)(5). Voluntary tenant patrol liability insurance costs are eligible program expenses. Subgrantees shall obtain their own liability insurance.

(9) *Risk Management.* Grantees and subgrantees are required to implement, administer and monitor the PHDEP so as to minimize the risk of fraud, waste, and liability for losses from adversarial legal action.

(10) *Failure to Implement FY 1997 PHDEP Program(s).* If the grant plan, approved budget, and timetable, as described in the approved application, are not operational within 90 days of the grant agreement date, the grantee must report by letter to the HUD Field Office the steps being taken to initiate the plan and timetable, the reason for the delay, and the expected starting date. Any budget/timetable revisions that resulted from the delay must be included. The HUD Field Office will determine if the delay is acceptable, approve/disapprove the revised plan and timetable, and take any additional appropriate action.

(11) *Sanctions.* HUD may impose sanctions if the grantee:

(i) Is not complying with the requirements of this part or of other applicable Federal law;

(ii) Fails to make satisfactory progress toward its PHDEP goals, as specified in its plan/budget and/or revised budget/timetable and as reflected in its semiannual performance and financial status reports;

(iii) Does not establish procedures that will minimize the time elapsing between drawdowns and disbursements;

(iv) Does not adhere to grant agreement requirements or special conditions;

(v) Proposes substantial plan changes to the extent that, if originally submitted, the applications would not have been selected for funding;

(vi) Engages in the improper award or administration of grant subcontracts;

(vii) Does not submit reports; or

(viii) Files a false certification.

(12) HUD may impose the following sanctions:

(i) Temporarily withhold cash payments pending correction of the deficiency by the grantee or subgrantee;

(ii) Disallow all or part of the cost of the activity or action not in compliance;

(iii) Wholly or partly suspend or terminate the current award for the grantee's or subgrantee's program;

(iv) Require that some or all of the grant amounts be remitted to HUD;

(v) Condition a future grant and elect not to provide future grant funds to the grantee until appropriate actions are taken to ensure compliance;

(vi) Withhold further awards for the program; or

(vii) Take other remedies that may be legally available.

(g) *Periodic Grantee Reports.* In accordance with 24 CFR part 85, grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity of the grant or subgrant.

(1) *Semiannual Grant Performance Status Reporting Requirements.* Grantees are required to provide the local HUD Field Office with a semiannual performance report that

evaluates the grantee's overall performance against its plan and strategies. This report shall include in summary form (but is not limited to) the following: Any change in the reduction/elimination of drug-related crime or other indicators drawn from the applicant's plan/strategy assessment and an explanation of any difference; successful completion of any of the strategy components identified in the applicant's plan/strategy; a discussion of any problems encountered in implementing the plan and how they were addressed; an evaluation of whether the rate of progress meets expectations and outcomes; a written explanation of the grantee's efforts in encouraging resident participation; a description of any other programs that may have been initiated, expanded or deleted as a result of the plan, with an identification of the resources and the number of people/residents involved in the programs and their relation to the plan/strategy. If required reports are not received by the local Field Office in a timely manner, payment of grant funds to the grantee are subject to being suspended.

(2) *Semiannual Grantee Financial Status Reporting Requirements.* The grantee shall submit, in a timely manner, a semiannual financial status report to the local HUD Field Office. The grantee shall use the SF–269A to report the status of funds for nonconstruction programs. The grantee shall use SF–269A, Block 12, ''Remarks,'' to report on the status of programs, functions, or activities within the program. If required reports are not received by the local Field Office in a timely manner, payment of grant funds to the grantee are subject to being suspended.

(3) *Semiannual Grantee Performance and Financial Status Reporting Period and Due Dates.* The semiannual performance and financial status report shall cover the periods ending June 30 and December 31, and must be submitted to the local HUD Field Office by July 30 and January 31 of each year.

(4) *Final Grantee Performance Status Report.* Grantees are required to provide the local HUD Field Office with a final cumulative performance report that evaluates the grantee's overall performance against its plan. This report shall include in summary form (but is not limited to) the following:

(i) Any change or lack of change in crime statistics or other indicators drawn from the applicant's plan assessment and an explanation of any difference;

(ii) Successful completion of overall strategy that reduced/eliminated drug-related crimes identified in the applicant's plan;

(iii) A discussion of any problems encountered in implementing the plan and how they were addressed;

(iv) An evaluation of whether the rate of progress meets expectations;

(v) A discussion of the grantee's efforts in encouraging resident participation; and

(vi) A description of any other programs that may have been initiated, expanded or deleted as a result of the plan, with an identification of the resources and the number of people involved in the programs and their relation to the plan.

(vii) A discussion of the grantee's adopted policies, procedures and practices that have produced positive outcomes regarding: tracking drug-related crime, screening of applicants, lease enforcement, and the health, safety/security, and the right to peaceful enjoyment of the premises by residents and housing authority personnel.

(5) *Final Grantee Financial Status Report (SF–269A).* The final report will be a cumulative summary of expenditures to date and must indicate the exact balance of unexpended funds. The grantee shall remit all PHDEP funds, including any unexpended funds, owed to HUD within 90 days after the termination of the grant agreement.

(6) *Final Grantee Performance Status Report and Financial Status Report (SF–269A)* Reporting Period. The final performance and financial status report shall cover the period from the date of the grant agreement, to include any extensions, to the termination date of the grant agreement. The report is due to the HUD Field Office within 90 days after the termination of the grant agreement.

(7) *Grantee Reporting Requirements.* The grantee shall submit all required reports to the HUD Field Office as directed above (for a listing of Field Offices, refer to appendix A).

(8) HUD *Field Office Reporting Requirements to Headquarters.* Field Offices, NONAPs and/or AONAPs shall submit, within 30 days of receipt, a copy of the semiannual performance and financial and all final performance and financial reports to the Office of Crime Prevention and Security at HUD Headquarters. Further instruction will be provided by Headquarters to local HUD Field Offices.

(9) *Audits and Closeouts.* Field Offices will make maximum use of audits under 24 CFR Parts 44 and 45 as applicable in conducting grant closeout.

(10) All grantees will access grant funds through the LOCCS-VRS.

II. Application Process.

(a) *Application kit:* An application kit may be obtained, and assistance provided, from the local HUD Field Office with delegated public housing responsibilities over an applying public housing agency, or from the AONAPs having jurisdiction over the Indian housing authority making an application, or by calling HUD's DISC on (800) 578–3472. The application kit contains information on all exhibits and certifications required under this NOFA.

(b) *Application Submission: Applications are due on or before Friday, August 8, 1997, at 3:00 pm, local time. Applications (original and three identical copies of the original application)* must be received by the deadline at the local HUD Field Office with responsibilities over the applying public housing authorities. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

Applications (*Original and three identical copies of the original application*) must be physically received by the deadline at the local HUD Field Office with delegated public housing responsibilities Attention: Director, Office of Public Housing, or, in the case of IHAs, to the local HUD Administrator, AONAPs, as appropriate. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after *Friday, August 8, 1997, at 3:00 pm, Local Time*, will not be considered. Applications submitted in response to this NOFA are subject to disclosure under the Freedom of Information Act.

III. Checklist of Application Submission Requirements

To qualify for a grant under this program, the application submitted to HUD shall include, in addition to those requirements listed under Section I.(d) (Selection Criteria) of this NOFA, including the plan to address the problem of drug-related crime in the developments proposed for funding, at least the following items:

(a) *Applicant Grant Data Form*. The applicant must accurately complete the form for HUD's application database

entry. The form, with examples, is provided in the application kit.

(b) *Application for Federal Assistance, Standard Form SF–424.* The SF–424 is the face sheet for the application. The applicant must accurately complete and sign the form. The form, with example, is provided in the application kit.

(c) *Standard Form SF–424A Budget Information* (non-construction programs), with attached budget narrative(s) with supporting justification and documentation (specifically showing how costs were determined for each element of each activity in the same format as shown in the application kit). The SF–424A, with attached budget narrative, must be accurately completed and the applicant must describe, as applicable, each major activity proposed for funding, e.g., employment of security personnel (contracted security personnel services and housing authority police departments), reimbursement of local law enforcement services, HA-dedicated police division/ bureau, employment/equipment of investigators, voluntary tenant (resident) patrols, programs to reduce drugs/crime, i.e., drug prevention, intervention, and treatment programs. If additional housing authority police are to be employed for a service that is also provided by a local law enforcement agency, the housing authority must provide a cost analysis that demonstrates the employment of housing authority police is more cost efficient than obtaining the service from the local law enforcement agency. Forms, with examples, are provided in the application kit.

(d) Applicants must verify their unit count with the local HUD Field Office/ AONAPs prior to submitting the application . In accordance with Sections I.(b)(2) (i) through (iii) of this NOFA, applicants *MUST COMPUTE* the maximum grant award amount for which they are eligible (eligible dollar amount per unit x (times) number of units and compare it with the dollar amount requested in the application to make certain the amount requested does not exceed the permitted maximum grant award. Applicants should note that in determining the unit count for PHA-owned or IHA-owned Rental Housing Program, a unit that is considered to be a long-term vacancy, as defined in 24 CFR 950.102 or 990.102, is still included in the count.

(e) *Standard Form SF–424B, Assurances,* (non-construction programs) for pre-award assurances. The applicant must accurately complete and sign the form. The form and example are provided in the application kit.

(f) *Certifications.* Applications must accurately include the following certifications (certifications are provided in the application kit):

(1) A certification that the applicant will maintain a drug-free workplace in accordance with the requirements of the Drug-Free Workplace Act of 1988, 24 CFR part 24, subpart F. (Applicants may submit a copy of their most recent drug-free workplace certification, which must be dated within the past year.)

(2) Indian Housing Authorities (IHAs) established under State law that are applying for funding under this NOFA are subject to the provisions of Section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. Section 1352 (the Byrd Amendment). An IHA established by an Indian tribe as a result of the exercise of its sovereign power is excluded from coverage of the Byrd Amendment.

The Byrd Amendment, which is implemented in regulations at 24 CFR Part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal Executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA.

A covered applicant must file a certification stating that it has not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, an SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included in the application package.

(3) If applying for drug prevention program funding, a certification by the applicant that the applicant has notified and consulted with the relevant Tribal commission, Single State Agency or other local authority with substance program coordination responsibilities concerning its application; and that the proposed substance abuse prevention program has been reviewed by the relevant local Tribal commission, Single State Agency or other authority and is consistent with the Tribal or State prevention plan.

(4) A certification (provided in the application kit) by the Chief Executive Officer (CEO) of a State, Tribe, or a unit of general local government in which the developments proposed for assistance are located that:

(i) Grant funds provided under this program will not substitute for activities currently being undertaken on behalf of the applicant by the jurisdiction to address drug-related crime;

(ii) Any reimbursement of local law enforcement agencies for additional security and protective services to be provided under section I.(c)(2) of this NOFA meets the requirements of that section.

(5) A certification, (An example is provided in the application kit), from the chief of the local law enforcement agency:

(i) *If* the application is for employment of security services, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the provider of the security services in accordance with the requirements of section I.(c)(1) (Security guard personnel, and public housing police departments, and section I.(c)(2) (HA-dedicated police division/ bureau) of this NOFA;

(ii) *If* the application is for employment of investigators, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the investigators, in accordance with the requirements of Section I.(c)(4) (employment of investigators) of this NOFA;

(iii) *If* the application is for voluntary tenant (resident) patrol funding, that the law enforcement agency has entered into, or will enter into, an agreement with the applicant and the voluntary tenant patrol, in accordance with the requirements of section I.(c)(5) (voluntary tenant (resident) patrol) of this NOFA.

(6) A certification (An example is provided in the application kit) by the RMC, RC or RO, or other involved resident group where an RMC, RC or RO does not exist, that the residents participated in the preparation of the grant application with the applicant, and that the applicant's description of the activities and program evaluation that the resident group will implement under the program is accurate and complete.

(7) A certification (an example is provided in the application kit) by the applicant that programs will not violate civil rights laws, and that there is a system in place to protect confidential information.

(8) A certification (an example is provided in the application kit) by the applicant that there is a system in place to protect confidential information regarding law enforcement records, and medical and disability-related information.

(g) *HUD Form 2880, Applicant Disclosures.* The form, with example, is provided in the application kit.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing, of receipt of the application and of any curable technical deficiencies in the application. The applicant must submit corrections in accordance with the information specified in HUD's letter within 14 calendar days from the date on HUD's letter notifying the applicant of any such deficiency.

(b) Curable technical deficiencies relate to items that would not have any effect on the applicant's score.

(c) An example of a curable technical deficiency would be the failure of an applicant to submit a required assurance, budget narrative, certification, applicant data form, incomplete forms such as the SF–424 or lack of such items as required signatures, appendixes and documentation referenced in the application or a computational error based on the use of an incorrect number(s) such as incorrect unit counts. These items are discussed in the application kit and samples, as appropriate, are provided.

(d) An example of a non-curable defect or deficiency would be a missing SF–424A (Budget Information).

V. Other Matters

(a) *Non-discrimination and equal opportunity.* The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3600–20 (Fair Housing Act) and implementing regulations issued at subchapter A of title 24 of the Code of Federal Regulations, as amended by 54 FR 3232 (published January 23, 1989); Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR Part 1;

(2) The Indian Civil Rights Act (ICRA) (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301–1303) provides, among other things, that ''no Indian tribe in exercising powers of self-government shall * * * deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law.'' The Indian Civil Rights Act applies to any Tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government. The ICRA is applicable in all cases where an IHA has been established by exercise of Tribal powers of self-government;

(3) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(4) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;

(5) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(b) *Environmental Impact.* A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50 implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The FONSI is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the Office of the Rules Docket Clerk, 451 Seventh Street, SW, Room 10276, Washington, DC 20410. It is anticipated that many of the eligible activities in this NOFA will only be subject to 24 CFR 50.19 and, except for extraordinary circumstances, will not require an environmental review. However, if activities such as acquisition or capital improvements are proposed, the environmental review will be performed in accordance with 24 CFR part 50 prior to the award of grant funds.

(c) *Federalism Impact.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government and, therefore, the provisions of this NOFA do not have ''Federalism implications'' within the meaning of the Order. The NOFA implements a program that encourages housing authorities to develop a plan for addressing the problem of drug-related crime and other criminal activities associated with drug-related problems, and makes available grants to housing authorities to help them carry out their plans. As such, the program would help housing authorities combat serious drug-related crime problems in their developments, thereby strengthening their role as instrumentalities of the States. In addition, further review under the Order is unnecessary, since the NOFA generally tracks the statute and involves little implementing discretion.

(d) *Family Impact.* The General Counsel, as the Designated Official for Executive Order 12606, *the Family*, has determined that the provisions of this NOFA have the potential for a positive, although indirect, impact on family formation, maintenance and general well-being within the meaning of the Order. This NOFA would implement a program that would encourage housing authorities to develop a plan for addressing the problem of drug-related crime, and to make available grants to help housing authorities to carry out this plan. As such, the program is intended to improve the quality of life of public and Indian housing development residents, including families, by reducing the incidence of drug-related crime.

(e) *Section 102 HUD Reform Act—Accountability in the Provision of HUD Assistance.* Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing

regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(f) *Catalog of Federal Domestic Assistance.* The Catalog of Federal Domestic Assistance number for the Public and Indian Housing Drug Elimination Program is 14.854.

(g) *Section 103 HUD Reform Act.* Section 103 of the Department of Housing and Urban Development Reform Act of 1989, and HUD's implementing regulation codified at subpart B of 24 CFR part 4, applies to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Authority: Sec. 5127, Public Housing Drug Elimination Act of 1988 (42 U.S.C. 11901 et seq.); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: April 24, 1997.

Kevin E. Marchman,

Acting Assistant Secretary for Public and Indian Housing.

Appendix A: HUD, Public Housing, NONAP, and AONAP Office Addresses, Phone Numbers and Office Hours

HUD—New England: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Massachusetts State Office

Office of Public Housing, DHUD—Massachusetts State Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 553, Boston, MA 02222–1092, (617) 565–5196, TTY Number: (617) 565–5453, Office hours: 8:30am–5:00pm local time

Connecticut State Office

Office of Public Housing, DHUD—Connecticut State Office 330 Main Street, Hartford, Connecticut 06106–1860, (860) 240–4522, TTY Number: (203) 240–4665, Office hours: 8:00am–4:30pm local time

New Hampshire State Office

Office of Public Housing, DHUD—New Hampshire State Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487, (603) 666–7681, TTY Number: (603) 666–7518, Office hours: 8:00am–4:30pm local time

Rhode Island State Office

Office of Public Housing, DHUD—Rhode Island State Office, 10 Weybosset Street, Sixth Floor, Providence, Rhode Island 02903–2808, (401) 528–5351, TTY Number: (401) 528–5364, Office hours: 8:00am–4:30pm local time

HUD—New York, New Jersey

New York State Office

Office of Public Housing, DHUD—New York State Office, 26 Federal Plaza, Suite 3237, New York, New York 10278–0068, (212) 264–6500, TTY Number: (212) 264–0927, Office hours: 8:30am–5:00pm local time

Buffalo State Office

Office of Public Housing, DHUD—Buffalo State Office, Lafayette Court, 5th Floor, 465 Main Street, Buffalo, New York 14203–1780 (551) 846–5755, TTY Number: (716) 551–5787, Office hours: 8:00am–4:30pm local time

New Jersey State Office

Office of Public Housing, DHUD—New Jersey State Office, One Newark Center, 12th Floor, Newark, New Jersey 07102–5260, (201) 622–7900, TTY Number: (201) 645–6649, Office hours: 8:30am–5:00pm local time

HUD—Mid-Atlantic: Pennsylvania, District of Columbia, Maryland, Delaware, Virginia, West Virginia

Pennsylvania State Office

Office of Public Housing, DHUD—Pennsylvania State Office, The Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107–3390, (215) 656–0579, TTY Number: (215) 597–5564, Office hours: 8:00am–4:30pm local time

District of Columbia Office (Washington, DC)

Office of Public Housing, DHUD—District of Columbia Office, 820 First Street NE., Washington, DC 20002–4502, (202) 275–9200, TTY Number: (202) 275–0967, Office hours: 8:00am–4:30pm local time

Maryland State Office

Office of Public Housing, DHUD—Maryland State Office, City Crescent Building, 10 South Howard Street, 5th Floor, Baltimore, Maryland 21201–2505, (401) 962–2520, TTY Number: (410) 962–0106, Office hours: 8:00am–4:30pm local time

Pittsburgh Area Office

Office of Public Housing, DHUD—Pittsburgh Area Office, 339 Sixth Avenue, Sixth floor, Pittsburgh, Pennsylvania 15222–2515, (412) 644–6428, TTY Number: (412) 644–5747, Office hours: 8:00am–4:30pm local time

Virginia State Office

Office of Public Housing, DHUD—Virginia State Office, The 3600 Centre, 3600 West Broad Street, P.O. Box 90331, Richmond, Virginia 23230–0331, (804) 278–4507, TTY Number: (804) 278–4501, Office hours: 8:00am–4:30pm local time

West Virginia State Office

Office of Public Housing, DHUD—West Virginia State Office, 405 Capitol Street, Suite 708, Charleston, West Virginia 25301–1795, (304) 347–7000, TTY Number: (304) 347–5332, Office hours: 8:00am–4:30pm local time

HUD—Southeast: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Caribbean, Virgin Islands

Georgia State Office

Office of Public Housing, DHUD—Georgia State Office, Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303–3388, (404) 331–4815, TTY Number: (404) 730–2654, Office hours: 8:00am–4:30pm local time

Alabama State Office

Office of Public Housing, DHUD—Alabama State Office, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209–3144, (205) 290–7601, TTY Number: (205) 290–7624, Office hours: 8:00am–4:30pm local time

Kentucky State Office

Office of Public Housing, DHUD—Kentucky State Office, 601 West Broadway, P.O. Box 1044, Louisville, Kentucky 40201–1044, (502) 582–6161, TTY Number: (502) 582–5139, Office hours: 8:00am–4:30pm local time

Mississippi State Office

Office of Public Housing, DHUD—Mississippi State Office, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Room 910, Jackson, Mississippi 39269–1096, (601) 975–4746, TTY Number: (601) 975–4717, Office hours: 8:00am–4:45pm local time

North Carolina State Office

Office of Public Housing, DHUD—North Carolina State Office, 2306 West Meadowview Road, Greensboro, North Carolina 27407–3707, (919) 547–4000, TTY Number: 919–547–4055, Office hours: 8:00am–4:45pm local time

Caribbean Office

Office of Public Housing, DHUD—Caribbean Office, New San Office Building, 159 Carlos East Chardon Avenue, Room 305, San Juan, Puerto Rico 00918–1804, (809) 766–6121, TTY Number: Number not available, Office hours: 8:00am–4:30pm local time

South Carolina State Office

Office of Public Housing, DHUD—South Carolina State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201–2480, (803) 765–5831, TTY Number: Number not available, Office hours: 8:00am–4:45pm local time

Tennessee Area Office

Office of Public Housing, DHUD—Tennessee Area Office, John J. Duncan Federal Building, 710 Locust Street, S.W., Third Floor, Knoxville, Tennessee 37902–2526, (423) 545–4389, TTY Number: (615) 545–4379, Office hours: 7:30am–4:15pm local time,

Nashville, Tennessee State Office

Office of Public Housing, DHUD—Tennessee State Office, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228–1803, (615) 736–5213, TTY Number: (615) 736–5063, Office hours: 7:45am–4:15pm local time,

Florida Area Office

Office of Public Housing, DHUD—Florida Area Office, Southern Bell Towers, 301 West Bay Street, Suite 2200, Jacksonville, Florida 32202–5121, (904) 232–2626, TTY Number: (904) 232–2357, Office hours: 7:45am–4:30pm local time

HUD—Midwest: Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Illinois State Office

Office of Public Housing, DHUD—Illinois State Office, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604–3507, (312) 353–5680, TTY Number: (312) 353–7143, Office hours: 8:15am–4:45pm local time

Michigan State Office

Office of Public Housing, DHUD—Michigan State Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592, (313) 226–6880, TTY Number: (313) 226–7812, Office hours: 8:00am–4:30pm local time

Indiana State Office

Office of Public Housing, DHUD—Indiana State Office, 151 North Delaware Street, Suite 1200, Indianapolis, Indiana 46204–2526, (317) 226–6303, TTY Number: (317)226–7081, Office hours: 8:00am–4:45pm local time

Grand Rapids, Michigan Area Office

Office of Public Housing, DHUD—Grand Rapids Area Office, Trade Center Building 50 Louis, N.W, Grand Rapids, Michigan 49503–2648, (616) 456–2127, TTY Number: Number not available, Office hours: 8:00am–4:45pm local time

Minnesota State Office

Office of Public Housing, DHUD—Minnesota State Office, Bridge Place Building, 220 South Second Street, Minneapolis, Minnesota 55401–2195, (612) 370–3000, TTY Number: (612) 370–3186, Office hours: 8:00am–4:30pm local time

Cincinnati, Ohio Area Office

Office of Public Housing, DHUD—Cincinnati Area Office, 525 Vine Street, Suite 700, Cincinnati, Ohio 45202–3188, (513) 684–2884, TTY Number: (513) 684–6180, Office hours: 8:00am–4:45pm local time

Cleveland, Ohio Area Office

Office of Public Housing, DHUD—Cleveland Area Office, Renaissance Building, 1350 Euclid Avenue, 500, Cleveland, Ohio 44115–1815, (216) 522–4065, TTY Number: Number not available Office hours: 8:00am–4:40pm local time

Ohio State Office

Office of Public Housing, DHUD—Ohio State Office, 200 North High Street, Columbus, Ohio 43215–2499, (614) 469–5737, TTY Number: Number not available, Office hours: 8:30am–4:45pm local time

Wisconsin State Office

Office of Public Housing, DHUD—Wisconsin State Office, Henry S. Reuss Federal Plaza, 310 West Wisconsin Avenue, Suite 1380, Milwaukee, Wisconsin 53203–2289, (414) 291–3214, TTY Number: Number not available, Office hours: 8:00am–4:30pm local time

HUD—Southwest: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Texas State Office

Office of Public Housing, DHUD—Texas State Office, 1600 Throckmorton Street, Room 304, P.O. Box 2905, Fort Worth, Texas 76113–2905, (817) 885–5934, TTY Number: (817) 885–5447, Office hours: 8:00am–4:30pm local time,

Houston, Texas Area Office

Office of Public Housing, DHUD—Houston Area Office, Norfolk Tower, 2211 Norfolk, Suite 200, Houston, Texas 77098–4096, (713) 834–3235, TTY Number: Number not available, Office hours: 7:45am–4:30pm local time

San Antonio, Texas Area Office

Office of Public Housing, DHUD—San Antonio Area Office, Washington Square, 800 Dolorosa Street, San Antonio, Texas 78207–4563, (512) 229–6783, TTY Number: (512) 229–6783, Office hours: 8:00am–4:30pm local time

Arkansas State Office

Office of Public Housing, DHUD—Arkansas State Office, TCBY Tower, 425 West Capitol Avenue, Room 900, Little Rock, Arkansas 72201—3488, (501) 324–5935, TTY Number: (501) 324–5931, Office hours: 8:00am–4:30pm local time

Louisiana State Office

Office of Public Housing, DHUD—Louisiana State Office, 501 Magazine Street, Ninth Floor, New Orleans, Louisiana 70130, (504) 589–7251, TTY Number: Number not available, Office hours: 8:00am–4:30pm local time

Oklahoma State Office

Office of Public Housing, DHUD—Oklahoma State Office, 500 West Main Street, Oklahoma City, Oklahoma 73102, (504) 589–7233, TTY Number: None, Office hours: 8:00am–4:30pm local time

New Mexico State Office

Office of Public Housing, DHUD—New Mexico State Office, 625 Truman Street NE., Albuquerque, NM 87110–6472, (505) 262–6463, TTY Number: (505) 262–6463, Office hours: 7:45am–4:30pm local time,

Great Plains: Iowa, Kansas, Missouri, Nebraska

Kansas/Missouri State Office

Office of Public Housing, DHUD—Kansas/Missouri State Office, Gateway Tower II, 400 State Avenue, Kansas City, Kansas 66101–2406, (913) 551–5488, TTY Number: (913) 551–5815, Office hours: 8:00am–4:30pm local time

Nebraska State Office

Office of Public Housing, DHUD—Nebraska State Office, Executive Tower Centre, 10909 Mill Valley Road, Omaha, Nebraska 68154–3955, (402) 492–3100, TTY Number: (402) 492–3183, Office hours: 8:00am–4:30pm local time

St. Louis, Missouri Area Office

Office of Public Housing, DHUD—St. Louis Area Office, Robert A. Young Federal Building, 1222 Spruce Street, St. Louis, Missouri 63103–2836, (314) 539–6503, TTY Number: (314) 539–6331, Office hours: 8:00am–4:30pm local time

Iowa State Office

Office of Public Housing, DHUD—Iowa State Office, Federal Building, 210 Walnut Street, Des Moines, Iowa 50309–2155, (515) 284–4512, TTY Number: (515) 284–4728, Office hours: 8:00am–4:30pm local time

HUD—Rocky Mountains: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Colorado State Office

Office of Public Housing, DHUD—Colorado State Office, First Interstate Tower North, 633 17th Street, Denver, CO 80202–3607, (303) 672–5376, TTY Number: (303) 672–5248, Office hours: 8:00am–4:30pm local time

HUD—Pacific/Hawaii: Arizona, California, Hawaii, Nevada, Guam, America Samoa

California State Office

Office of Public Housing, DHUD—California State Office, Philip Burton Federal Building/Courthouse, 450 Golden Gate Avenue, PO Box 36003, San Francisco, California 94102–3448, (415) 436–6532, TTY Number: (415) 436–6594, Office hours: 8:15am–4:45pm local time

Los Angeles, California Area Office

Office of Public Housing, DHUD—Los Angeles Area Office, 611 West 6th Street, Los Angeles, California 90017, (213) 894–7122, extension 3504, TTY Number: (213) 894–8047, Office hours: 8:00am–4:30pm local time

Hawaii State Office

Office of Public Housing, Seven Waterfront Plaza, 500 Ala Moana Boulevard, Suite 500, Honolulu, HI 96813–4918, (808) 522–8185, TTY Number: (808) 522–8193, Office hours: 8:00am–4:30pm local time

Sacramento, California Area Office

Office of Public Housing, DHUD—Sacramento Area Office, 777 12th Avenue, Suite 200, PO Box 1978, Sacramento, California 95814–1997, (916) 498–5270, TTY Number: (916) 498–5220, Office hours: 8:00am–4:30pm local time

Arizona State Office

Office of Public Housing, DHUD—Arizona State Office, Two Arizona Center, 400 North 5th Street, Suite 1600, Phoenix, Arizona 85004–2361, (602) 261–4434, TTY Number: (602) 379–4461, Office hours: 8:00am–4:30pm local time

HUD—Northwest/Alaska: Alaska, Idaho, Oregon, Washington

Washington State Office

Office of Public Housing, DHUD—Washington State Office, Seattle Federal Office Building, 909 First Avenue, Suite 200, Seattle, WA 98104–1000, (206) 220–5292, TTY Number: (206) 220–5185, Office hours: 8:00am–4:30pm local time

Oregon State Office

Office of Public Housing, DHUD—Oregon State Office, 400 Southwest Sixth Avenue, Suite 700, Portland, Oregon 97203–1632, (503) 326–2661, TTY Number: (503) 326–3656, Office hours: 8:00am—4:30pm local time

DHUD National Office of Native American Programs (NONAPs)

NONAP Headquarters

Office of the Deputy Assistant Secretary for National Native American Programs, 1999 Broadway, Suite 3390, Box 90, Denver, CO 80202, Office hours: 8:15am–4:45pm local time, FY 1997 Round PHDEP point of contact: Tracy Outlaw, Telephone (303) 675–1600, extension 3333

NONAPs Area Offices

Eastern/Woodlands—Tribes and IHAs: East of the Mississippi River, including all of Minnesota and Iowa

Eastern/Woodlands HUD Area Office of Native American Programs

Eastern/Woodlands Office of Native American Programs, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Room 2400, Chicago, IL 60604, (312) 886–3539 or (800) 735–3239, TTY Number: (312) 886–3741 or (800) 927–9275, Office hours: 8:15am–4:45pm local time

Southern Plains—Tribes and IHAs: Louisiana, Missouri, Kansas, Oklahoma, and Texas, except for Isleta Del Sur in Texas

DHUD Area Office of Native American Programs

Southern Plains Office of Native American Programs, 500 West Main Street, Suite 400, Oklahoma City, Oklahoma 73102, (405) 553–7428, TTY Number: (405) 231–4891 or (405) 231–4181, Office hours: 8:00am–4:30pm local time

Northern Plains—Tribes and IHAS: Colorado, Montana, Nebraska, North Dakota, South Dakota, and Wyoming

DHUD Area Office of Native American Programs

Northern Plains Office of Native American Programs, First Interstate Tower North, 633 17th Street, 14th Floor, Denver, CO 80202–3607, (303) 672–5462, TTY Number: (303) 844–6158, Office hours: 8:00am–4:30pm local time

Southwest—Tribes and IHAS: Arizona, California, New Mexico, Nevada, and Isleta Del Sur in Texas

DHUD Area Office of Native American Programs

Southwest Office of Native American Programs, Two Arizona Center, 400 North 5th Street, Suite 1650, Phoenix, Arizona 85004–2361, (602) 379–4156, TTY Number: (602) 379–4461, Office hours: 8:15am–4:45pm local time

or

Albuquerque Office of Native American Programs, Albuquerque Plaza, 201 3rd Street, NW, Suite 1830, Albuquerque, New Mexico 87102–3368, (505) 766–1372, TTY Number: None available, Office hours: 7:45am–4:30pm local time

Northwest—Tribes and IHAs: Idaho, Oregon, and Washington

DHUD Area Office of Native American Programs

Northwest Office of Native American Programs, Seattle Federal Office Building, 909 First Avenue, Suite 300, Seattle, WA 98104–1000, (206) 220–5270, TTY Number: (206) 220–5185, Office hours: 8:00am–4:30pm local time

Alaska—Tribes and IHAs: Alaska

DHUD Area Office of Native American Programs

Alaska Office of Native American Programs, University Plaza Building, 949 East 36th Avenue, Suite 401, Anchorage, Alaska 99508–4399, (907) 271–4633, TTY Number: (907) 271–4328, Office hours: 8:00am–4:30pm local time

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Friday
May 23, 1997

Part III

Department of Housing and Urban Development

Federally Assisted Low-Income Housing Drug Elimination Grants; Funding Availability—FY 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4191–N–01]

Federally Assisted Low-Income Housing Drug Elimination Grants; Notice of Funding Availability—FY 1997

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: This NOFA announces the availability of $17,000,000 in FY 1997 funds for Federally Assisted Low-Income Housing Drug Elimination Grants. The purposes of the Assisted Housing Drug Elimination Program are to eliminate drug-related crime and related problems in and around the premises of Federally assisted low-income housing, and to make available grants to help owners of such housing carry out plans to address these issues. This document describes the purpose of the NOFA, applicant eligibility, available amounts, selection criteria, financial requirements, management, and application processing, including how to apply, how selections will be made, and how applicants will be notified of results.

DATES: Applications must be received at the local HUD field office on or before July 22, 1997 at 4 p.m., local time. THIS APPLICATION DEADLINE IS FIRM AS TO DATE AND HOUR. In the interest of fairness to all competing applicants, HUD will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A facsimile transmission (FAX) will not constitute delivery.

ADDRESSES: (a) *Application Form:* An application form may be obtained from the HUD field office having jurisdiction over the location of the applicant project. A list of HUD field offices is attached to this NOFA as Appendix A. The HUD field office will be available to provide technical assistance in the preparation of applications during the application period. In addition, applications may be obtained from the Multifamily Housing Clearinghouse by calling 1–800–685–8470.

(b) *Application Submission:* Applications (original and two identical copies) must be received by the deadline at the appropriate HUD field office with jurisdiction over the applicant project, Attention: Director of Multifamily Housing. It is not sufficient for the application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. HUD will not consider applications received after the deadline.

FOR FURTHER INFORMATION CONTACT: For application materials and project-specific guidance, please contact the Office of the Director of Multifamily Housing in the HUD field office having jurisdiction over the project(s) in question. A list of HUD field offices is attached to this NOFA as Appendix A.

Policy questions of a general nature may be referred to Michael Diggs, Office of Multifamily Housing Asset Management, Department of Housing and Urban Development, Room 6182, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–0558. (This number is not toll-free.) Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

HUD publishes a separate NOFA for the Public Housing Drug Elimination Program (PHDEP). For a copy of the PHDEP NOFA contact the Public Housing Clearinghouse at (800) 578–3472 (this is a toll-free number). Policy questions involving the PHDEP should be directed to Malcolm (Mike) E. Main, Office of Crime Prevention and Security, Department of Housing and Urban Development, Room 4112, 451 Seventh Street, SW, Washington, DC 20410; telephone (202) 708–1197, ext. 4232 (this number is not toll-free).

SUPPLEMENTARY INFORMATION:

I. Purpose and Substantive Description

A. Authority

These grants are authorized under chapter 2, subtitle C, title V of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et. seq.), as amended by section 581 of the National Affordable Housing Act of 1990 (NAHA) (Pub. L. 101–625; approved November 28, 1990), and section 161 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102–550, approved October 28, 1992).

Note: This NOFA does NOT apply to the funding available under the statute for Public and Indian Housing.

B. Allocation Amounts

(1) *Federal Fiscal Year (FY) 1997 Funding.* This NOFA announces the availability of $17,000,000 in FY 1997 funds.

HUD is allocating grant funds under this NOFA to four ''Award Offices'' on the basis of a formula allocation. This formula allocation reflects the number of eligible Federally assisted low-income housing units in specific geographic areas and the level of drug-related crime within each area, based on statistics compiled by the U.S. Department of Justice, Federal Bureau of Investigation (''Uniform Crime Reports for Drug Abuse Violations—1990'').

(2) *Maximum Grant Award Amounts.* The maximum grant award amount is limited to $125,000 per project.

(3) *Term of Grant.* The term of the grant is 12 months; however HUD may approve one 6-month extension to this term.

(4) *Reallocation.* Any grant funds under this NOFA that are allocated but that are not reserved for grantees must be released to HUD Headquarters for reallocation. HUD reserves the right to fund portions of full applications. If the HUD Award Office determines that an application cannot be partially funded and there are insufficient funds to fund the application fully, any remaining funds after all other applications have been selected will be released to HUD Headquarters for reallocation. Amounts that may become available due to deobligation will also be reallocated to Headquarters for use in the next funding round.

(5) *Reduction of Requested Grant Amounts.* HUD may award an amount less than requested if:

(a) HUD determines the amount requested for an eligible activity is not supported in the application or is not reasonably related to the activity;

(b) Insufficient amounts remain under the allocation to fund the full amount requested by the applicant, and HUD determines that partial funding is a viable option;

(c) HUD determines that some elements of the proposed plan are suitable for funding and others are not; or

(d) HUD determines that a reduced grant would prevent duplicative Federal funding.

(6) *Distribution of Funds.* HUD is allocating funds to four Award Offices that will receive the scores from each HUD field office that has received, rated, ranked, and scored its applications. Those Award Offices will, in turn, request funding for the highest scoring application from each HUD field office that is eligible for funding (see section I.E. of this NOFA). If sufficient funds remain, the next highest scored applications, regardless of HUD field office, will be awarded funds. HUD intends to allocate grant funds under

this NOFA to the four Award Offices, in accordance with the following schedule:

Award office	States covered	Allocation
Buffalo	Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, District of Columbia, West Virginia, Virginia.	4,200,000
Knoxville	Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Puerto Rico, Mississippi, Florida, Iowa, Kansas, Missouri, Nebraska.	4,300,000
Minneapolis	Illinois, Indiana, Minnesota, Wisconsin, Michigan, Ohio	4,100,000
Little Rock	Arkansas, Louisiana, New Mexico, Oklahoma, Texas, Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming, Arizona, California, Hawaii, Nevada, Alaska, Idaho, Oregon, Washington.	4,400,000

C. Promoting Comprehensive Approaches to Housing and Community Development

It is the goal and intent of the Federally Assisted Low-Income Housing Drug Elimination Grant Program to foster a sense of community in dealing with the issues of drug-related criminal activity. HUD greatly desires and encourages programs that foster interrelationships among the residents, the housing owner and management, the local law enforcement agencies, and other community groups affecting the housing. Resident participation in the determination of programs and activities to be undertaken is critical to the success of all aspects of the program. Working jointly with community groups, the neighborhood law enforcement precinct, residents of adjacent properties, and the community as a whole can enhance and magnify the effect of specific program activities and should be the goal of all applicants.

(1) *Coordination with other Federal Law Enforcement Programs.*

In addition to working closely with residents and local governing bodies, it is critically important that owners establish ongoing working relationships with Federal, State, and local law enforcement agencies in their efforts to address crime and violence in and around their housing developments. HUD firmly believes that the war on crime and violence in assisted housing can only be won through the concerted and cooperative efforts of owners and law enforcement agencies working together in cooperation with residents and local governing bodies. As such, HUD encourages owners to participate in Departmental and other Federal law enforcement agencies' programs, as described below:

Safe Neighborhood Action Program (SNAP)

The Safe Neighborhood Action Plan (SNAP) initiative, announced June 12, 1994 by HUD, the National Assisted Housing Management Association (NAHMA), and the U.S. Conference of Mayors (USCM), is an anticrime and empowerment strategies initiative in HUD-assisted housing neighborhoods in 14 SNAP cities. The major thrust of SNAP is the formation of local partnerships in 14 targeted cities where ideas and resources from government, owners and managers of assisted housing, residents, service providers, law enforcement officials, and other community groups meet to work on innovative, neighborhood anticrime strategies. There is no funding associated with SNAP, which relies on existing ideas and resources of the participants. Some common initiatives from these SNAP teams have included the following: Community policing, crime watch programs, tenant selection policies, leadership training, individual-development or job skills training, expansion of youth activities, police tip line or form, community centers, antigang initiatives, police training for security officers, environmental improvements, and a needs assessment survey to determine community needs. In addition, a HUD-sponsored initiative to increase the presence of AmeriCorps' VISTAs in assisted housing units has led to the placement of 25 VISTAs on 12 SNAP teams. The AmeriCorps VISTA program, which incorporates a theme of working within the community to find solutions to community needs, has provided additional technical assistance to the SNAP teams. The cities participating in the SNAP initiative include: Atlanta, Ga; Boston, Mass; Denver, Co; Houston, TX; Newark, NJ; Philadelphia, PA; Baltimore, MD; Columbus, OH; Detroit, MI; Los Angeles, CA; New Orleans, LA; Little Rock, AR; Richmond, VA; and Washington, DC.

For more information on SNAP, contact Henry Colonna, National SNAP Coordinator, Virginia State Office, 3600 West Broad Street, Richmond, VA 23230–4920; telephone (804) 278–4505, extension 3027; or (804) 278–4501 TTY. For more information on AmeriCorps' VISTAs in Assisted Housing, contact Deanna E. Beaudoin, National VISTAs in Assisted Housing Coordinator, Colorado State Office, First Interstate Tower North, 633 17th Street, Denver, CO 80202; telephone (303) 672–5291, extension 1068.

Operation Safe Home

Operation Safe Home was announced jointly by Vice President Albert Gore, former HUD Secretary Henry G. Cisneros, former Treasury Secretary Lloyd Bentsen, Attorney General Janet Reno, and representatives of the Office of National Drug Control Policy (ONDCP) at a White House briefing on February 4, 1994. Operation Safe Home is a major HUD initiative focusing on violent and drug-related crime within public housing authorities. As such, it is a holistic enforcement approach which combines aggressive law enforcement interdiction efforts with a housing authority's crime prevention and intervention initiatives. Operation Safe Home is structured to combat the level of violent crime activities occurring within public and assisted housing, and enhance the quality of life within such complexes through three simultaneous approaches:

—Strong, collaborative law enforcement efforts focused on reducing the level of violent crime activities occurring within public and assisted housing;
—Collaboration between law enforcement agencies and public housing managers and residents in devising methods to prevent violent crime; and
—The introduction of HUD, DOJ, and other agency initiatives specifically geared to preventing crime.

For more information on Operation Safe Home, contact Lee Isdell, Office of the Inspector General, Department of Housing and Urban Development, Room 8256, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0430, fax number (202) 401–2505; Internet E:mail www.hud.gov./oig/oigindex.html. A telecommunications

device for hearing or speech impaired persons (TTY) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

Operation Weed and Seed

Operation Weed and Seed, conducted through the Department of Justice, is a comprehensive, multiagency approach to combatting violent crime, drug use, and gang activity in high-crime neighborhoods. The goal is to ''weed out'' crime from targeted neighborhoods, and then to ''seed'' the targeted sites with a wide range of crime and drug prevention programs, and human services agency resources to prevent crime from reoccurring. Operation Weed and Seed further emphasizes the importance of community involvement in combatting drugs and violent crime. Community residents need to be empowered to assist in solving crime-related problems in their neighborhoods. In addition, the private sector needs to get involved in reducing crime. All of these entities, Federal, State, and local government, the community, and the private sector should work together in partnership to create a safer, drug-free environment.

The Weed and Seed strategy involves four basic elements:

—Law enforcement must ''weed out'' the most violent offenders by coordinating and integrating the efforts of Federal, State, and local law enforcement agencies in targeted high-crime neighborhoods. No social program or community activity can flourish in an atmosphere poisoned by violent crime and drug abuse.

—Local municipal police departments should implement community policing in each of the targeted sites. Under community policing, law enforcement should work closely with the housing authority and residents of the community to develop solutions to the problems of violent and drug-related crime. Community policing serves as a ''bridge'' between the ''weeding'' (law enforcement) and ''seeding'' (neighborhood revitalization) components.

—After the ''weeding'' takes place, law enforcement and social services agencies, the private sector, and the community must work to prevent crime and violence from reoccurring by concentrating a broad array of human services—drug and crime prevention programs, drug treatment, educational opportunities, family services, and recreational activities—in the targeted sites to create an environment where crime cannot thrive.

—Federal, State, local, and private sector resources must focus on revitalizing distressed neighborhoods through economic development and must provide economic opportunities for residents.

For further information on Operation Weed and Seed, contact the Department of Justice, Office of Justice Programs, 366 Indiana Avenue, Room 304S, NW., Washington, DC, 20531; telephone (202) 616–1152, FAX number (202) 616–1159; or Internet E:mail: mcwhorte@ojp.usdoj.gov.

Specific activities undertaken pursuant to SNAP, Operation Safe Home, and Operation Weed and Seed may be eligible for funding if they meet the criteria outlined in this NOFA.

(2) *Other Related HUD NOFAS.*

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

The related NOFAs that HUD is publishing elsewhere in this issue of the **Federal Register** are the NOFA for Public Housing Drug Elimination, the NOFA for Public Housing Drug Elimination Technical Assistance, and the NOFA for Safe Neighborhood Grants.

To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. HUD may consider additional steps on NOFA coordination for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

D. Eligibility

(1) *Eligible activities.* The following is a listing of eligible activities, ineligible activities, eligible applicants, and general grant requirements under this NOFA:

(a) *Physical Improvements to Enhance Security.*

Physical improvements that are specifically designed to enhance security are eligible for funding under this program. The improvements may include (but are not limited to) systems designed to limit building access to project residents, the installation of barriers, lighting systems, fences, bolts, locks; the landscaping or reconfiguration of common areas to discourage drug-related crime; and other physical improvements designed to enhance security and discourage drug-related activities. In particular, HUD is seeking plans that provide successful, proven, and cost-effective deterrents to drug-related crime that are designed to address the realities of low-income assisted housing environments. All physical improvements must also be accessible to persons with disabilities. For example, some types of locks or buzzer systems are not accessible to persons with limited strength, mobility, or to persons who are hearing-impaired. All physical improvements must meet the accessibility requirements of 24 CFR part 8.

(b) *Programs to Reduce the Use of Drugs.*

Programs designed to reduce the use of drugs in and around Federally assisted low-income housing projects, including drug-abuse prevention, intervention, referral, and treatment programs are eligible for funding under this program. The program should facilitate drug prevention, intervention, and treatment efforts, including outreach to community resources and youth activities, and facilitate bringing these resources onto the premises, or provide resident referrals to treatment programs or transportation to out-patient treatment programs away from the premises. Funding is permitted for reasonable, necessary, and justified leasing of vehicles for resident youth and adult education and training activities directly related to programs to reduce the use of drugs under this section of the NOFA. Alcohol-related activities/programs are not eligible for funding under this NOFA.

(i) *Drug Prevention.* Drug prevention programs that will be considered for funding under this NOFA must provide a comprehensive drug prevention approach for residents that will address the individual resident and his or her relationship to family, peers, and the community. Prevention programs must include activities designed to identify and change the factors present in Federally assisted low-income housing that lead to drug-related problems, and thereby lower the risk of drug usage. Many components of a comprehensive approach, such as refusal and restraint skills training programs or drug-related family counseling, may already be available in the community of the applicant's housing projects, and the applicant must act to bring those available program components onto the premises. Activities that should be included in these programs are:

(A) Drug Education Opportunities for Residents. The causes and effects of illegal drug usage must be discussed in a formal setting to provide both young people and adults the working knowledge and skills they need to make informed decisions to confront the potential and immediate dangers of illegal drugs. Grantees may contract (in accordance with 24 CFR 85.36) with drug education professionals to provide appropriate training or workshops. The drug education professionals contracted to provide these services shall be required to base their services upon the program plan of the grantee. These educational opportunities may be a part of resident meetings, youth activities, or other gatherings of residents.

(B) Family and Other Support Services. Drug prevention programs must demonstrate that they will provide directly or otherwise make available services designed to distribute drug education information, to foster effective parenting skills, and to provide referrals for treatment and other available support services in the project or the community for families living in Federally assisted low-income housing.

(C) Youth Services. Drug prevention programs must demonstrate that they have included groups composed of teenagers as a part of their prevention programs. These groups must be coordinated by adults with the active participation of youth to organize youth leadership, sports, recreational, cultural, and other activities involving housing youth. The dissemination of drug education information, the development of peer leadership skills, and other drug prevention activities must be a component of youth services. Activities or services funded under this program may not also be funded under the Youth Sports Program.

(D) Economic/Educational Opportunities for Residents and Youth. Drug prevention programs should demonstrate the ability to provide residents the opportunity for referral to established higher education or vocational institutions with the goal of developing or building on the residents' skills to pursue educational, vocational, and economic goals. The program must also demonstrate the ability to provide residents the opportunity to interact with private sector businesses in their immediate community for the same desired goals.

(ii) *Intervention.* The aim of intervention is to identify Federally assisted low-income housing resident drug users and assist them in modifying their behavior and in obtaining early treatment, if necessary. The applicant must establish a program with the goal of preventing drug problems from continuing once detected.

(iii) *Drug Treatment.*

(A) Treatment funded under this program shall be in and around the premises of the Federally assisted low-income housing projects proposed for funding.

(B) Funds awarded under this program shall be targeted towards the development and implementation of new drug referral treatment services and/or aftercare, or the improvement or expansion of such program services for residents.

(C) Each proposed drug treatment program should address the following goals:

(1) Increase resident accessibility to drug treatment services;

(2) Decrease criminal activity in and around Federally assisted low-income housing projects by reducing illicit drug use among residents; and

(3) Provide services designed for youth and/or maternal drug abusers, e.g., prenatal/postpartum care, specialized counseling in women's issues, parenting classes, or other drug elimination supportive services.

(D) Approaches that have proven effective with similar populations will be considered for funding. Programs should meet the following criteria:

(1) Applicants may provide the service of formal referral arrangements to other treatment programs not in and around the project when the resident is able to obtain treatment costs from sources other than this program. Applicants may also provide transportation for residents to out-patient treatment and/or support programs.

(2) Provide family/collateral counseling.

(3) Provide linkages to educational/vocational counseling.

(4) Provide coordination of services to appropriate local drug agencies, HIV-related service agencies, and mental health and public health programs.

(5) Applicants must demonstrate a working partnership with the Single State Agency or State license provider or authority with drug program coordination responsibilities to coordinate, develop, and implement the drug treatment proposal. In particular, applicants must review and determine with the Single State Agency or State license provider or authority with drug program coordination responsibilities whether:

(i) The drug treatment provider(s) has provided drug treatment services to similar populations, identified in the application, for two prior years; and

(ii) The drug treatment proposal is consistent with the State treatment plan and the treatment service meets all State licensing requirements.

(c) *Resident Councils (RCs).*

Providing funding to resident councils to strengthen their role in developing programs of eligible activities involving site residents is eligible for funding under this program.

(2) *Ineligible activities.* Funding is not permitted for any activities listed below:

(a) Any activity or improvement that is normally funded from project operating revenues for routine maintenance or repairs, or those activities or improvements that may be funded through reasonable and affordable rent increases.

(b) The acquisition of real property, vehicles, or physical improvements that involve the demolition of any units in the project or displacement of tenants.

(c) Costs incurred prior to the effective date of the grant agreement, including, but not limited to, consultant fees for surveys related to the application or its preparation.

(d) Reimbursement of local law enforcement agencies for additional security and protective services or the hiring of security guards, since continued funding for these services would not be provided by the grant.

(e) The employment of one or more individuals:

(i) To investigate drug-related crime on or about the real property comprising any Federally assisted low-income project; or

(ii) To provide evidence relating to such crime in any administrative or judicial proceeding.

(f) The provision of training, communications equipment, and other

related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials.

(g) Funding is not permitted for treatment of residents at any in-patient medical treatment programs/facilities.

(h) Funding is not permitted for detoxification procedures, short term or long term, designed to reduce or eliminate the presence of toxic substances in the body tissues of a patient.

(i) Funding is not permitted for maintenance drug programs. Maintenance drugs are medications that are prescribed regularly for a long period of supportive therapy (e.g., methadone maintenance), rather than for immediate control of a disorder.

(3) *Eligible Applicants.* The applicant must be the owner of a Federally assisted low-income housing project under:

(a) Section 221(d)(3), section 221(d)(4), or section 236 of the National Housing Act. (Note however, only section 221(d)(4) and section 221(d)(3) market rate projects with project-based assistance contracts are considered Federally assisted low-income housing. Therefore, section 221(d)(4) and section 221(d)(3) market rate projects with tenant-based assistance contracts are not considered Federally assisted low-income housing and are not eligible for funding.);

(b) Section 101 of the Housing and Urban Development Act of 1965; or

(c) Section 8 of the United States Housing Act of 1937. This includes State Housing Agency projects, Rural Development (Rural Housing and Community Development Service) projects, and Moderate Rehabilitation projects with project-based Section 8 assistance. This does not include Section 8 tenant-based assistance.

(4) *General Grant Requirements.* The following requirements apply to all activities, programs, or functions used to plan, budget and evaluate the work funded under this program.

(a) After applications have been ranked and selected, HUD and the applicant shall enter into a grant agreement setting forth the amount of the grant, the physical improvements or other eligible activities to be undertaken, financial controls, and special conditions, including sanctions for violation of the agreement.

(b) The policies, guidelines, and requirements of this NOFA, 48 CFR part 31, other applicable OMB cost principles, HUD program regulations, HUD Handbooks, and the terms of grant/special conditions and subgrant agreements apply to the acceptance and use of assistance by grantees and will be followed in determining the reasonableness and allocability of costs. All costs must be reasonable and necessary.

(c) The term of funded activities may not exceed 12 months; however, HUD may approve one 6-month extension to this term.

(d) Owners must ensure that any funds received under this program are not commingled with other HUD or project operating funds.

(e) To avoid duplicate funding, owners must establish controls to assure that any funds from other sources, such as Reserve for Replacement or Rent Increases, are not used to fund the physical improvements to be undertaken under this program.

(f) Employment preference. A grantee under this program shall give preference to the employment of residents, and comply with section 3 of the Housing and Urban Development Act of 1968 and 24 CFR part 135, to carry out any of the eligible activities under this program, so long as such residents have comparable qualifications and training as nonresident applicants.

(g) Termination of funding. HUD may terminate funding if the grantee fails to undertake the approved program activities on a timely basis in accordance with the grant agreement, adhere to grant agreement requirements or special conditions, or submit timely and accurate reports.

(h) Subgrants (subcontracting):

(i) A grantee may directly undertake any of the eligible activities under this NOFA, or it may contract with a qualified third party, including incorporated Resident Councils (RCs). Resident groups that are not incorporated RCs may share with the grantee in the implementation of the program, but may not receive funds as subgrantees.

(ii) Subgrants or cash contributions to incorporated RCs may be made only under a written agreement executed between the grantee and the RC. The agreement must include a program budget that is acceptable to the grantee, and that is otherwise consistent with the grant application budget. The agreement must obligate the incorporated RC to permit the grantee to inspect and audit the RC financial records related to the agreement, and to account to the grantee on the use of grant funds and the implementation of program activities. In addition, the agreement must describe the nature of the activities to be undertaken by the subgrantee, the scope of the subgrantee's authority, and the amount of insurance to be obtained by the grantee and the subgrantee to protect their respective interests.

(iii) The grantee shall be responsible for monitoring, and for providing technical assistance to, any subgrantee to ensure compliance with HUD program requirements, including OMB Circular No. A–122 and the regulations in 24 CFR part 84, which apply to the acceptance and use of assistance by private nonprofit organizations. The procurement requirements of part 84 apply to RCs. The grantee must also ensure that subgrantees have appropriate insurance liability coverage.

E. Selection Criteria and Ranking Factors

HUD will review each application to determine that it meets the requirements of this NOFA and to assign points in accordance with the selection criteria. A total of 200 points is the maximum score available under the selection criteria. An application must receive a score of at least 151 points out of the maximum of 200 points that may be awarded under this competition to be eligible for funding. After assigning points to each application, HUD field offices will rank the applications in order and submit them to the appropriate Award Office. The Award Office will select the highest ranking application from each HUD field office that is eligible for funding and whose eligible activities can be fully funded. The Award Office will then select the highest ranking unfunded application submitted to it, regardless of field office, and continue the process until all funds allocated to it have been awarded, or to the point that there are insufficient acceptable applications for which to award funds.

Prior to the award of grant funds under the program, HUD will perform an environmental review to the extent required under the provisions of 24 CFR part 50. See section VI.C. of this NOFA, below.

Each application submitted will be evaluated on the basis of the following selection criteria:

(1) The Quality of the Drug Elimination Grant Plan to Address the Problem. (Maximum points: 60)

In assessing this criterion, HUD will consider the following factors:

(a) A comprehensive strategy as outlined in the applicant's Drug Elimination Grant Plan (as described in section III.B. of this NOFA) to address the drug-related crime problem, and the problems associated with drug-related crime, in the projects proposed for funding, and how well the activities proposed for funding fit in with the plan. (Maximum points: 10)

(b) The proposed effectiveness of the plan and activities in bringing about a

lasting reduction or elimination of drug-related crime problems. (Maximum points: 10)

(c) How the activities identified in the plan will affect and address the problem of drug-related crime in adjacent properties. (Maximum points: 5)

(d) Evidence that the proposed activities have been found successful in similar circumstances in terms of controlling drug-related crime. (Maximum points: 5)

(e) Whether the property is participating in the Safe Neighborhood Action Program (SNAP), HUD's Office of Inspector General Operation Safe Home, the Department of Justice's Weed and Seed Program, or any other law enforcement or similar program designated for combatting drug-related criminal activity. See section III.J. of this NOFA. (Maximum points: 20)

(f) Whether the property is participating in Neighborhood Networks (NN) (formerly called Computerized Community Connections (CCC)) and has an operational computer learning center or has submitted an NN Plan or other evidence of commitment to NN (see section III.K. of this NOFA). (Maximum points: 10)

(2) The Support of Local Government/ Law Enforcement Agencies. (Maximum points: 20)

In assessing this criterion, HUD will consider the following factors:

(a) Evidence that the project owner has sought assistance (e.g., letters requesting additional services, participation in town hall meetings, etc.) in deterring drug-related crime problems, and the extent to which the owner has participated in programs that are available from local governments or law enforcement agencies; (Maximum points: 10); and

(b) The level of support by the local government or law enforcement agency for the applicant's proposed activities. This may include letters of support to the owner, documentation that the owner participates in town hall type meetings to develop strategies to combat crime, or any other form of partnership with local government or law enforcement agencies. The extent to which an applicant has sought assistance and the level of assistance from local government will be reviewed and rated by the Secretary's Representatives. (Maximum points: 10)

(3) The Extent of the Drug-Related Crime Problem in the Housing Project Proposed for Assistance. (Maximum points: 50)

In assessing this criterion, HUD will consider the degree of severity of the drug-related crime problem in the project proposed for funding, as demonstrated by the information required to be submitted under section III.H. of this NOFA.

(4) The Support of Residents in Planning and Implementing the Proposed Activities. (Maximum Points: 30)

In assessing this criterion, HUD will consider the following factors:

(a) Evidence that comments on and suggestions for the proposed plan for this program have been sought from residents, and the degree to which residents will be involved in implementation. (maximum points: 20)

(b) Evidence of resident support for the proposed plan. (maximum points: 10)

(5) Capacity of Owner and Management to Undertake the Proposed Activities: (Maximum Points: 40)

In assessing this criterion, HUD will consider the following:

(a) The most recent HUD or Rural Development Management Review, Housing Quality Standards review (HQS), State-agency review, or other relevant information available to HUD on the capacity of the owner or manager to undertake the grant. (maximum points: 20)

(b) Evidence that project owners have initiated other efforts to reduce drug-related crime by working with Operation Safe Home, SNAP, Weed and Seed, or other tenant/law enforcement groups (e.g., establishment of Tenant Watches or similar efforts). (maximum points: 15)

(c) Evidence that project management carefully screens applicants for units and takes appropriate steps to deal with known or suspected tenants exhibiting drug-related criminal behavior. (maximum points: 5)

(d) Subject to evaluation and review of the applicant's financial and program performance in previous Drug Elimination grants from the last 5 years. If a pattern of performance with no corrective measures attempted is disclosed, it will result in a deduction of points from the current application. This pattern may include some of the following: failure to respond or correct findings of HUD staff, failure to submit timely progress reports to HUD, lack of documentation in submitting vouchers for payment (under the LOCCS). (points deducted: 10)

II. Application Process

A. Application Package

An application package may be obtained from the HUD field office having jurisdiction over the location of the applicant project or from the Multifamily Clearinghouse at 1–800–685–8470. The HUD field office will be available to provide technical assistance on the preparation of applications during the application period.

B. Application Submission

A separate application must be submitted for each project. If the grant is to serve connecting or adjacent properties, an applicant may submit one application that will serve all properties. In such a case, the applicant must describe in detail in its application how the grant will serve the properties. Only one project would receive the funding even though the grant would be serving several properties. If an applicant has scattered properties, it must submit a separate application for each project. An application (original and two identical copies) must be received by the deadline at the appropriate HUD field office with jurisdiction over the applicant project, Attention: Director of Multifamily Housing. It is not sufficient for the application to bear a postage date within the submission time period. Applications submitted by facsimile (FAX) are not acceptable and will not be considered. Applications received after the deadline will not be considered. No applications will be accepted after 4:00 p.m. (local time) in the appropriate HUD field office on July 22, 1997. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, HUD will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

C. Application Notification

HUD will notify all applicants whether or not they were selected for funding.

III. Checklist of Application Submission Requirements

To qualify for a grant under this program, an applicant must submit an application to HUD that contains the following:

A. Application for Federal Assistance form (Standard Form SF–424 and SF–424A). The form must be signed by the applicant.

B. A Drug Elimination Grant Plan addressing the problem of drug-related crime in the projects for which funding is sought, which should include the activities to be funded under this program along with all other initiatives being undertaken by the applicant. The

Drug Elimination Grant Plan should also include a discussion of:

(1) The proposed effectiveness of the plan and activities in bringing about a lasting reduction or elimination in drug-related crime problems;

(2) How the activities identified in the plan will affect and address the problem of drug-related crime in adjacent properties;

(3) Other efforts that project owners have initiated to reduce drug-related crime by working with tenant/law enforcement groups (e.g., establishment of Tenant Watches or similar efforts);

(4) Procedures that project management uses to screen applicants for units, and steps taken to deal with known or suspected tenants exhibiting drug-related criminal behavior.

C. Each applicant for funding for physical improvements must submit a written plan fully describing the physical improvements to be undertaken with per unit dollar costs for each item. This plan must be signed by the owner.

D. Each applicant must submit a letter from the local government or police (law enforcement) agency that describes the type of drug-related crime in the project proposed for grant funding and its immediate environs, and expresses a commitment to assist the owner in taking steps to reduce or eliminate the drug-related crime problems of the project.

E. A description of the procedure used to involve residents in the development of the plan, and written summaries of any comments and suggestions received from residents on the proposed plan, along with evidence that the owner carefully considered the comments of residents and incorporated their suggestions in the plan, when practical.

F. A description of the support of residents for the proposed activities, and the ways in which residents will be involved in implementing the plan. Letters of support from residents or a resolution from the resident organization may be used.

G. A copy of the most recent management review performed by HUD, State Agency review, Housing Quality Standards Inspection (HQS), or other relevant information submitted to HUD as evidence supporting the capacity of the owner and management to undertake the proposed activities.

H. Detailed information, such as local government and police reports, showing the degree of drug-related crime in the project and adjacent properties, to demonstrate the degree of severity of the drug-related crime problem. This information may consist of:

(1) Objective data. The best available objective data on the nature, source, and extent of the drug-related crime problem, and the problems associated with drug-related crime. These data may include (but are not necessarily limited to) crime statistics from Federal, State, tribal, or local law enforcement agencies, or information from the applicant's records on the types and sources of drug-related crime in the project proposed for assistance; descriptive data as to the types of offenders committing drug-related crime in the applicant's project (e.g., age, residence, etc.); the number of lease terminations or evictions for drug-related criminal activity; the number of emergency room admissions for drug use or drug-related crime; the number of police calls for drug-related criminal activity; the number of residents placed in treatment for substance abuse; and the school drop-out rate and level of absenteeism for youth. If crime statistics are not available at the project or precinct level, the applicant may use other reliable objective data, including those derived from the owner's records or those of private groups that collect such data. The crime statistics should be reported both in real numbers and as a percentage of the residents in each project (e.g., 20 arrests for distribution of heroin in a project with 100 residents reflects a 20 percent occurrence rate). The data should cover the past 3-year period and, to the extent feasible, should indicate whether these data reflect a percentage increase or decrease in drug-related crime over the past several years. Applicants must address in their assessment how these crimes have affected the project and how the applicant's overall plan and strategy is specifically tailored to address these drug-related crime problems.

(2) Other data on the extent of drug-related crime. To the extent that objective data as described under paragraph (1) of this section may not be available, or to complement that data, the applicant may use relevant information from other sources that has a direct bearing on drug-related crime problems in the project proposed for assistance. If other relevant information is to be used in place of, rather than to complement, objective data, however, the application must indicate the reason(s) why objective data could not be obtained and what efforts were made to obtain it. Examples of other data include: resident/staff surveys on drug-related issues or on-site reviews to determine drug activity; the use of local government or scholarly studies, or other research conducted in the past year that analyze drug activity in the targeted project; vandalism costs and related vacancies attributable to drug-related crime; information from schools, health service providers, residents, and police; and the opinions and observations of individuals having direct knowledge of drug-related crime problems concerning the nature and extent of those problems in the project proposed for assistance. (These individuals may include law enforcement officials, resident or community leaders, school officials, community medical officials, drug treatment or counseling professionals, or other social service providers.)

I. If applying for drug treatment program funding, a certification that the applicant has notified and consulted with the relevant Single State Agency or other local authority with drug program coordination responsibilities concerning its application; that the proposed drug treatment program has been reviewed by the relevant Single State Agency or other local authority and that it is consistent with the State treatment plan; and that the relevant Single State Agency or other local authority has determined that the drug treatment provider(s) has provided drug treatment services to similar populations identified in the application for two prior years.

J. If applying for Safe Neighborhood Action Program (SNAP) points under section I.E.(1)(e) of this NOFA, an applicant must have a SNAP in operation, have submitted a SNAP plan to the field office for review, or provide other evidence that a commitment to SNAP is forthcoming. Similar initiatives, such as Operation Safe Home or Weed and Seed, will also be awarded points based on information submitted that indicates that the initiative in the target area reduces the use of drugs and deters drug-related criminal activity.

K. If applying for Neighborhood Network (NN) points under section I.E.(1)(f) of this NOFA, an applicant must have an NN in operation, have an approved NN Plan (if the NN is not in operation), submitted a Plan to the field office for review, or provide other evidence that a commitment to NN is forthcoming. This evidence may include either a resolution of the resident council supporting NN for the project to be established during the period of the Drug Elimination Grant or a similar statement from the owner and managing agent.

L.Drug-free workplace. The certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F.

M. Disclosure of Lobbying Activities. If the amount applied for is greater than $100,000, the certification with regard to lobbying required by 24 CFR part 87 must be included. See section VI.G., below, of this NOFA. If the amount applied for is greater than $100,000, and the applicant has made or has agreed to make any payment using nonappropriated funds for lobbying activity, as described in 24 CFR part 87, the submission must also include the Disclosure of Lobbying Activities Form (SF–LLL).

N. Form HUD–2880, Applicant/Recipient Disclosure/Update Report.

IV. Corrections to Deficient Applications

HUD will notify the applicant within ten (10) working days of the receipt of the application if there are any curable technical deficiencies in the application. Curable technical deficiencies relate to minimum eligibility requirements (such as certifications, signatures, etc.) that are necessary for funding approval but that do not relate to the quality of the applicant's program proposal under the selection criteria. The owner must submit corrections in accordance with the information provided by HUD within 14 calendar days of the date of the HUD notification.

VI. Other Matters

A. Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB control number 2502–0476, which expires October 31, 1999. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

B. Nondiscrimination and Equal Opportunity

The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) (42 U.S.C. 3600–20) and implementing regulations issued at 24 CFR chapter I, subchapter A; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d—2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(3) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR part 60–1;

(4) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

(5) The requirements of section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701a), and with implementing regulations in 24 CFR part 135.

C. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying from 7:30 to 5:30 weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC. It is anticipated that activities under this NOFA will be categorically excluded under 24 CFR 50.19 (b)(4), (b)(12), or (b)(13), as public or supportive services or operating expenses that do not affect physical conditions in a manner or to the extent that would require review under NEPA and other related authorities (see final rule published in the **Federal Register** on September 27, 1996 (61 FR 50914)). If grant funds will be used to cover the cost of any nonexempt activities, HUD will perform an environmental review to the extent required by 24 CFR part 50 prior to grant award.

D. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government. As a result, this NOFA is not subject to review under the Order.

E. Section 102 HUD Reform Act Applicant/Recipient Disclosures

Accountability in the provision of HUD assistance. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act), and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 14448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published, at 57 FR 1942, a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

F. Section 103 HUD Reform Act

Section 103 of the Department of Housing and Urban Development Reform Act of 1989, and HUD's implementing regulation codified at subpart B of 24 CFR part 4, applies to the funding competition announced today. These requirements continue to apply until the announcement of the

selection of successful applicants. HUD employees, including those conducting technical assistance sessions or workshops and those involved in the review of applications and in the making of funding decisions, are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

G. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The Byrd Amendment) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify, using the certification found at Appendix A to 24 CFR part 87, that they will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, applicants must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

Authority: 42 U.S.C. 11901 et. seq.

Dated: May 7, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

Appendix A—Multifamily Division Directors

New England

Boston

Jeanne McHallam, Multifamily Housing Director, HUD—Boston Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, Massachusetts 02222–1092 (617) 565–5101. TTY Number: (617) 565–5453

Hartford

Robert S. Donovan, Multifamily Housing Director, HUD—Hartford Office, 330 Main Street, Hartford, Connecticut 06106–1860 (860) 240–4524. TTY Number: (860) 240–4665

Manchester

Loren W. Cole, Acting Multifamily Housing Director, HUD—Manchester Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487 (603) 666–7755. TTY Number: (603) 666–7518

Providence

Louisa Osbourne, Multifamily Housing Director, HUD—Providence Office, Sixth Floor, 10 Weybosset Street, Providence, Rhode Island 02903–3234 (401) 528–5354. TTY Number: (401) 528–5403

New York/New Jersey

New York

Beryl Niewood, Multifamily Housing Director, HUD—New York Office, 26 Federal Plaza, New York, New York 10278–0068 (212) 264–07777 x3717. TTY Number: (212) 264–0927

Buffalo

Rosalinda Lamberty, Chief, Multifamily Asset Management Branch, HUD—Buffalo Office, Lafayette Court, 465 Main Street, Fifth Floor, Buffalo, New York 14203–1780 (716) 551–5755 x5500. TTY Number: (716) 551–5787

Newark

Encarnacion Loukatos, Multifamily Housing Director, HUD—Newark Office, One Newark Center, 13th Floor, Newark, New Jersey 07102–5260 (201) 622–7900 x3400. TTY Number: (201) 645–3298

Mid-Atlantic

Philadelphia

Thomas Langston, Multifamily Housing Director, HUD—Philadelphia Office, The Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107–3380 (215) 656–0503 x3354. TTY Number: (215) 656–3452

Baltimore

Ina Singer, Multifamily Housing Director, HUD—Baltimore Office, City Crescent Building, 10 South Howard Street, Fifth Floor, Baltimore, Maryland, 21201–2505 (410) 962–2520 x3125. TTY Number: (410) 962–0106

Charleston

Peter Minter, HUD—Charleston Office, 405 Capitol Street, Suite 708, Charleston, West Virginia 25301–1795 (304) 347–7064. TTY Number: (304) 347–5332

Pittsburgh

Edward Palombizio, Multifamily Housing Director, HUD—Pittsburgh Office, 339 Sixth Avenue, Sixth Avenue, Pittsburgh, Pennsylvania 15222–2515 (412) 644–6394. TTY Number: (412) 644–5747

Richmond

Charles Famuliner, Multifamily Housing Director, HUD—Richmond Office, The 3600 Center, 3600 West Broad Street, Richmond, Virginia 23230–4920 (804) 278–4505. TTY Number: (804) 278–4501

District of Columbia

Felicia Williams, Multifamily Housing Director, HUD—District of Columbia Office, 820 First Street, NE., Suite 450, Washington, D.C. 20002–4205 (202) 275–4726 x3096. TTY Number: (202) 275–0772

Southeast/Caribbean

Atlanta

Robert W. Reavis, Multifamily Housing Director, HUD—Atlanta Office, Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303–3388 404–331–4426. TTY Number: (404) 730–2654

Birmingham

Herman S. Ransom, Multifamily Housing Director, Beacon Ridge Tower, 600 Beacon Parkway West, Suite 300, Birmingham, Alabama 35209–3144 (205) 290–7667 x1062. TTY Number: (205) 290–7630

Caribbean

Minerva Bravo-Perez, Multifamily Housing Director, HUD—Caribbean Office, New San Juan Office Building, 159 Carlos E. Chardon Avenue, San Juan, Puerto Rico 00918–1804 (787) 766–5106/5401. TTY Number: (787) 766–5909

Columbia

Robert Ribenberick, Multifamily Housing Director, HUD—Columbia Office, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201–2480 (803) 253–3240. TTY Number: (803) 253–3071

Greensboro

Daniel McCanless, Multifamily Housing Director, HUD—Greensboro Office, Koger Building, 2306 West Meadowview Road, Greensboro, North Carolina 27407–3707 (910) 547–4020. TTY Number: (919) 547–4055

Jackson

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Jacksonville

Ferdinand Juluke, Jr., Multifamily Housing Director, HUD—Jacksonville Office, Southern Bell Tower, 301 West Bay Street, Suite 2200, Jacksonville, Florida 32202–

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Knoxville

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Louisville

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Nashville

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Mid-West

Chicago

Ed Hinsberger, Multifamily Housing Director, HUD—Chicago Office, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, Illinois, 60604–3507 (312) 353–6236 x2152. TTY Number: (312) 353–5944

Cincinnati

Patricia A. Knight, Multifamily Housing Director, HUD—Cincinnati Office, 525 Vine Street, 7th Floor, Cincinnati, Ohio, 45202–3188 (513) 684–2133. TTY Number: (513) 684–6180

Cleveland

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Columbus

Don Jakob, Multifamily Housing Director, HUD—Columbus Office, 200 North High Street, Columbus, Ohio 43215–2499 (614) 469–2156. TTY Number: (614) 469–6694

Detroit

Robert Brown, Multifamily Housing Director, HUD—Detroit Office, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592 (313) 226–7107. TTY Number: (313) 226–6899

Grand Rapids

Shirley Bryant, HUD—Grand Rapids Office, Trade Center Building, 50 Louis Street, NW, Third Floor, Grand Rapids, Michigan 49503–2648 (616) 456–2146. TTY Number: (616) 456–2159

Indianapolis

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Milwaukee

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Minneapolis-St. Paul

Howard Goldman, Multifamily Housing Director, HUD—Minneapolis Office, 220 Second Street, South, Minneapolis, Minnesota 55401–2195 (612) 370–3051. TTY Number: (612) 370–3186

Southwest

Fort Worth

Ed Ross Burton, Multifamily Housing Director, HUD—Fort Worth Office, 1600 Throckmorton Street, Fort Worth, Texas 76113–2905 (817) 978–9295 x3214. TTY Number: (817) 978–9273

Houston

Albert Cason, Multifamily Housing Director, HUD—Houston Office, Norfolk Tower, 2211 Norfolk, Suite 200, Houston, Texas 77098–4096 (713) 313–2274 x7063. TTY Number: (713) 834–3274

Little Rock

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New Orleans

Ann Kizzier, Multifamily Housing Director, HUD—New Orleans Office, Hale Boggs Federal Building, 501 Magazine Street, 9th Floor, New Orleans, Louisiana 70130–3099 (504) 589–7236 x3106. TTY Number: (504) 589–7279

Oklahoma City

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San Antonio

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Great Plains

Kansas City

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Des Moines

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Omaha

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St. Louis

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Rocky Mountains

Denver

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Pacific/Hawaii

Honolulu

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Los Angeles

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San Francisco

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Northwest/Alaska

Portland

Thomas C. Cusack, Multifamily Housing Director, HUD—Portland Office, 520 Southwest Sixth Avenue, Suite 700, Portland, Oregon, 97204–1596 (503) 326–2513. TTY Number: (503) 326–3656

Seattle

Willie Spearmon, Multifamily Housing Director, HUD—Seattle Office, Seattle Federal Office Building, 909 1st Avenue, Suite 200, Seattle, Washington 98104–1000 (206) 220–5207 x3249. TTY Number: (206) 220–5185

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Friday
May 23, 1997

Part IV

Department of Housing and Urban Development

Public and Indian Housing Drug Elimination Technical Assistance Program; Funding Availability—FY 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4208–N–01]

Public and Indian Housing Drug Elimination Technical Assistance Program Notice of Funding Availability—FY 1997

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Public and Indian Housing Drug Elimination Technical Assistance Program Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: This notice announces the availability of $2.8 million under the FY 97 Public and Indian Housing Drug Elimination Technical Assistance Program. The $2.8 million is derived from $376,411 available from prior year carryover funds and $2,423,589 available from the $10 million technical assistance set-aside within the $290 million appropriation provided for Public Housing Drug Elimination in the FY 1997 Appropriations Act. The purpose of this program is to provide short-term technical assistance to public housing agencies (PHAs), Indian housing authorities (IHAs), resident management corporations (RMCs), incorporated resident councils (RCs) and resident organizations (ROs) that are combating drug-related crime and abuse of controlled substances in public and Indian housing communities. Resident participation in the determination of programs and activities to be undertaken is critical to the success of all aspects of the program. HUD greatly desires and encourages programs that foster interrelationships among residents, the housing owner and management, the local law enforcement agency, and other community groups affecting the housing. When partnering with the neighborhood law enforcement agency/precinct, the community as a whole can enhance and magnify the effect of specific program activities. These funds reimburse consultants who provide expert advice and work with housing authorities or resident councils to assist them in gaining skills and training to eliminate drug abuse and related problems from public housing communities. This document describes the purpose of the NOFA, applicant eligibility, selection criteria, eligible and ineligible activities, application processing, consultant eligibility, and consultant application processing.

DATES: This NOFA is effective upon publication. Technical assistance applications and consultant application kits may be immediately submitted to the address specified in the application kit. Applications may be submitted anytime, up to close of business on June 30, 1997. Technical assistance applications will be reviewed on a continuing basis until June 30, 1997, or until funds available under this NOFA are expended. There is no application deadline for consultants.

ADDRESSES: (a) An application kit may be obtained from the local HUD Field Office with jurisdiction or by calling HUD's Drug Information and Strategy Clearinghouse at (800) 578–3472; or for hearing- or speech-impaired persons (202) 708–0850 (TTY). (The TTY number is not a toll-free number.) The application kit contains information on all exhibits and requirements of this NOFA.

(b) An applicant must submit the application to the address specified in the application kit.

(c) In addition, applicants must simultaneously forward a copy of these documents to the HUD Field Office (FO) or Office of Native American Programs (ONAP) with jurisdiction over the relevant housing authority. HUD might not consider the application until the appropriate FO or ONAP has confirmed receipt with the appropriate office in Washington, DC. This copy must be addressed to Director, Public Housing Division, or Administrator, Office of Native American Programs, as appropriate.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Public Housing Drug Elimination program contact Bertha M. Jones, Office of Crime Prevention and Security (OCPS), Office of Community Relations and Involvement (OCRI), Department of Housing and Urban Development, Room 4112, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1197. For questions regarding the Native American program contact Tracy Outlaw, National Office of Native American Programs (ONAP), Department of Housing and Urban Development, Suite 3990, 1999 Broadway, Denver, CO 80202; telephone (303) 675–1600.

Hearing and speech-impaired persons may access the telephone numbers via TTY by calling the Federal Information Relay Service at 1–800–877–8339. (With the exception of the ''800'' number, these are not toll-free numbers.)

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, the Department in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

The list of related NOFAs HUD is publishing elsewhere in this issue of the **Federal Register** are: The Public and Indian Housing Drug Elimination Program NOFA, the Federally Assisted Low-Income Housing Drug Elimination Grants NOFA, and the Safe Neighborhood Grants NOFA.

To foster comprehensive, coordinated approaches by communities, the Department intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. Additional steps on NOFA coordination may be considered for FY 1998.

To help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

SUPPLEMENTARY INFORMATION:

I. Purpose and Substantive Description

(a) Purpose

The TA program is intended to provide immediate, short-term (90 days for completion) training, recommendations, and assistance to assess needs, train staff and residents, identify and design appropriate strategies to eliminate drugs and drug-related crime, and generally prepare and educate public and Indian housing and resident organization staff and residents to address problems related to crime and the abuse of controlled substances

in public and Indian housing communities. HUD encourages housing authorities and eligible resident organizations with or without a drug elimination grant in their communities to use this resource. Technical assistance is not intended for program implementation, the financial support of existing programs, or programs requiring more than 30 billable days of technical assistance over a 90 day period.

(b) Allocation Amounts

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub.L. 104–204, approved September 26, 1996) (FY 1997 Appropriations Act) appropriated $290 million in FY 1997 funds for HUD's low-income housing drug elimination programs. Of this amount, the FY 1997 Appropriations Act set aside $10 million for ''grants, technical assistance, contracts and other assistance training, program assessment and execution for or on behalf of public housing agencies and resident organizations (including the cost of necessary travel for participants in such training).'' This notice announces the availability of $2.8 million under the FY 97 Public and Indian Housing Drug Elimination Technical Assistance Program. The $2.8 million is derived from $376,411 available from prior year carryover funds and $2,423,589 available from the $10 million technical assistance set-aside within the $290 million appropriation provided for Public Housing Drug Elimination in the FY 1997 Appropriations Act. Applications received from HAs and qualified RCs, ROs, and RMCs are eligible for a maximum amount of TA no greater than approximately $15,000.

Note: The average amount of TA provided any one application in this program has been approximately $10,000. The amount of $15,000 is a maximum funding ceiling and is not guaranteed. HUD-initiated TA is eligible for a maximum of $25,000 where HUD determines the circumstances require levels of assistance greater than $15,000.

(c) Eligibility

The following is a listing of eligible applicants, eligible consultants, eligible activities, ineligible activities, and general program requirements under this NOFA.

(1) Eligible Applicants. (i) Public housing agencies (PHAs), Indian housing authorities (IHAs), incorporated resident councils (RCs), resident organizations (ROs) in the case of IHAs, and resident management corporations (RMCs) are eligible to receive short-term technical assistance services under this NOFA.

(ii) An eligible RC or RO must be an incorporated nonprofit organization or association that meets each of the following requirements:

(A) It must be representative of the residents it purports to represent.

(B) It may represent residents in more than one development or in all of the developments of a PHA or IHA, but it must fairly represent residents from each development that it represents.

(C) It must adopt written procedures providing for the election of specific officers on a regular basis (but at least once every three years).

(D) It must have a democratically elected governing board. The voting membership of the board must consist of residents of the development or developments that the resident organization or resident council represents.

(iii) An eligible RMC must be an entity that proposes to enter into, or that enters into, a management contract with a PHA under 24 CFR part 964, or a management contract with an IHA. An RMC must have each of the following characteristics:

(A) It must be a nonprofit organization that is incorporated under the laws of the State or Indian tribe in which it is located.

(B) It may be established by more than one resident organization or resident council, so long as each such organization or council:

(*1*) Approves the establishment of the corporation; and

(*2*) Has representation on the Board of Directors of the corporation.

(C) It must have an elected Board of Directors.

(D) Its by-laws must require the Board of Directors to include representatives of each resident organization or resident council involved in establishing the corporation.

(E) Its voting members must be residents of the development or developments it manages.

(F) It must be approved by the resident council. If there is no council, a majority of the households of the development must approve the establishment of such an organization to determine the feasibility of establishing a corporation to manage the development.

(G) It may serve as both the resident management corporation and the resident council, so long as the corporation meets the requirements of 24 CFR part 964 for a resident council. (In the case of a resident management corporation for an Indian Housing Authority, it may serve as both the RMC and the RO, so long as the corporation meets the requirements of this NOFA for a resident organization.)

(iv) Applicants are eligible to apply to receive technical assistance if they are already receiving technical assistance under this program, as long as the request creates no scheduling conflict with other TA requests from the same applicant.

(v) Applicants are eligible to apply to receive technical assistance whether or not they are already receiving drug elimination funds under the Public and Indian Housing Drug Elimination Program.

(vi)(A) In circumstances determined by HUD to be crime and drug-related and to require immediate attention because of drug and crime issues, eligible parties may receive technical assistance initiated and approved by HUD. These circumstances may include, for example:

(*1*) HAs unsuccessful in gaining Drug Elimination or Youth Sports Program grants;

(*2*) Applicants which have a demonstrated inability to explain their local drug or crime circumstances;

(*3*) Applicants with a demonstrated inability to identify or develop potential solutions to their local drug or crime problem;

(*4*) Applicants unable to develop local anti-drug, anti-crime partnerships;

(*5*) The need for training;

(*6*) Pervasive drug-related violence; and

(*7*) Disputes among tenants and disputes between tenants and management that are related to these issues.

(B) In instances of HUD-initiated TA, HUD staff requesting the TA will be required to explain the situation of the targeted housing authority or qualified resident council in terms of the three selection criteria outlined in section I.(d) of this NOFA which will be documented in the file, and used to choose a consultant and design and target the TA.

(vii) The applicant must have substantially complied with the laws, regulations, and Executive Orders applicable to the Drug Elimination TA Program, including applicable civil rights laws. Noncompliance may be evidenced by:

(A) An outstanding finding of civil rights noncompliance, unless the applicant demonstrates that it is operating in compliance with a HUD-approved compliance agreement designed to correct the area(s) of noncompliance;

(B) An adjudication of a civil rights violation in a civil action brought

against it by a private individual, unless the applicant demonstrates that it is operating in compliance with a court order designed to correct the area(s) of noncompliance;

(C) A deferral of Federal funding based upon civil rights violations;

(D) A pending civil rights suit brought against it by the Department of Justice; or

(E) An unresolved charge of discrimination issued against it by the Secretary under section 810(g) of the Fair Housing Act, as implemented by 24 CFR 103.400.

(2) Eligible Consultants. Consultants who want to provide short-term technical assistance services under this NOFA must be listed in the Consultant Database approved by HUD's Crime Prevention and Security Division (CPSD). To be included in that database, consultants must complete, in accordance with the requirements of section I.(c)(2)(ii), below, of this NOFA, a consultant application packet available from the Drug Information and Strategy Clearinghouse at (800) 578–3472, or (202) 708–0850 (TTY), and submit the packet to the address specified in the application kit. (The TTY number is not a toll-free number.)

(i) Consultant eligibility. HUD is seeking individuals or entities who have experience working with public or Indian housing or other low-income populations to provide short-term technical assistance under this NOFA. Consultants who have previously been deemed eligible and are part of the TA Consultant Database need not reapply, but they are encouraged to update their file with more recent experience and rate justification. To qualify as eligible consultants, individuals or entities should have experience in one or more of the following general areas:

(A) PHA/IHA-related experience with:

(*1*) Agency organization and management;

(*2*) Facility operations;

(*3*) Program development; and

(*4*) Experience working with residents and community organizations.

(B) Anti-crime- and anti-drug related experience with:

(*1*) Prevention/intervention programs;

(*2*) Enforcement strategies; and

(C) Experience as an independent consultant, or as a consultant working with a firm with related experience and understanding of on-site work requirements, contractual, reporting and billing requirements.

(D) HUD is especially interested in encouraging TA consultant applications from persons who are qualified in the following professional areas:

(*1*) Lease, screening and grievance procedures;

(*2*) Defensible space, security and environmental design;

(*3*) Parenting, peer support groups and youth leadership;

(*4*) Career planning, job training, tutoring and entrepreneurship;

(*5*) Community policing, neighborhood watch and anti-gang work; and

(*6*) Resident organizing, involvement, and relations with management.

(E) HUD especially encourages PHAs, IHAs, PHA/IHA employees, RMCs, incorporated resident councils and resident organizations, and public and Indian housing residents, with experience in the above areas, to submit a consultant application for eligibility under this NOFA. Eligible consultants will be entered into the Consultant Database for possible recommendation to technical assistance applicants.

(ii) Applying to be a consultant. Individuals or entities interested in being listed in the TA Consultant Database should prepare their applications and send them to the address specified in the application kit. Before they can be entered into the Consultant Database, consultants must submit an application that includes the following information:

(A) The Consultant Resource Inventory Questionnaire, including at least three written references, all related to the general areas listed above in sections I.(c)(2)(A)–(C). One or two of the written references must relate to work for a public or Indian housing authority, RC, RO or RMC;

(B) A resume;

(C) Evidence submitted by the consultant to HUD that documents the standard daily fee previously paid to the consultant for technical assistance services similar to those requested under this NOFA.

(*1*) For consultants who can justify up to the equivalent of ES–IV per day, this evidence may include an accountant's statement, W–2 Wage Statements, or payment statements, and it should be supplemented with a signed statement or other evidence from the employer of days worked in the course of the particular project (for a payment statement) or the tax year (for a W–2 Statement).

(*2*) For consultants who can justify above the equivalent of ES–IV per day, there must be three forms of documentation of the daily rate:

(*i*) A previous invoice and payment statement showing the daily rate charged and paid, or the overall amount paid and the number of days for work of a similar nature to that offered in this TA program;

(*ii*) A certified accountant's statement outlining the daily rate with an explanation of how the rate was calculated by the accountant. This should include at a minimum the total number of jobs of a similar nature completed by the consultant in the past 12 months, an explanation of the specific jobs used to calculate the rate, and the daily rates for each of the jobs used to justify the rate; and

(*iii*) A signed statement from the consultant that the certified daily rate was charged for work of a nature similar to that being provided for the Drug Elimination Technical Assistance Program. The accountant must be able to demonstrate independence from the consultant's business.

(iii) Working and billing in the TA program. No one individual may have active at one time any more than three contracts or purchase orders. If an individual is working as a member of a multi-person firm, the key individual for the specific contract must be listed on the contract as the key point of contact. The key point of contact must be on-site more hours than any other contracted staff billing to the purchase order, and that individual may have no more than three purchase orders active at the same time.

(iv) Consultant payment. HUD will determine a specific fee to pay a consultant under this NOFA based upon the evidence submitted in section I(c)(2)(ii)(C), above, of this NOFA.

(v) Conflicts of interest. In addition to the conflict of interest requirements in 24 CFR part 85:

(A) No person who is an employee, agent, officer, or appointed official of the applicant may be funded as a consultant to the applicant by this Drug Elimination Technical Assistance Program.

(B) Consultants who wish to provide drug elimination technical assistance services through this program may not have any involvement in the preparation or submission of the TA proposal that requests their services. Any involvement of the consultant will be considered a conflict of interest, which makes the consultant ineligible for providing consulting services to the applicant and could disqualify the consultant from future consideration. This prohibition includes the preparation and distribution of prepared generic or sample applications, if HUD determines that any application by a HA, RC, RO or RMC duplicates a sufficient amount of any prepared sample to raise issues of possible conflict of interest.

(C) Consultants may no longer be requested by name in any application.

HUD will recommend consultants considering at least three elements including previous experience, proximity and cost. Section I.(e)(2)(ii) of this NOFA explains this further.

(3) Eligible Activities. To assist the eligible applicants identified in section I.(c)(1), above, of this NOFA, in responding immediately to drug-related problems in public and Indian housing developments, HUD has supplemented the Public and Indian Housing Drug Elimination Program (PHDEP) and Youth Sports Program (YSP) with funds for short-term technical assistance. Short-term technical assistance means that consultants shall only be reimbursed for a maximum of 30 days of work, which must be completed in less than 90 days from the date of the approved statement of work. The TA program is intended to provide *short-term, immediate assistance* to PHAs, IHAs, RMCs, RCs, and ROs in developing and/or implementing their strategies to eliminate drugs and drug-related crime. The program will fund the use of consultants who can provide the necessary consultation and/or training for the types of activities outlined below. HUD will fund the use of consultants who will assist the applicant in undertaking a task such as program planning and development for future strategies to eliminate drugs and drug-related crime, or conducting a needs assessment or survey. The TA program also funds efforts in:

(i) Assessing drug problems in public or Indian housing development(s) and surrounding community(ies);

(ii) Designing and identifying appropriate anti- crime- and anti-drug related practices and programs in the following areas:

(A) Law enforcement strategies, including negotiating with the local police, working with Federal law enforcement, Operation Safe Home, Weed and Seed, and other federal anti-crime efforts;

(B) Resident involvement in all aspects of the local anti-drug, anti-crime activities;

(C) Youth initiatives;

(D) Resident Patrols;

(E) Security and physical design;

(F) Community organization and leadership development; and

(G) Other areas that meet the purposes of eliminating drugs and drug-related crime described in this NOFA, as determined by HUD.

(iii) Training for housing authority staff and residents in anti-crime and anti-drug practices, programs, and management;

(iv) Improving overall agency management, operations, and programming so that the applicant can more effectively respond to crime and drug problems in the targeted public housing development(s).

(4) Ineligible Activities. (i) Funding is not permitted for any type of monetary compensation for residents unless the residents are listed in the TA Consultant Database and are working as consultants.

(ii) Funding is not permitted for any activity that is funded under any other HUD program; including TA and training for the incorporation of resident councils or RMCs, and other management activities.

(iii) Funding is not permitted for salary or fees to the staff of the applicant, or former staff of the applicant within a year of his or her leaving the housing authority or resident organization.

(iv) Funding is not permitted for underwriting conferences.

(v) Funding is not permitted for conference speakers unless the speaker will also be providing additional TA as outlined in the eligible activities in sections I.(c)(3) (i)–(iv), above, of this NOFA.

(vi) Funding is not permitted for program implementation, proposal writing, the purchase of hardware or equipment, or any activities deemed ineligible in the Drug Elimination Program, excluding consultant's fees.

(5) General Program Requirements. (i) Applications for short-term technical assistance may be funded up to $15,000 per request, with HUD providing payment directly to the authorized consultant for the consultant's fee, travel, room and board, and other approved costs.

(ii) For technical assistance initiated by HUD, the TA may be for any amount up to $25,000.

(iii) Applicants that have not previously received technical assistance under this program may submit only one application initially. After the applicant's initial technical assistance report has been received and reviewed by HUD or the contractor administering the program, as appropriate, the applicant may submit multiple applications. For TA initiated by HUD an applicant may have more than one TA opportunity active at the same time.

(iv) Applications must be signed and certified by both the Executive Director and a resident leader, certifying the following:

(A) That a copy of the application was sent to the local HUD Field Office, Director of Public Housing Division, or Administrator, Office of Native American Programs; and

(B) That the application was reviewed by both the Housing Authority Executive Director, and a resident leader.

(d) Selection Criteria/Rating Factors

An application must include the minimum required elements and cannot request assistance for ineligible activities as listed in section I.(c)(4), above, of this NOFA. If HUD receives more than one application from a HA, or group of RCs, ROs, or RMCs in proximity to one another, HUD may exercise discretion to consider any two or more applications as one, recommending one or more consultants and executing contracts for any combination of applications. As an example, if three resident councils at one HA, or three HAs within one geographic area submit three separate TA applications within the same period of time, HUD may contract with one, two or three consultants to carry out the work, as HUD determines the best use of HUD funds, and the best outcomes for the applicants. Applications will be scored according to the criteria outlined below. Applicants must address the specific questions directly as listed below.

(1)(i) The extent to which the applicant needs short-term technical assistance. This will be measured by the applicant's discussion of the problems that triggered the request for assistance under this NOFA. (Maximum points: 5) For the maximum of five points allowed for this criterion, the discussion must include answers to each of the following questions:

(A) What is the nature of the drug-related crime problem in your community in terms of the extent of such crime, the types of crime, and the types of drugs being used?

(B) What is the nature of the housing authority's working relationships with law enforcement agencies, particularly local agencies, and indicate if and how TA funds will be used to improve those relationships?

(C) Are housing authority residents selling or using drugs, or committing the crimes? What about non-residents?

(D) What type of problems are you requesting assistance for in this application?

(E) How are those problems related to the drug and drug-related crime problems outlined above?

(ii) If the applicant cannot provide answers to each of these questions, but wishes to receive the maximum of five points allowed for this criterion, the applicant's discussion for this criterion must include answers to each of the following questions:

(A) What prevents you from identifying the problems?

(B) What prevents you from describing the problems?

(C) What prevents you from measuring the problems? (Maximum points: 5)

(2) The extent to which the applicant clearly describes the kind of technical assistance and skills needed to address the problems, and how well the technical assistance requested will address the problems. To receive the maximum of five points, the discussion for this criterion must address each of the following:

(i) Describe what you would like a consultant to do to help you with the problems outlined in Factor One.

(ii) Whom would you like the consultant to meet when the consultant is on-site?

(iii) What do you want the consultant to do when on-site?

(iv) What do you want in place after the consultant is finished on-site? (Maximum points: 5)

(3) The likelihood that the requested technical assistance will assist the applicant's current strategy to eliminate drugs and drug-related crime, as described in the application; or, if the applicant does not currently have a strategy, the extent to which the technical assistance will help them develop a strategy to eliminate drugs and drug-related crime. To receive the maximum of five points, the discussion for this criterion must address each of the following:

(i) Describe the steps you and your organization are currently taking to measure, understand or address the drug-related crime problem in your development or housing authority.

(ii) How will the proposed assistance support these efforts?

(iii) Describe how the proposed assistance will allow you to develop an anti-drug, anti-crime strategy; or describe how the proposed assistance fits into your current strategy. (Maximum points: 5)

(e) Application Review, Awards, and Payment

(1) Application Review. Applications for Technical Assistance will be reviewed and scored as they are received. Consultant applications will be received throughout the year with no deadline. A TA application must include both the descriptive letter (or form provided in the application kit) and certification statement (or form provided in the application kit) to be eligible for funding. All applications that qualify on the basis of the minimum required elements will be scored on the basis of the selection criteria in section I.(d), above, of this NOFA. Applications must receive a total of 8 or more points, with no less than 2 points in any of the three selection criteria in section I.(d), above, of this NOFA to be eligible for funding. Eligible applications will be funded in the order in which negotiations for a statement of work are completed between the consultant and the program administrator until all funds are expended. The basis for each funding decision under this section will be documented.

(2) Application Awards.

(i) If the application includes the descriptive letter (or forms) requesting eligible activities, the certification statements (or form), and scores at least 8 points as described in section I.(e)(1), above, of this NOFA, it is eligible for funding. If sufficient funds are available to fund the technical assistance request, staff will confer with the applicant to confirm the work requirements.

(ii) If HUD receives more than one application from a HA, or group of RCs, ROs or RMCs in proximity to one another, HUD may exercise discretion to consider any two or more applications as one, assuming that the applications are received at the same time, or prior to approval by the Office of Finance and Accounting and the Office of Procurement and Contracts, executing the contract, and providing notification to the consultant to proceed to work. The TA Consultant Database will be searched to choose at least three consultants who: (1) Have a principal place of business or residence located within a reasonable distance from the applicant, as determined by HUD or its agent; or (2) appear to have the requisite knowledge and skills to assist the applicant in addressing its needs. An employee of a housing agency (HA) may not serve as a consultant to his or her employer. An HA employee who serves as a consultant to someone other than his or her employer must be on annual leave to receive the consultant fee. Applicants may *not* request any specific consultant. A list of the suggested consultants will be forwarded to the applicant. From this list, the applicant will recommend a consultant to provide the requested technical assistance. Instructions for consultants who wish to be included in the TA Consultant Database are outlined above in section I.(c)(2)(ii) of this NOFA.

(iii) The applicant must contact three TA consultants from the list provided. HUD may request confirmation from each recommended consultant to ensure that the three consultants have been contacted by the applicant. If HUD determines that any consultant was not contacted, HUD may consider the recommendation by the applicant void, and can choose a consultant independent of the applicant. After making contact with each consultant, the applicant must send a written justification to HUD with a list of the consultants in order of preference, indicating any that are unacceptable, and stating the reasons for its preference. If the applicant does not provide HUD the written justification of consultant choice within the period requested, HUD will make its own choice of a consultant and proceed to negotiate a statement of work with the consultant. There is no guarantee that the applicant's first preference will be approved. Consultants will only be approved for the TA if the request is not in conflict with other requests for the consultant's services.

(iv) Staff designated by HUD will work with the consultant and applicant to develop a statement of work that includes a timeline and estimated budget. The statement of work should also include a discussion of the kind of technical assistance and skills needed to address the problem, and how the technical assistance requested will address these needs; and a description of the current crime and drug elimination strategy, and how the requested technical assistance will assist that strategy. If the applicant does not currently have a strategy, there should be a statement of how the technical assistance will help them develop a crime and drug elimination strategy. When HUD has completed the authorization to begin work, the consultant will be contacted to start work. The consultant must receive written authorization from HUD or its authorized agent before he or she can begin to provide technical assistance under this NOFA. The applicant and the relevant Field Office or Office of Native American Programs will also be notified. Because this program is for short-term technical assistance, consultants shall only be reimbursed for a maximum of 30 days of work, which must be completed in fewer than 90 days from the date of the approved statement of work. Work begun before the authorized date will be considered unauthorized work and may not be compensated by the Department.

(3) TA Consultant Work and Reports. HUD is working to improve the quality of TA consultant reports and invoices and has added requirements to improve the quality of reports and invoices, both for the benefit of the applicant, and for a record that will reflect the level of funds expended for the services. Reports

and invoices which do not include the new elements or meet the new standard will be returned to the consultant. If HUD returns a disapproved report or invoice to a consultant, HUD may withhold up to 25 percent of the payment requested by the consultant, or authorized in the purchase order, for the related work. HUD may also deny further work to the consultant in the TA program until the report or invoice is accepted by HUD. Examples of reports and invoices considered reasonable by HUD are available from the Drug Information and Strategy Clearinghouse, at 1–800–578–3472. Consultants are encouraged to obtain copies and use these as models before submitting an invoice or report in FY 1997. Previously acceptable standards may no longer be accepted by HUD.

(4) Payment of TA Consultants. The consultant must submit a report of its activities, findings and recommendations, a fee invoice, and expenses and original receipts to the address specified in the application kit. A copy of the report must also be submitted to the applicant. A revised version of the ''Guidelines for Consultants'' book, available from the Clearinghouse, describes the required elements of these reports. These required elements have changed from previous years and consultants are encouraged to review them closely to make sure all invoices and reports follow the new guidelines before submitting an invoice or report. After the report and expenses have been approved, and a verbal or written evaluation is received from the applicant, payment will be issued to the consultant.

II. Application Process

(a) Application Kit. An application kit may be obtained from the local HUD Field Office or Office of Native American Programs, or by calling HUD's Drug Information and Strategy Clearinghouse at (800) 578–3472 or (202) 708–0850 (TTY) (The TTY number is not a toll-free number). The application kit contains information on all exhibits and requirements of this NOFA. Requirements in the new FY 1997 Application Kit have changed from previous years and applicants are encouraged to carefully review the requirements to make sure that the application meets all requirements before submission.

(b) Application Submission. This NOFA is effective upon publication. Short-term (90 days for completion) technical assistance applications and consultant application kits may be immediately submitted to the address specified in the application kit. The application submission deadline for the short-term technical assistance grants available under this NOFA is June 30, 1997. Technical assistance applications will be reviewed on a continuing first-come, first-served basis, until funds under this NOFA are no longer available or until June 30, 1997. Applicants are encouraged to submit their applications as early as possible in the fiscal year.

(1) An applicant must submit the application and the necessary assurances to the address specified in the application kit.

(2) In addition, applicants must simultaneously forward a copy of these documents to the HUD Field Office or Office of Native American Programs with jurisdiction over the relevant housing authority. This copy must be addressed to Director, Division of Public Housing, or Administrator, Office of Native American Programs, as appropriate.

III. Checklist of Application Submission Requirements

Each application for a grant under this program must include the following:

(a) An application will not be considered for funding unless it includes, at a minimum, the following elements:

(1) An application letter of no more than four pages that responds to each of the selection criteria in section I(d), above, of this NOFA, or the completed application forms available in the application kit; and

(2) A certification statement, or the form provided in the application kit, signed by the executive director of the housing authority *and* the authorized representative of the RMC or incorporated RC or RO, certifying that any technical assistance received will be used in compliance with all requirements in the NOFA, including those outlined in I(a)(3)–(4); and

(b) A completed and signed HUD Form 2880.

IV. Corrections to Deficient Applications

(a) HUD will notify an applicant, in writing or by telephone, of any curable technical deficiencies, such as a missing signature in the application. A log of telephone notifications will be maintained. The applicant must correct the deficiency in accordance with the information specified in HUD's notification. The application will not be given further consideration until the deficiency is corrected.

(b) Curable technical deficiencies relate to items that are not necessary to make a determination of an applicant's eligibility. The items necessary for this determination are listed at section III.(a), above, of this NOFA, although missing signatures on the application letter, certification, or forms are curable.

V. Findings and Certifications

Paperwork Reduction Act Statement

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget, in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.* The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**.

Nondiscrimination and Equal Opportunity

The following nondiscrimination and equal opportunity requirements apply:

(1) The requirements of title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3600–20) (Fair Housing Act) and implementing regulations issued at subchapter A of title 24 of the Code of Federal Regulations, as amended by 54 FR 3232 (published January 23, 1989); Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107; and title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(2) The Indian Civil Rights Act (title II of the Civil Rights Act of 1968) (25 U.S.C. 1301–1303) (ICRA) provides that no Indian tribe in exercising powers of self-government shall deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law. The Indian Civil Rights Act applies to any tribe, band, or other group of Indians subject to the jurisdiction of the United States in the exercise of recognized powers of self-government. The ICRA is applicable in all cases where an IHA has been established by exercise of tribal powers of self-government.

(3) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146, and the prohibitions against discrimination against individuals with disabilities under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and

implementing regulations at 24 CFR part 8;

(4) The requirements of Executive Order 11246 (Equal Employment Opportunity) and the regulations issued under the Order at 41 CFR Chapter 60;

(5) The requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131) and implementing regulations at 29 CFR part 1640, 28 CFR part 35, and 28 CFR part 36.

(6) The requirements of Executive Orders 11625, 12432, and 12138. Consistent with HUD's responsibilities under these Orders, recipients must make efforts to encourage the use of minority and women's business enterprises in connection with funded activities.

Use of Debarred, Suspended, or Ineligible Contractors

Applicants for short-term technical assistance under this NOFA are subject to the provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts, or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status.

Drug-Free Workplace Act of 1988

The requirements of the Drug-Free Workplace Act of 1988 and implementing regulations at 24 CFR part 24, subpart F apply under this notice.

Environmental Impact

This NOFA does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this NOFA is categorically excluded from environmental review under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321). In addition, the provision of assistance under this NOFA is categorically excluded from review in accordance with 24 CFR 50.19(b)(9).

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the provisions of this NOFA do not have federalism implications within the meaning of the Order. The NOFA provides short-term technical assistance to housing authorities and resident organizations to assist them in their anti-drug efforts in public housing communities. The involvement of resident organizations should greatly increase the success of the anti-drug efforts under this technical assistance program and therefore should have positive effects on the target population. As such, the program helps housing authorities to combat serious drug problems in their communities, but it does not have federalism implications.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number for this program is 14.854.

Section 102 HUD Reform Act—Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the final rule codified at 24 CFR part 4, subpart A, published on April 1, 1996 (61 FR 1448), contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

(1) *Documentation and Public Access.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *HUD responsibilities—disclosures.* HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

Section 103 HUD Reform Act

HUD's regulation implementing section 103 of the HUD Reform Act, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants.

HUD employees involved in the review of applications and in the making of funding decisions are restrained by part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have ethics related questions should contact HUD's Ethics Law Division (202) 708–3815 (This is not a toll-free number.)

Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (The ''Byrd Amendment'') and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative branches of the federal government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying.

Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding $100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance. Indian Housing Authorities established by an Indian Tribe as a result of the exercise of their sovereign power are excluded from coverage, but IHAs established under state law are not excluded from coverage.

Dated: May 16, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary, Office of Public and Indian Housing.

[FR Doc. 97–13519 Filed 5–22–97; 8:45 am]

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Federal Register

Friday
May 23, 1997

Part V

Department of Housing and Urban Development

Safe Neighborhood Grants; Funding Availability—FY 1997; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4212–N–01]

Safe Neighborhood Grants; Notice of Funding Availability—Fiscal Year 1997

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of Funding Availability (NOFA) for Fiscal Year (FY) 1997.

SUMMARY: This NOFA announces the availability of $20,000,000 in FY 1997 funds for Safe Neighborhood Grants. The purpose of the Safe Neighborhood Grants Program is to eliminate drug-related and other crime problems on the premises and in the vicinity of low-income housing, which may be privately or publicly owned and is financially assisted or supported by public or nonprofit private entities. This NOFA describes the purpose of the program, applicant eligibility, maximum grant amount, application threshold and ranking criteria, HUD application processing, and postaward financial and management requirements. This NOFA provides information on how to apply, how HUD will make selections, and how HUD will notify applicants of results.

DATES: Applications must be received at the local HUD field office on or before August 21, 1997 at 3 p.m., local time. THIS APPLICATION DEADLINE IS FIRM AS TO DATE AND HOUR. In the interest of fairness to all competing applicants, HUD will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and submit materials early to avoid risking loss of eligibility brought about by unanticipated delivery-related problems. A facsimile transmission (FAX) will not constitute delivery.

ADDRESSES: (a) APPLICATION KIT: An application kit is required to prepare an application successfully. Applicants may obtain the application from the HUD field office having jurisdiction over the location of the applicant project. A list of HUD field offices is attached to this NOFA as Appendix A. The HUD field office will be available to provide technical assistance in the preparation of applications during the application period. In addition, applications may be obtained from the Multifamily Housing Clearinghouse by calling (800) 685–8470.

(b) APPLICATION SUBMISSION: Applications (original and two copies) must be received by the deadline at the appropriate HUD field office with jurisdiction over the applicant project, Attention: Director of Multifamily Housing. It is not sufficient for the application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. HUD will not consider applications received after the deadline.

FOR FURTHER INFORMATION CONTACT: For application materials, please contact the Office of the Director of Multifamily Housing in the HUD field office having jurisdiction over the project(s) in question. A list of HUD field offices is attached to this NOFA as Appendix A.

For program, policy, and other guidance, contact Henry Colonna, Department of Housing and Urban Development, Virginia State Office, 3600 West Broad Street, Richmond, VA 23230–4920, telephone (804) 278–4505, extension 3027 (or (804) 278–4501 TTY).

SUPPLEMENTARY INFORMATION:

I. Purpose and Substantive Description

A. Authority

This grant funding was authorized and appropriated by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (Pub. L. No. 104–204, approved September 26, 1996; 110 Stat. 2874, 2888) (HUD FY 1997 Appropriations Act).

B. Background

The HUD 1997 Appropriations Act made $20,000,000 available for grants to benefit public housing developments, federally-assisted multifamily, or other multifamily-housing developments for low-income families supported by non-Federal governmental housing entities or similar developments supported by nonprofit private sources, to reimburse local law enforcement entities for additional police presence in and around such housing developments. These funds may also be used to provide or augment such security services by other entities or employees of the recipient agency, to assist in the investigation and/or prosecution of drug related criminal activity in and around such developments, and to provide assistance for the development of capital improvements at such developments directly relating to the security of such developments.

In implementing this grant program, HUD is applying lessons learned from other anticrime efforts in public and assisted housing including the following HUD programs: Drug Elimination Grants for Public and Indian Housing and for other federally-assisted housing; Operation Safe Home; and the Safe Neighborhood Action Program (SNAP) demonstration. Federal programs also include several Department of Justice (DOJ) law enforcement programs and various programs operated by HUD and other agencies which promote socio-economic lift, drug treatment, and other support for at-risk populations to remove underlying causes of crime and the need for law enforcement.

The following specific guiding principles and concerns are derived from this experience, and HUD is incorporating them in its plan for implementing these Safe Neighborhood Grants:

(1) *Drug- and crime-fighting activities, if only directed to a single assisted housing development, may have the unfortunate effect of simply moving the problem to nearby housing and businesses.* With these grants, HUD is taking a comprehensive neighborhood/community-based approach to crime. Applicant owners/operators of eligible housing will be required to partner with the unit of general local government (city or county) with jurisdiction and other stakeholders to address crime in an entire neighborhood that may include more than one Assisted Housing development. Application scoring will favor proposals that target neighborhoods with large concentrations of Assisted Housing that are, in many cases, distributed among multiple Assisted Housing developments. Application scoring will also favor proposals that maximize the role of units of general local governments, and especially their police departments and/or prosecuting offices, in administering grant funds. (Units of local government that are owners/operators of eligible housing may also be designated grantees whether or not the neighborhood designated for assistance includes housing that they own).

(2) *Crime fighting efforts are most effective when partnering law-enforcement agencies at various levels with one another and with a full range of community stakeholders.* As indicated above owner applicants will be required to demonstrate that they have formed a partnership with units of general local government, preferably with the police department and prosecutor's office playing key roles in this partnership. In addition, members of the grant partnership must also include: At least one law enforcement agency at a Federal level (such as the HUD Office of Inspector General (OIG), U.S. Attorney, FBI, Drug Enforcement Administration (DEA), and U.S. Marshals); all owners of Assisted

Housing developments in the targeted neighborhood; and residents of these Assisted Housing developments. Applicants will also position themselves to score more points in the competition by including the following in the partnership: (a) Community residents; (b) neighborhood businesses; (c) nonprofit providers of support services, including spiritually-based organizations and their affiliates; (d) State law enforcement agencies; and (e) more than one Federal law enforcement agency.

In stressing partnerships, HUD is drawing from successes of its Operation Safe Home program and the SNAP Demonstration Initiative. Safe Neighborhood Grants will be administered by HUD's Richmond Office, which also administers the SNAP demonstration sites, and will include implementation plans called ''Safe Neighborhood Action Plans.'' (The SNAP program will also continue to include projects not funded by Safe Neighborhood Grants, such as current demonstration SNAP initiatives.) In addition, the HUD Office of Inspector General will make several Safe Neighborhood Grant sites Operation Safe Home sites as well, giving awardees of such grants the added benefit of Office of Inspector General assistance in crime fighting activities.

(3) *Law enforcement strategies, however effective in the short run, need to be combined with efforts to address the underlying causes of crime and deter its reappearance.* The long term solution to the crime problems of Assisted Housing developments and their surrounding neighborhoods rest in changing the conditions—and the culture—within these places. Although Safe Neighborhood Grants are statutorily restricted to law enforcement activity and to physical barriers against criminal penetration, the ranking will favor comprehensive strategies that match Safe Neighborhood Grant funds with local, State, or Federal resources committed to ''welfare-to-work,'' family self-sufficiency, youth development and the like, as well as other law enforcement resources.

(4) *Actions speak louder than words.* HUD is aware that competitive grant selections can be as much affected by the writing skills applied in preparing applications as by the applicant organization's ability to achieve program goals with grant funds. Although HUD will award 10 points based on the logical soundness of a proposed plan, HUD also knows that excellent plans on paper do not always translate to excellent results. For maximum program impact, HUD intends to fund existing crime-fighting partnerships with good track records to extend their activities in new locations. Forty out of 100 points will be awarded based on lead applicant's and partnership's capacity to implement the Safe Neighborhood Action Plan. Of these 40 points, 15 will be based on the prior experience of an applicant or its partners in eliminating crime in other projects and neighborhoods, with the remaining 25 based on the overall strength of the partnership and administrative mechanisms established to implement the grant.

As a prime example of the need to use effective working partnerships in new locations, many Federal resources have been applied to eliminate crime in and around public and assisted housing developments through the Drug Elimination Grant, Operation Safe Home, and Weed and Seed programs. HUD now wishes to encourage these successful partnerships to address similar problems in and around privately-owned federally-assisted housing. In addition to rewarding partnerships with good track records, HUD is requiring that at least one project in each targeted neighborhood be multifamily housing with either: (1) A HUD-insured, held, or direct mortgage and Rental Assistance Payments (RAP), Rent Supplement, or interest reduction payments; or (2) Section 8 project-based assistance with or without HUD interest in the project mortgage.

This emphasis on HUD assisted privately-owned housing does not negate the eligibility of other low-income housing developments assisted by Federal, State, and local government, and not-for-profit sources to apply or benefit from Safe Neighborhood Grant funds. By awarding points for neighborhoods with high concentrations of Assisted Housing, HUD is encouraging applicants to address the needs of multiple Assisted Housing developments which may feature a mix of ownership types and subsidy sources.

(5) *Complying with civil rights requirements.* With the very real need to protect occupants of HUD-sponsored housing and the areas around the housing, the civil rights of all citizens must be protected. Proposed strategies should be developed to ensure that crime-fighting and drug prevention activities are not undertaken in such a manner that civil rights or fair housing statutes are violated. Profiling on any prohibited bases may not be allowed. In addition, all segments of the population should be represented in developing and implementing these crime-fighting strategies.

(6) *Coordination with other law enforcement efforts.* In addition to working closely with residents and local governing bodies, it is critically important that owners establish ongoing working relationships with Federal, State, and local law enforcement agencies in their efforts to address crime and violence in and around their housing developments. HUD firmly believes that the war on crime and violence in assisted housing can only be won through the concerted and cooperative efforts of owners and law enforcement agencies working together in cooperation with residents and local governing bodies. As such, HUD encourages owners to participate in Departmental and other Federal law enforcement agencies' programs, as described below:

Safe Neighborhood Action Program (SNAP)

The Safe Neighborhood Action Program (SNAP) initiative, announced June 12, 1994 by HUD, the National Assisted Housing Management Association (NAHMA), and the U.S. Conference of Mayors (USCM), is an anticrime and empowerment strategies initiative in HUD-assisted housing neighborhoods in 14 SNAP cities. The major thrust of SNAP is the formation of local partnerships in 14 targeted cities where ideas and resources from government, owners and managers of assisted housing, residents, service providers, law enforcement officials, and other community groups meet to work on innovative, neighborhood anticrime strategies. There is no funding associated with SNAP, which relies on existing ideas and resources of the participants. Some common initiatives from these SNAP teams have included the following: Community policing, crime watch programs, tenant selection policies, leadership training, individual development or job skills training, expansion of youth activities, police tip line or form, community centers, antigang initiatives, police training for security officers, environmental improvements, and a needs assessment survey to determine community needs. In addition, a HUD-sponsored initiative to increase the presence of AmeriCorps' VISTAs in assisted housing units has led to the placement of 25 VISTAs on 12 SNAP teams. The AmeriCorps VISTA program, which incorporates a theme of working within the community to find solutions to community needs, has provided additional technical assistance to the SNAP teams. The cities participating in the SNAP initiative include: Atlanta, GA; Boston, Mass; Denver, CO; Houston, TX; Newark, NJ;

Philadelphia, PA; Baltimore, MD; Columbus, OH; Detroit, MI; Los Angeles, CA; New Orleans, LA; Little Rock, AR; Richmond, VA; and Washington, DC.

For more information on SNAP, contact Henry Colonna, National SNAP Coordinator, Virginia State Office, 3600 West Broad Street, Richmond, VA 23230–4920; telephone (804) 278–4505, extension 3027; or (804) 278–4501 TTY. For more information on AmeriCorps' VISTAs in Assisted Housing, contact Deanna E. Beaudoin, National VISTAs in Assisted Housing Coordinator, Colorado State Office, First Interstate Tower North, 633 17th Street, Denver, CO 80202; telephone (303) 672–5291, extension 1068.

Operation Safe Home

Operation Safe Home was announced jointly by Vice President Albert Gore, former HUD Secretary Henry G. Cisneros, former Treasury Secretary Lloyd Bentsen, Attorney General Janet Reno, and representatives of the Office of National Drug Control Policy (ONDCP) at a White House briefing on February 4, 1994. Operation Safe Home is a major HUD initiative focusing on violent and drug-related crime within public housing authorities. As such, it is a holistic enforcement approach which combines aggressive law enforcement interdiction efforts with a housing authority's crime prevention and intervention initiatives. Operation Safe Home is structured to combat the level of violent crime activities occurring within public and assisted housing, and enhance the quality of life within such complexes through three simultaneous approaches:

—Strong, collaborative law enforcement efforts focused on reducing the level of violent crime activities occurring within public and assisted housing;
—Collaboration between law enforcement agencies and public housing managers and residents in devising methods to prevent violent crime; and
—The introduction of HUD, DOJ, and other agency initiatives specifically geared to preventing crime.

For more information on Operation Safe Home, contact Lee Isdell, Office of the Inspector General, Department of Housing and Urban Development, Room 8256, 451 Seventh Street, SW., Washington, DC. 20410; telephone (202) 708–0430, fax number (202) 401–2505; Internet E:mail www.hud.gov./oig/oigindex.html. A telecommunications device for hearing or speech impaired persons (TTY) is available at (202) 708–0850. (These are not toll-free telephone numbers.)

Operation Weed and Seed

Operation Weed and Seed, conducted through the Department of Justice, is a comprehensive, multiagency approach to combatting violent crime, drug use, and gang activity in high-crime neighborhoods. The goal is to ''weed out'' crime from targeted neighborhoods, and then to ''seed'' the targeted sites with a wide range of crime and drug prevention programs and human services agency resources to prevent crime from reoccurring. Operation Weed and Seed further emphasizes the importance of community involvement in combatting drugs and violent crime. Community residents need to be empowered to assist in solving crime-related problems in their neighborhoods. In addition, the private sector needs to get involved in reducing crime. All of these entities—Federal, State, and local government, the community, and the private sector—should work together in partnership to create a safer, drug-free environment.

The Weed and Seed strategy involves four basic elements:

—Law enforcement must ''weed out'' the most violent offenders by coordinating and integrating the efforts of Federal, State, and local law enforcement agencies in targeted high-crime neighborhoods. No social program or community activity can flourish in an atmosphere poisoned by violent crime and drug abuse.
—Local municipal police departments should implement community policing in each of the targeted sites. Under community policing, law enforcement should work closely with the housing authority and residents of the community to develop solutions to the problems of violent and drug-related crime. Community policing serves as a ''bridge'' between the weeding (law enforcement) and seeding (neighborhood revitalization) components.
—After the weeding takes place, law enforcement and social services agencies, the private sector, and the community must work to prevent crime and violence from reoccurring by concentrating a broad array of human services—drug and crime prevention programs, drug treatment, educational opportunities, family services, and recreational activities—in the targeted sites to create an environment where crime cannot thrive.
—Federal, State, local, and private sector resources must focus on revitalizing distressed neighborhoods through economic development and must provide economic opportunities for residents.

For further information on Operation Weed and Seed, contact the Department of Justice, Office of Justice Programs, 366 Indiana Avenue, Room 304S, NW, Washington, DC, 20531; telephone (202) 616–1152, FAX number (202) 616–1159; or Internet E:mail: mcwhorte@ojp.usdoj.gov.

Specific activities undertaken pursuant to SNAP, Operation Safe Home, and Operation Weed and Seed may be eligible for funding if they meet the criteria outlined in this NOFA.

Promoting Comprehensive Approaches to Housing and Community Development

HUD is interested in promoting comprehensive, coordinated approaches to housing and community development. Economic development, community development, public housing revitalization, homeownership, assisted housing for special needs populations, supportive services, and welfare-to-work initiatives can work better if linked at the local level. Toward this end, HUD in recent years has developed the Consolidated Planning process designed to help communities undertake such approaches.

In this spirit, it may be helpful for applicants under this NOFA to be aware of other related HUD NOFAs that have recently been published or are expected to be published in the near future. By reviewing these NOFAs with respect to their program purposes and the eligibility of applicants and activities, applicants may be able to relate the activities proposed for funding under this NOFA to the recent and upcoming NOFAs and to the community's Consolidated Plan.

The related NOFAs that HUD is publishing elsewhere in this issue of the **Federal Register** are the NOFA for Public Housing Drug Elimination, the NOFA for Public Housing Drug Elimination Technical Assistance, and the NOFA for Federally Assisted Low Income Housing Drug Elimination Grants.

To foster comprehensive, coordinated approaches by communities, HUD intends for the remainder of FY 1997 to continue to alert applicants to upcoming and recent NOFAs as each NOFA is published. In addition, a complete schedule of NOFAs to be published during the fiscal year and those already published appears under the HUD Homepage on the Internet, which can be accessed at http://www.hud.gov/nofas.html. HUD may consider

additional steps on NOFA coordination for FY 1998.

For help in obtaining a copy of your community's Consolidated Plan, please contact the community development office of your municipal government.

C. Funding Amounts and Term

(1) Federal Fiscal Year (FY) 1997 Funding. This NOFA announces the availability of $20,000,000 in FY 1997 funds.

(2) Maximum Grant Award Amounts. The maximum grant award amount is limited to $250,000 per application/neighborhood.

(3) Term of Grant. Grant funds must be expended within 24 months after HUD executes a Grant Agreement; however, one extension of up to 6 months may be granted at HUD's option.

(4) Reduction of Requested Grant Amounts. HUD may award an amount less than requested if:

(a) HUD determines the amount requested for an eligible activity and/or any budget line item is unreasonable;

(b) Insufficient amounts remain under the allocation to fund the full amount requested by the applicant, and HUD determines that partial funding is a viable option;

(c) HUD determines that some elements of the proposed plan are suitable for funding and others are not; or

(d) HUD determines that a reduced grant would prevent duplicative Federal funding.

(5) Distribution of Funds. HUD is allocating funds to the highest scoring applications that have met all program threshold requirements and have been ranked using ratings by a team of expert HUD staff from throughout the country. Only applications which have the threshold score of 70 points out of a total 100 will be funded. There will be no geographic ''fair sharing'' or targeting of funds.

(6) Grant Reductions After Award. HUD may rescind and/or recapture grant funds based on the grantee's and or partners' failure to perform in accordance with the Grant Agreement, including the project application that will be incorporated in the Grant Agreement by reference. In addition, grant funds not expended for eligible purposes and in accordance with OMB cost principles by the end of the grant term will be recaptured by HUD and are governed by section 218 of the HUD FY 1997 Appropriations Act.

D. Eligibility of Grant Activities and Applicants

The following is a listing of eligible activities, ineligible activities, eligible applicants, and general grant requirements under this NOFA:

(1) *Eligible Activities* are the following:

(a) *Increased Law Enforcement.* Subject to a Cost Reimbursement Agreement, the reimbursement of local law enforcement entities for the costs of additional police presence (police salaries and other expenses directly related to such presence) in and around Assisted Housing developments in the neighborhood over and above: (i) What the law enforcement agency incurring such costs had incurred for such purposes within the same geographic area during the period equal in length and immediately prior to the period of reimbursement, and (ii) What the agency planned to incur for such purposes in the same geographic area during the period of reimbursement prior to publication of the NOFA. For any grant, at least 70 percent of such reimbursed costs must be for police presence in or immediately adjacent to the premises of Assisted Housing developments and the remainder of such reimbursed costs must be for police presence within the project area.

In its criteria for awarding points in the funding competition, HUD is strongly encouraging that additional law enforcement in the Assisted Housing developments and surrounding neighborhoods be targeted to implementing an overall crime fighting strategy, rather than merely responding to crime emergencies. Two potentially effective anticrime strategies that can benefit from additional police presence are: (1) Combined multiagency task force initiatives, such as Operation Safe Home, in which local and Federal law enforcement agencies pool resources, first, to infiltrate organizations that promote violent and/or drug-related crime in the neighborhood and, second, to initiate strategic and coordinated mass arrests to break up these organizations; and (2) Community policing, i.e., sustained proactive police presence in the development or neighborhood, often conducted from an onsite substation or ministation, that involves crime prevention, citizen involvement, and other community service activities, as well as traditional law enforcement.

Because of the desperate gang-related crime problems facing many Assisted Housing developments and their neighborhoods and HUD's desire for maximum immediate impact early in the program, the competition favors proposals in which additional police presence will be used for a multiagency task force to fight crime, although points will also be awarded based on the extent to which the strategy fits the documented crime problem.

If reimbursement is provided for community policing activities that are committed to occur over a period of at least 3 years and/or are conducted from a police substation or ministation within the neighborhood, the costs during the grant period of constructing such a station or of equipping the substation with communications and security equipment to improve the collection, analysis and use of information about criminal activities in the properties and the neighborhood may be reimbursed. Federal law enforcement activities may not be funded by the Safe Neighborhood Grant. That is, grant funds cannot be directly transferred to Federal agencies for their use in funding law enforcement activities at the target sites. However, activities that support or further the objectives of Federal law enforcement activities at the targeted site may be funded with the Safe Neighborhood Grant.

(b) *Security Services Provided by Other Entities Such As The Owner of an Assisted Housing Development.* The activities of any contract security personnel funded under this grant must be coordinated with other law enforcement and crime prevention efforts under the Safe Neighborhood Action Plan approved by HUD. Efforts to achieve such coordination, as described in the plan, must include frequent periodic scheduled meetings of security personnel with housing project management and residents, local police and, as appropriate, with other public law enforcement personnel, neighboring residents, landlords, and other neighborhood stakeholders.

HUD is inclined, as stated elsewhere in this NOFA, to reward applicants that partner with entities that have a proven ability to address crime problems, and is therefore strongly inclined to provide more points under ''Quality of Plan'' and ''Strength of Partnerships'' to applications that propose reimbursing municipal police departments than those reimbursing private operators, for security services.

(c) *To Assist in the Investigation and/or Prosecution of Drug-Related Criminal Activity in and Around Assisted Housing Developments.* (i) Subject to a Cost Reimbursement Agreement, reimburse local or State prosecuting offices and related public agencies for the prosecution or investigation of crime committed in the neighborhood related to the Safe Neighborhood Action Plan. Such reimbursement must be for costs over and above what the office or agency incurred for such purposes for

crimes committed in the same geographic area during the period equal in length and immediately prior to the period of reimbursement. For any grant, at least 70 percent of such reimbursed costs must be in connection with crimes committed in or immediately adjacent to the premises of Assisted Housing developments and the remainder of such reimbursed costs directly related to crime committed elsewhere in the neighborhood; (ii) Subject to appropriate justification and advance HUD approval, funding of private investigator services hired by the grantee or any coapplicant/subgrantees to investigate crime in and around the premises of Assisted Housing development and/or the surrounding neighborhood development; (iii) Training and evaluation by security/criminal education professionals for property owners, management agents and resident groups to identify and combat criminal activity in assisted housing properties and surrounding neighborhood.

Based on HUD's inclination to reward applicants that partner with entities that have a proven ability to address crime problems, HUD is strongly inclined to provide more points under ''Quality of Plan'' and ''Strength of Partnerships'' to applications that propose reimbursing municipal police departments or prosecutor offices than those reimbursing private operators, for investigative or prosecutorial services.

(d) *Capital Improvements to Enhance Security.* These improvements may include, but are not limited to: the new construction or rehabilitation of structures housing police substations or ministations; neighborhood barriers, such as street closures at the boundaries to limit criminal access to the neighborhood; or any of the following improvements to limit criminal intrusions in an Assisted Housing development: the installation of fences, barriers, or territorial identification; lighting systems and other improvements to property visibility; appropriate use of CCTV (close circuit TV systems); improved door or window security such as locks, bolts, or bars; and the landscaping or other reconfiguration of common areas to discourage criminal activities. All such improvements must be accessible to persons with disabilities. For example, locks or buzzer systems that are not accessible to people with restricted or impaired strength, mobility, or hearing may not be funded by the grant.

Under ''Quality of Plan,'' HUD is generally inclined to reward capital improvements to enhance the security of an entire neighborhood (such as the building of a ministation or closure of a street that serves as a neighborhood boundary over capital improvements to an Assisted Housing development that may enhance the security of a specific project at the expense of other dwellings in the neighborhood that might then serve as alternative crime victims.

(2) *Eligible Applicants.*—(a) *Lead Applicant.* The lead applicant, which if the application is selected for funding will be designated grantee, must be an owner/operator of one or more housing developments that has received some form of financial support from a unit of government or from a private nonprofit entity. Such support must be designated and assigned by the funding source specifically for the housing rather than for any specific resident household which may, however, benefit from the support in the form of reduced rent. The housing support may be provided on a one-time or periodic basis to pay for or waive project development costs, costs of financing, operating costs, owner taxes, unit rent levels, or tenant rent payments. Project operating costs include but are not limited to: Utilities, taxes, fees, and debt service payments. Unless the lead applicant is a unit of general local government which owns the assisted project, the lead applicant must also own an Assisted Housing development (as defined in section I.D.(4) below) in the neighborhood to be assisted. The lead applicant may not have any outstanding findings of civil rights violations.

(b) *Coapplicants.* The application must include a number of coapplicants, each of whose chief executive officer or empowered designee shall provide a letter, as part of the application, of their commitment to serve as project partners. The letter must specify the expertise and/or resources that the coapplicant will contribute towards the success of the grant activity. Also, coapplicants may not have any outstanding civil rights violations. Coapplicants must include all of the following (except for the lead applicant):

(i) The unit of general local government(s) with primary law enforcement and community development jurisdiction over the project—letter(s) from this entity must commit the police department, prosecutor's office and community development office to work actively in partnership with the grantee to support the grant project in their respective functions;

(ii) The owners of Assisted Housing developments in the neighborhood that will benefit from grant funding. The selection factor ''Concentration of Assisted Housing'' will favor applications in neighborhoods which have more than one Assisted Housing Development that will benefit and those in which owners have agreed to participate in the SNG activities;

(iii) Residents of each assisted low income project in the neighborhood that will benefit from grant funding. The residents' commitment may be signed either by individuals from a majority of project resident households or by one or more organized resident groups that, combined, have been endorsed by a majority of project resident households or recognized by a governmental entity as representing a majority of project residents;

(iv) At least one Federal law enforcement entity. The most likely Federal law enforcement entities to join this partnership are the HUD OIG, Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), the Bureau of Alcohol, Tobacco, and Firearms (ATF), and the Immigration and Naturalization Service (INS). Applicants are encouraged to partner with as many Federal law enforcement entities as possible;

(v) In addition to the required coapplicants, specified above, lead applicants are encouraged to partner with other appropriate neighborhood and community stakeholders including neighborhood businesses and business associations, nonprofit service providers, neighborhood resident associations, and civic oriented neighborhood religious congregations.

(3) *Eligible Project Areas.* (a) The project area must be a ''neighborhood,'' which shall be defined as follows: A geographic area within a jurisdiction of a unit of general local government (but not the entire jurisdiction unless the population of the unit of general local government is less than 25,000) designated in comprehensive plans, ordinances, or other local documents as a neighborhood, village, or similar geographical designation; or the entire jurisdiction of a unit of general local government which is under 25,000 population.

(b) The project area must include at least one assisted low-income housing project under:

(i) Section 221(d)(3), section 221(d)(4), or section 236 of the National Housing Act (12 U.S.C. 1715l, 1715z–1), provided that such project has been provided a Below Market Interest Rate mortgage, interest reduction payments, or project-based assistance under Rent Supplement, Rental Assistance Payments (RAP) or Section 8 programs. FHA-insured projects which have no project-based subsidy but have tenants receiving housing vouchers or Section 8

tenant certificates are not considered Federally assisted housing and would not qualify an area for eligibility;

(ii) Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s); or

(iii) Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f). This includes housing with project-based Section 8 assistance, whether or not the mortgage was insured by HUD-FHA, but does not include projects which receive only Section 8 tenant-based assistance (i.e., certificates or vouchers).

(c) HUD will award only one grant per project area.

(4) *Eligible Assisted Housing.* In addition to the requirement described above that each neighborhood consist of at least one housing development assisted under one of the specified subsidy mechanisms, points will be awarded in the competition based on the concentration of ''Assisted Housing'' in the neighborhood, and based on extent of crime in and quality of crime reduction strategies for ''Assisted Housing'' developments, as well as the neighborhood. Moreover, many of the eligible activities described above must be substantially targeted to ''Assisted Housing developments.'' The following definitions apply:

(a) *Assisted Housing developments* are defined as four or more adjoining, adjacent, or scattered site (within a single neighborhood) housing units, developed simultaneously or in stages, having common ownership and project identity, and receiving a project-based financial subsidy from a unit of government at the Federal, State, or local level, or from a private nonprofit entity. Such subsidy must be associated with a requirement and/or contractual agreement that all or a portion of the units be occupied by households with incomes at or below those of families at the ''low income'' limit as defined by the U.S. Housing Act of 1937, or at households at or below an alternative limit that falls below the U.S. Housing Act's ''low income'' limit, at rents which the public or nonprofit entity determines to be ''affordable.''

(b) *Assisted Housing units* are defined as units within Assisted Housing developments for which occupancy is restricted to households with incomes at or below that of ''low income families'' as defined by the U.S. Housing Act or to households meeting an income standard below that defined as ''low income;'' and rents are restricted to amounts that the public or nonprofit entity determines to be ''affordable.''

(c) *Project based subsidies* are defined as financial assistance, initially designated and assigned by the funding source specifically for the project rather than to eligible assisted resident households which might also benefit from these subsidies, which is provided on a one time up-front or on a periodic basis to the project or its owner to write down, subsidize, or waive project development costs, costs of financing, project operating costs, owner taxes, unit rent levels, or tenant rent payments. Project operating costs include but are not limited to: Utilities, taxes, fees, maintenance and debt service payments.

E. Selection Criteria and Ranking Factors

HUD field offices will conduct a threshold review of each application to determine that it meets the submission requirements of this NOFA. All applications which meet the threshold requirements of this NOFA will be submitted by the HUD field office to an Application Rating Committee of HUD experts to be convened at and under the direction of the SNAP Program Administering Unit at the HUD Virginia State Office, which will rate applications in accordance with the selection criteria. A total of 100 points is the maximum score available under the selection criteria. At a minimum, an application must receive 70 points. After assigning points to each application, HUD will rank the applications in order of points scored, and select the highest ranking applications for funding until the $20,000,000 available have been awarded. If there are insufficient applications meeting all NOFA threshold requirements and scoring at least 70 points for which to award funds, HUD will devise a competitive procedure by which the additional funds will be awarded and advertise such competitive procedure in the **Federal Register**.

Each application submitted will be evaluated on the basis of the selection criteria described below. The first criterion deals with the extent of the crime problem. The next three criteria deal with various factors that impact the likelihood that the proposed grant would have a significant short and long term positive impact in eliminating the crime problem in the area. These criteria include the quality of the plan, the capacity of the lead applicant and its partnership to successfully implement the plan, and the quality and scale of crime prevention measures. The last criterion, concentration of low income Assisted Housing in the area, indicates ''bang for the buck'' with respect to Assisted Housing, i.e., the number of families in Assisted Housing that would receive crime elimination benefits from the grant dollars compared to the families living in the neighborhood as a whole.

(1) The Extent of the Crime Problem in the Neighborhood and/or Location of Housing Development Proposed for Assistance. (Maximum Points: 25)

A. Extent of Crime Problem (maximum points: 20). In assessing this criterion, HUD will consider the severity of the crime problem in the neighborhood proposed for funding, as demonstrated by data described below. HUD will evaluate the nature and extent of crime indicated by the statistical data and anecdotal information provided, the strength of such documentation, and the extent to which the applicant has analyzed the data sufficiently to articulate crime elimination needs clearly and to develop strategies, programs, and performance measures tailored to achieve and assess the result of eliminating the crime on a short and long term basis. The type of data to be provided is as follows:

(1) *Official data on the Incidence of Part I and Part II Crimes for the Neighborhood AND, more specifically, the Assisted Housing Projects in the Neighborhood.* Such crime is reported under the FBI's Uniform Crime Reporting Program (UCR). Part I crimes are felonies such as criminal homicide, forcible rape, robbery, aggravated assault (including domestic violence by means likely to produce great bodily harm), burglary-breaking or entering, larceny-theft, motor vehicle theft, and arson. Part II crimes are misdemeanor assaults, forgery, counterfeiting, fraud, embezzlement, vandalism, weapons (carrying, possessing, etc.), prostitution and commercialized vice, sex offenses other than forcible rape, prostitution and commercialized vice, drug abuse violations, gambling offenses against the family and children, driving under the influence, liquor laws, drunkenness, disorderly conduct, vagrancy, curfew, and loitering and runaways.

If official data is provided only at the neighborhood level and not at the Assisted Housing project level or vice versa, the data should be supplemented by other data (see subparagraph b below) for the level not covered by the official data. HUD will evaluate this data based on the incidence of crime in Assisted Housing and the neighborhood relative to the number of residents within those geographic areas. For example, 20 arrests in an area with 100 residents is a 20 percent occurrence rate.

The data and accompanying narrative must describe the nature and frequency

of Part I and II crimes as reflected by the most recent crime statistics and other supporting data from Federal, State, Tribal, or local law enforcement agencies. The data must address the types of offenders committing Part I and Part II crime and any indications as to the extent to which such crime is organized, such as gang-related crime, and the nature of such organization.

Supporting data from official sources may include, but is not limited to the number of lease terminations or evictions due to criminal activity in Assisted Housing projects in the neighborhood; the number of emergency room admissions for drug use or victims of violence as maintained by police, fire department, emergency medical service agencies, and hospitals; the number of police calls from all sources for various Part I and Part II crimes; numbers of and types of crimes referred to and handled by local, State, and Federal prosecutors; and numbers of residents placed in drug treatment and aftercare program (as a measure, specifically, of drug related crime).

(2) *Other Data.* This data, which must be the most recent available, should be provided either to supplement official data described above in subparagraph (1) if the applicant believes such supporting data would strengthen its case or supplement its description as to the extent of crime, or if official data is unavailable at either the neighborhood and/or Assisted Housing project level. If official data is unavailable at both the neighborhood and the Assisted Housing project level, the application must so demonstrate in addition to providing the data described below. If no official data is provided for either the neighborhood or the Assisted Housing projects, the application will only be eligible for a maximum of 12 points on ''Extent of Crime.'' Other data, as described here, may include but is not limited to:

(i) Surveys of Assisted Housing or neighborhood residents, Assisted Housing staff, neighborhood businesspeople, etc., on the nature and extent of crime;

(ii) Governmental and scholarly studies on the nature and extent of crime;

(iii) Vandalism costs in the neighborhood and at Assisted Housing developments;

(iv) Information from schools, health service providers, residents, and State and local government officials, and the opinions of individuals having direct knowledge of Part I and Part II crimes concerning the nature and frequency of crimes in the neighborhood and at the Assisted Housing developments, including the possible involvement of organized crime such as gangs;

(v) The school dropout rate and rate of absenteeism to the extent that these can be related through statistical data and/or anecdotal information to the incidence of drug abuse or other crime in the neighborhood/Assisted Housing developments;

(vi) Information from a jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice which includes crime statistics in and around residential areas. If the impediments are crime and drugs, a strategy to deal with these impediments could provide additional information.

If any data provided under this section is more than 1 year old, the applicant must justify that this is the most recent available data. HUD may check with data sources to determine the validity of such claims and may severely mark down applications that are misleading on this matter.

B. Empowerment Zone/Enterprise Community (EZ/EC) Preference (maximum points: 5). If the Assisted Housing development is located in an designated EZ/EC, the applicant will receive a maximum of 5 points. The applicant should illustrate a tie-in between the NOFA and the approved Strategic Plan. ''Designated Empowerment Zone or Enterprise Community'' means an urban area designated as an Empowerment Zone, Supplemental Empowerment Zone, an Enhanced Enterprise Community, or an Enterprise Community by the Secretary of HUD on December 21, 1994. An ''Empowerment Zone Strategic Plan'' means a strategy developed and agreed to by the nominating local government(s) and State(s) and submitted in partial fulfillment of the application requirements for designation as an Empowerment Zone or Enterprise Community pursuant to 24 CFR part 597. Applicants must provide evidence in the form of a letter that the assisted housing development is in a EZ/EC area. See Appendix B to this NOFA for a listing of EZ/EC contacts from whom such a letter may be obtained.

(2) The Quality of the Plan. (Maximum Points: 15)

In assessing this criterion, HUD will review the strategies outlined in the applicant's Safe Neighborhood Action Plan to eliminate the crime problem described in Selection Factor 1, and any other problems associated with such crime, in the neighborhood and projects proposed for funding, and how the activities proposed for funding fit in with the overall plan. The long term as well as immediate anticipated crime reduction impact will be considered. If the crime problem is related to gang activity or other organized crime, maximum points will be provided only if the proposed activity involves initiatives, which HUD considers likely to succeed, that coordinate the efforts of Federal and local law enforcement personnel to eradicate criminal gang activity based on models such as HUD's Operation Safe Home and SNAP programs, the Justice Department's Weed and Seed program, or other law enforcement models.

(3) The Capacity of the Lead Applicant and Partnership Capacity to Implement the Plan. (Maximum points: 40)

(a) *The applicants' successful experience combined with its coapplicants' successful experience in utilizing similar strategies to alleviate crime* for other neighborhoods, projects, or developments. To receive maximum points under this section, the applicant must have worked in partnership with one or more of its coapplicants (or, under some circumstances, two or more of the coapplicants may have worked together in partnership) using a similar strategy that reduced crime in and/or around Assisted Housing developments. The applicant must demonstrate the reduction in the occurrence of crime as indicated above in Selection Factor (1)A. of this NOFA. Among other Federal programs which promote such partnerships are HUD's Operation Safe Home Program, Safe Neighborhood Action Program and, to some extent, the Drug Elimination Grant program. In the absence of previous partnerships, the experience of the applicant will weigh more heavily than the experience of any single coapplicant in HUD's assignment of partial points under this subfactor. Of the points assigned in this subfactor, 5 points will be awarded using the rating assigned by the Secretary's Representative, and the remaining 10 points will be awarded using the rating of the Rating Committee in Richmond. (Maximum points: 15)

(b) *The strength of the applicants' partnership* as it relates to eliminating the crime problem identified above in Selection Factor (1)A. Points for this category will be awarded based on the strength of resource commitments by coapplicants (both in terms of the amount of resources committed and the firmness of the commitments); evidence of the coapplicants' (including project tenants') preapplication role in the development of the Safe Neighborhood Action Plan and prospective role in program implementation; indications of the capacity of the Assisted Housing developments' ownership and

management (based on available management reviews by governing public entities) to undertake their share of responsibilities in the partnership (including evidence of whether project management carefully screens applicants for units and takes appropriate steps to deal with known or suspected tenants exhibiting criminal behavior) and to cooperate with law enforcement actions by other partners on their project premises; the willingness of the unit of general local government (lead applicant) to use its prosecutor's office as its lead agency in implementing the grant; utilization of additional partners other than those required under the heading ''Eligible Applicants'' (for example, multiple Federal law enforcement agency coapplicants and/or a coapplicant neighborhood business organization); and the effectiveness of the partnership structure (synergistic arrangements for collective action will receive more points than a simple advisory committee of coapplicants). (Maximum points: 15)

(c) *The applicants' administrative capacity to implement the grant.* Points will awarded based on the quality and amount of staff allocated to the grant activity by the grantee; the anticipated effectiveness of the grantee's systems for budgeting, procurement, drawdown, allocation, and accounting for grant funds and matching resources in accordance with OMB administrative requirements; and the lines of accountability for implementing the grant activity, coordinating the partnership, and assuring that the applicant's and coapplicants' commitments will be met. (Maximum points: 10)

(4) The Scale and Effectiveness of Crime Prevention/Socio-economic Lift Programs Operating in Association with the Law Enforcement Plan. (Maximum Points: 10)

HUD will award points to applicants who have in operation programs such as Neighborhood Networks (NN), Campus of Learners (COL), or other computer learning centers; other educational, life skills, and job training opportunities, including scholarships; mentoring, counseling, and recreational activities for at-risk youth; parental training and family counseling; alcohol or drug abuse prevention, treatment, and aftercare programs; homebuyers clubs and other homeownership activities; economic development activities such as programs for employing Assisted Housing residents, job placement and employer linkage programs, micro-loan programs, community credit unions, or other entrepreneurial opportunities; and supportive services for educational and economic development such as day care, transportation, health care, and the salary of service coordinators or caseworkers. The importance of these types of programs is underscored by the imperatives of welfare reform. (Maximum Points: 10)

(5) The Concentratoin of Assisted Low Income Housing in the Neighborhood. (Maximum Points: 10)

HUD will award points based on the percentage of housing units in the neighborhood that qualify under the Safe Neighborhood Grant program definition of ''Assisted Housing units'' within any Assisted Housing development, regardless of subsidy source and whether or not the units are concentrated in one or two large projects or are distributed among several projects of whatever size. HUD will assign points by a computer in this category based on the distribution of percentages among projects that are determined fundable after screening by HUD field offices. The top 10 percent of all fundable projects with respect to the ratio of number of Assisted Housing units to the number of housing units in the neighborhood will receive 10 points; projects falling in the next 10 percentile will receive 9 points, etc.

II. Application Process

A. Application Package

An application package may be obtained from the HUD field office having jurisdiction over the location of the applicant project or from the Multifamily Clearinghouse at (800) 685–8470. The HUD field office will be available to provide technical assistance on the preparation of applications during the application period.

B. Application Submission

A separate application must be submitted for each neighborhood/project area to be served. An original and one copy must be received by the 3 p.m. deadline at the appropriate HUD field office with jurisdiction over the applicant project, Attention: Director of Multifamily Housing. It is not sufficient for the application to bear a postage date within the submission time period. Applications submitted by facsimile (FAX) are not acceptable and will not be considered. Applications received after the 3 p.m. deadline on July 21, 1997 will not be accepted. In the interest of fairness to all competing applicants, HUD will treat as *ineligible for consideration* any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

C. HUD Application Review

Applications will be reviewed for completeness in the HUD field office listed in Appendix A that has been designated to receive the application. Those applications that have been deemed by the field office to be eligible for funding will be rated and ranked by the Rating Team at the HUD office in Richmond, Virginia. Applications will be funded based on the rank order of scoring.

D. Notification

HUD will notify all applicants whether or not they were selected for funding.

III. Checklist of Application Submission Requirements

To qualify for a grant under this program, an applicant must submit an application to HUD that contains the following:

A. Application for Federal Assistance form (Standard Form SF–424 and SF–424A). The form must be signed by chief executive officer of the lead applicant, and applicant information in the form must be information about the lead applicant.

B. A description of the Safe Neighborhood Partnership that has been formed to implement this grant. The description must include the names of the coapplicants; relative roles and contributions of each coapplicant in implementing grant activities; structures for partnership coordination and joint decisionmaking, e.g., form of partnership interaction (task force, advisory group or corporate entity), lines of accountability, degree of grant decisionmaking power conferred by the lead applicant/grantee to its partners, frequency of meetings, etc.; the roles, if any, of coapplicants (especially project tenants) in designing the Safe Neighborhood Action Plan; which coapplicants (if any) will be designated subgrantees by virtue of their receiving and dispensing grant funds for grant activities; and how the lead applicant (grantee) proposes to direct and monitor its partners to account for funds received or expended and to ensure that commitments are met; and a profile of each coapplicant, including governmental or nonprofit status (copies of official up-to-date IRS verification of status must be provided for all nonprofit institutions), a detailed description of their experience and success in similar or related anticrime initiatives, roles in

and financial or in-kind contributions to the partnership, and the approximate value of any in-kind contributions.

Accompanying the description must be letters from each coapplicant, signed by their respective chief executive officers, describing their role if any in designing the application and, especially, the Safe Neighborhood Action Plan; detailing the amounts and types of financial and other contributions to be made by the coapplicant; firmly committing the coapplicant to such contributions; affirming the specific role(s) that the coapplicant will undertake in implementing Safe Neighborhood Action Plan activities, including its agreement to act as subgrantee, if applicable; and summarizing the coapplicant's experience in undertaking similar or related activities.

With respect to coapplicant owners of Assisted Housing development(s), the application should include external assessment or evidence of the quality of the development's ownership or management (e.g., available management reviews by governing public entities) that relates to the capacity of the ownership and management to undertake their share of responsibilities in the partnership; and such related concerns as whether project management carefully screens applicants for units and takes appropriate steps to deal with known or suspected tenants exhibiting criminal behavior and cooperates with law enforcement actions by other partners on their project premises.

C. A description of the Neighborhood and the Assisted Housing developments in the neighborhood. (1) The neighborhood description must include a name, a basic description (e.g., boundaries and size), population, number of housing units in the neighborhood, a map, a population profile (e.g., relevant census data on the socio-economic, ethnic and family makeup of neighborhood residents), and the basis on which the area meets the definition of ''neighborhood'' as described in section I.D.(3)(a) of this NOFA, above (i.e., describe and include a copy of the comprehensive plan, ordinance or other official local document which defines the area as a neighborhood, village, or similar geographical designation). If the entire jurisdiction is defined as a neighborhood by virtue of having a population at less than 25,000, indicate the jurisdiction's population under the 1990 census and describe/include more recent information which gives the best indication as to the current population.

(2) The description of the Assisted Housing development(s) in the neighborhood, as defined in sections I.D.(3)(b) and I.D.(4) of this NOFA. This must include the name of the project; the name of the project owner; the nature, sources, and program titles of all project based subsidies or other assistance provided to the project by units of government or private nonprofit entities (any names of public or nonprofit programs other than programs sponsored by HUD should be accompanied by a description of the program and the name and business phone number of a contact person responsible for administering the program for the subsidy provider); the number of housing units in the project; and the number of housing units in the project that meet the definition of ''assisted housing units'' in section I.D.(4)(b) of this NOFA, and a description of the restrictions on rents and resident incomes that, in combination with the subsidy provided to the project, qualify the units as assisted/affordable in accordance with the definition in this NOFA; and the number, geographic proximity (adjoining, adjacent, or scattered site, and if scattered site, the distance between the two buildings which are furthest apart), and type (single family detached, townhouse, garden, elevator) of buildings in the project.

D. Crime Status Report. A narrative with supporting data that describes the type and degree of crime in the neighborhood and in the Assisted Housing developments, as well as relevant information about the perpetrators of such crime (e.g., whether they live inside or outside the neighborhood and/or project(s)), the extent to which the crime is organized (e.g., gang related), and any relevant information on the nature of any such crime organizations. Also describe the nature, extent, and impact of any current or recent initiatives in the neighborhood and/or the Assisted Housing project by residents, landlords, other businesspeople, law enforcement and/or government community development agencies to address the current crime problem or its causes.

This information must consist of a narrative backed up by documented statistics. To maximize the application's probability of being funded, the narrative must be appropriately brief and to the point, but must be extensive and detailed enough for HUD to determine accurately the extent of crime (Selection Factor (1)) and the degree to which the Safe Neighborhood Action Plan described in paragraph E. below and the partnership described in paragraphs B. and C. above will successfully address and reduce the crime in the neighborhood and project (Selection Factor (2)). Applicants must provide statistics to support narrative descriptions on the extent and nature of crime, as prescribed in section I.E.(1)A., above.

E. Applicant's Safe Neighborhood Action Plan for addressing the problem of crime in the neighborhood and in the Assisted Housing projects for which funding is sought, which should include the activities to be funded under this program along with all other initiatives being undertaken by the applicant. The plan should include a discussion of:

(1) Law Enforcement Activities. The activities funded by the grant and by other resources that are committed by partners for law enforcement activities in conjunction with this grant, including a description of the roles, resources committed by, and implementation responsibilities of each partner and a description as to the location and locational impact of these activities vis-a-vis each Assisted Housing development and the surrounding area.

(2) Narrative justification that these activities address the needs identified by the Crime Status Report, i.e., the extent and nature of crime, profile of crime perpetrators, project resident profiles, and other previous or existing efforts to address such crime.

(3) Goal of Law Enforcement Activities. The application must provide one or more specific crime reduction goals that would be achieved by the end of the 24-month grant term (e.g., 30 percent reduction in annual/monthly reported Part I and Part II crimes; 60 percent reduction in number of police emergency calls from the neighborhood and/or from the project).

(4) Overall budget and timetable that: (a) Also includes separate budgets, goals, milestones, and timetable for each activity and addresses milestones towards achieving the goals described in paragraph E.(3) above; and, (b) Indicates the contributions and implementation responsibilities of each partner for each activity, goal, and milestone.

(5) Staffing. The number of staff years, the titles and professional qualifications, and respective roles of staff assigned full or part-time to grant implementation by the lead applicant.

(6) Coordination. The lead applicant's plan and lines of accountability (including an organization chart) for implementing the grant activity, coordinating the partnership, and assuring that the lead applicant's and coapplicants' commitments will be met. There must be a discussion of the

various agencies of the unit of government that will participate in grant implementation (which must include the prosecutor's office and at least one, but preferably both, of the following: the police department and an agency dealing with community development), their respective roles (i.e., which has the lead), and their lines of communication.

(7) Administrative Systems. A description of the lead applicant's systems and quality controls for budgeting, procurement, drawdown, allocation, and accounting for grant funds and matching resources in accordance with OMB administrative and cost requirements, including a system for monitoring these concerns as related to governmental or nonprofit subgrantees.

(8) Complimentary Crime Prevention Activities. A description of the lead applicant's and coapplicants' current activities and projected plans (with full funding committed) for crime prevention/socio-economic lift programs which will complement the law enforcement activities proposed in the plan. Programs considered in this category include but are not necessarily limited to those listed under Selection Factor (3) in section I.E. of this NOFA. The description must justify how these activities complement the law enforcement activities in the plan towards long term eradication and prevention of the types of crime described in the Crime Status Report, taking into account the profiles of crime perpetrators and resident profiles included in the application. This description must firmly commit the lead applicant to provide all resources and implement all activities as designated, and must be accompanied by firm commitments by coapplicants to provide the resources and conduct the activities designated for each party.

F. Experience. A description of the lead applicant's and coapplicants' experiences, separately or in concert, in successfully implementing activities or programs substantially similar to the law enforcement activities proposed in the Safe Neighborhood Action Plan. Such description must be specific as to the nature of the crime problem addressed, the location and scale of the law enforcement activity undertaken, the resources and activities undertaken by the lead applicant or coapplicants, the resources and roles provided by any partners involved in the same or related activities, the structure for coordinating the partnership, and any available evidence as to the success of these activities or programs.

G. Form 424 B Assurances signed by the lead applicant's Chief Executive Officer or designee.

H. Other Certifications. A certification form regarding Fair Housing and Equal Opportunity will be provided by HUD in the Application Kit. The lead applicant may not have any outstanding findings of civil rights violations.

I. Drug-Free Workplace. The certification with regard to the drug-free workplace required by 24 CFR part 24, subpart F.

J. Disclosure of Lobbying Activities. If the applicant applies for an amount greater than $100,000, the certification with regard to lobbying required by 24 CFR part 87 must be included. See section V.H., below, of this NOFA. If the applicant applies for an amount greater than $100,000, and the applicant has made or has agreed to make any payment using nonappropriated funds for lobbying activity, as described in 24 CFR part 87, the submission must also include the Disclosure of Lobbying Activities Form (SF–LLL).

K. Form HUD–2880, Applicant/Recipient Disclosure/Update Report.

IV. Corrections to Deficient Applications

HUD will notify the applicant within ten (10) working days of the receipt of the application if there are any curable technical deficiencies in the application. Curable technical deficiencies relate to minimum eligibility requirements (such as certifications or signatures) that are necessary for funding approval but that do not relate to the quality of the applicant's program proposal under the selection criteria. The applicant must submit corrections in accordance with the information provided by HUD within 14 calendar days of the date of the HUD notification.

V. Other Matters

A. General Grant Requirements

The following requirements apply to all activities, programs, or functions used to plan, budget, implement, and evaluate the work funded under this program.

(1) *Grant Agreement.* After applications have been ranked and selected, HUD and the lead applicant shall enter into a grant agreement setting forth the amount of the grant, the physical improvements or other eligible activities to be undertaken, financial controls, and special conditions, including sanctions for violation of the agreement. The Grant Agreement will incorporate the HUD approved applications, as may be amended by any special condition in the Grant Agreement. HUD will monitor grantees, utilizing the Grant Agreements to ensure that grantees have achieved commitments set out in their HUD approved grant application. Failure to honor such commitments would be the basis for HUD determining a default of the Grant Agreement, and exercising available sanctions, including grant suspension, termination, and/or the recapture of grant funds.

(2) *Requirements Governing Grant Administration, Audits and Cost Principles.* The policies, guidelines, and requirements of this NOFA, 48 CFR part 31, 24 CFR parts 44, 45, 84 and/or 85, OMB Circulars A–87 and/or A–122, other applicable administrative, audit, and cost principles and requirements, and the terms of grant/special conditions and subgrant agreements apply to the acceptance and use of assistance by grantees. The requirements cited above, as applicable, must be followed in determining procedures and practices related to the separate accounting of grant funds from other grant sources, personnel compensation, travel, procurement, the timing of drawdowns, the reasonableness and allocability of costs, audits, reporting and closeout, budgeting, and preventing conflict of interests or duplicative charging of identical costs to two different funding sources. All costs must be reasonable and necessary.

(3) *Term of Grant.* The term of funded activities may not exceed 24 months; however, HUD may approve a 6-month extension to this term for good cause.

(4) *Subgrants and Subcontracting.* (a) In accordance with an approved application, a grantee may directly undertake any of the eligible activities under this NOFA, it may contract with a qualified third party, or it may make a subgrant to any coapplicant approved by HUD as a member of the partnership, provided such party is a unit of government, is incorporated as a not-for-profit organization, or is an incorporated for-profit entity that owns and/or manages an Assisted Housing project benefiting from the grant. Resident groups that are not incorporated may share with the grantee in the implementation of the program, but may not receive funds as subgrantees. For-profit organizations other than owners or managers of an Assisted Housing project benefiting from the grant that have been approved by HUD as part of the partnership may only receive grant funds subject to the applicable Federal procurement procedures (See 24 CFR part 84 or 85).

(b) Subgrants may be made only under a written agreement executed between the grantee and the subgrantee. The agreement must include a program budget that is acceptable to the grantee, and that is otherwise consistent with the grant application budget. The agreement must require the subgrantee to permit the grantee to inspect the subgrantee's work and to follow applicable OMB and HUD administrative requirements, audit requirements, and cost principles, including those related to procurement, drawdown of funds for immediate use only, and accounting to the grantee for the use of grant funds and implementation of program activities. In addition, the agreement must describe the nature of the activities to be undertaken by the subgrantee, the scope of the subgrantee's authority, and the amount of any insurance to be obtained by the grantee and the subgrantee to protect their respective interests.

(c) The grantee shall be responsible for monitoring, and for providing technical assistance to, any subgrantee to ensure compliance with applicable HUD and OMB requirements, including those cited in sections V.A.(2) and V.A.(4)(b), above. The grantee must also ensure that subgrantees have appropriate insurance liability coverage.

(5) *Environmental Requirements.* Prior to the award of grant funds under the program, HUD will perform an environmental review to the extent required under the provisions of 24 CFR part 50.

(6) *Ineligible Contractors.* The provisions of 24 CFR part 24 relating to the employment, engagement of services, awarding of contracts or funding of any contractors or subcontractors during any period of debarment, suspension, or placement in ineligibility status apply to this grant.

(7) *Employment preference.* A grantee under this program shall give preference to the employment of residents of Assisted Housing projects in the neighborhood to be assisted by this grant, and shall comply with section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and 24 CFR part 135, to carry out any of the eligible activities under this program, so long as residents provided such preferences have comparable qualifications and training as nonresident applicants.

(8) *Nondiscrimination and Equal Opportunity.* The following nondiscrimination and equal opportunity requirements apply:

(a) The requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) (Nondiscrimination in Federally Assisted Programs) and implementing regulations issued at 24 CFR part 1;

(b) The prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–07) and implementing regulations at 24 CFR part 146; prohibitions against discrimination against handicapped individuals under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8;

(c) The requirements of Executive Order 11246 (Equal Employment Opportunity) and implementing regulations issued at 41 CFR Chapter 60; and the requirements of Executive Orders 11625, 12432, and 12138 as well as 24 CFR 85.36(e) requiring grantee efforts to encourage the use of minority and women business enterprises when possible in the procurement of property and services.

(d) Grantees must maintain records of their efforts to comply with the requirements of section 3 of the Housing and Urban Development Act of 1968 and the requirements concerning use of minority and women business enterprises.

(e) The requirements of title VIII of the Civil Rights Act of 1968 (Fair Housing Act) (42 U.S.C. 3600–20) and implementing regulations issued at 24 CFR chapter I, subchapter A; Executive Order 11063 (Equal Opportunity in Housing) and implementing regulations at 24 CFR part 107 apply to Assisted Housing which benefits from grant funds.

(9) *Drawdown of Grant Funds.* All grantees will access the grant funds through HUD's Line of Credit Control System-Voice Response System in accordance with procedures for minimizing the time lapsing between drawdowns and use of funds for eligible purposes as described in 24 CFR parts 84 and/or 85, as applicable.

(10) *Reports and Closeout.* Each grantee receiving a grant shall submit to HUD a semiannual progress report in a format prescribed by HUD that indicates program expenditures and measures performance in achieving goals. At grant completion, the grantee shall participate in a closeout process as directed by HUD which shall include a final report in a format prescribed by HUD that reports final program expenditures and measures performance in achieving program goals. Closeout will culminate in a closeout agreement between HUD and the grantee and, when appropriate, in the return of grant funds which have not been expended in accordance with applicable requirements.

(11) *Suspension or Termination of Funding.* HUD may suspend or terminate funding if the grantee fails to undertake the approved program activities on a timely basis in accordance with the grant agreement, adhere to grant agreement requirements or special conditions, or submit timely and accurate reports.

B. Paperwork Reduction Act Statement

The information collection requirements contained in this Notice of Funding Availability (NOFA) have been approved by the Office of Management and Budget (OMB), in accordance with the emergency processing procedures of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and 5 CFR 1320.13, and assigned OMB control number 2502–0520. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

C. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection and copying from 7:30 to 5:30 weekdays in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC.

D. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this NOFA would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. The grants under this NOFA will be used to eliminate drug-related and other crime problems on the premises and in the vicinity of low-income housing. Therefore, this NOFA is not subject to review under the Order.

E. Section 102 HUD Reform Act Applicant/Recipient Disclosures

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14,

1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

Disclosures. HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

F. Section 103 HUD Reform Act

HUD's regulations implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, applies to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at (202) 708–3815. (This is not a toll-free number.) For HUD employees who have specific program questions, such as whether particular subject matter can be discussed with persons outside HUD, the employee should contact the appropriate field office counsel, or Headquarters counsel for the program to which the question pertains.

G. Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991, 31 U.S.C. 1352 (the Byrd Amendment), which prohibits recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the executive or legislative branches of the Federal Government in connection with a specific contract, grant, or loan. Applicants are required to certify, using the certification found at Appendix A to 24 CFR part 87, that they will not, and have not, used appropriated funds for any prohibited lobbying activities. In addition, applicants must disclose, using Standard Form LLL, ''Disclosure of Lobbying Activities,'' any funds, other than Federally appropriated funds, that will be or have been used to influence Federal employees, members of Congress, and congressional staff regarding specific grants or contracts.

Dated: May 7, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing -Federal Housing Commissioner.

Appendix A—Multifamily Division Directors

New England

Boston

Jeanne McHallam, Multifamily Housing Director, HUD Boston Office, Thomas P. O'Neill, Jr. Federal Building, 10 Causeway Street, Room 375, Boston, Massachusetts 02222–1092 (617) 565–5101 TTY Number: (617) 565–5453

Hartford

Robert S. Donovan, Multifamily Housing Director, HUD-Hartford Office, 330 Main Street, Hartford, Connecticut 06106–1860 (860) 240–4524 TTY Number: (860) 240–4665

Manchester

Loren W. Cole, Acting Multifamily Housing Director, HUD-Manchester Office, Norris Cotton Federal Building, 275 Chestnut Street, Manchester, New Hampshire 03101–2487 (603) 666–7755 TTY Number: (603) 666–7518

Providence

Louisa Osbourne, Multifamily Housing Director, HUD-Providence Office, Sixth Floor, 10 Weybosset Street, Providence, Rhode Island 02903–3234 (401) 528–5354 TTY Number: (401) 528–5403

New York/New Jersey

New York

Beryl Niewood, Multifamily Housing Director, HUD-New York Office, 26 Federal Plaza, New York, New York 10278–0068 (212) 264–07777 x3717 TTY Number: (212) 264–0927

Buffalo

Rosalinda Lamberty, Chief, Multifamily Asset Management Branch, HUD-Buffalo Office, Lafayette Court, 465 Main Street, Fifth Floor, Buffalo, New York 14203–1780 (716) 551–5755 x5500 TTY Number: (716) 551–5787

Newark

Encarnacion Loukatos, Multifamily Housing Director, HUD-Newark Office, One Newark Center, 13th Floor, Newark, New Jersey 07102–5260 (201) 622–7900 x3400 TTY Number: (201) 645–3298

Mid-Atlantic

Philadelphia

Thomas Langston, Multifamily Housing Director, HUD-Philadelphia Office, The Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107–3380 (215) 656–0503 x3354 TTY Number: (215) 656–3452

Baltimore

Ina Singer, Multifamily Housing Director, HUD-Baltimore Office, City Crescent Building, 10 South Howard Street, Fifth Floor, Baltimore, Maryland, 21201–2505 (410) 962–2520 x3125 TTY Number: (410) 962–0106

Charleston

Peter Minter, HUD-Charleston Office, 405 Capitol Street, Suite 708, Charleston, West Virginia 25301–1795 (304) 347–7064 TTY Number: (304) 347–5332

Pittsburgh

Edward Palombizio, Multifamily Housing Director, HUD-Pittsburgh Office, 339 Sixth Avenue, Sixth Avenue, Pittsburgh, Pennsylvania 15222–2515 (412) 644–6394 TTY Number: (412) 644–5747

Richmond

Charles Famuliner, Multifamily Housing Director, HUD-Richmond Office, The 3600 Center, 3600 West Broad Street, Richmond, Virginia 23230–4920 (804) 278–4505 TTY Number: (804) 278–4501

District of Columbia

Felicia Williams, Multifamily Housing Director, HUD-District of Columbia Office, 820 First Street, N.E., Suite 450, Washington, D.C. 20002–4205 (202) 275–4726 x3096 TTY Number: (202) 275–0772

Southeast/Caribbean

Atlanta

Robert W. Reavis, Multifamily Housing Director, HUD-Atlanta Office, Richard B. Russell Federal Building, 75 Spring Street, S.W. Atlanta, Georgia 30303–3388 404–331–4426 TTY Number: (404) 730–2654

Birmingham

Herman S. Ransom, Multifamily Housing Director, Beacon Ridge Tower, 600 Beacon

Parkway West, Suite 300, Birmingham, Alabama 35209–3144 (205) 290–7667 x1062 TTY Number: (205) 290–7630

Caribbean

Minerva Bravo-Perez, Multifamily Housing Director, HUD-Caribbean Office, New San Juan Office Building, 159 Carlos E. Chardon Avenue, San Juan, Puerto Rico 00918–1804 (787) 766–5106/5401 TTY Number: (787) 766–5909

Columbia

Robert Ribenberick, Multifamily Housing Director, HUD-Columbia Office, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201–2480 (803) 253–3240 TTY Number: (803) 253–3071

Greensboro

Daniel McCanless, Multifamily Housing Director, HUD-Greensboro Office, Koger Building, 2306 West Meadowview Road, Greensboro, North Carolina 27407–3707 (910) 547–4020 TTY Number: (919) 547–4055

Jackson

Reba G. Cook, Multifamily Housing Director, HUD-Jackson Office, Doctor A.H. McCoy Federal Building, 100 West Capitol Street, Room 910, Jackson, Mississippi 39269–1016 (601) 965–4700/01 TTY Number: (601) 965–4171

Jacksonville

Ferdinand Juluke, Jr., Multifamily Housing Director, HUD-Jacksonville Office, Southern Bell Tower, 301 West Bay Street, Suite 2200, Jacksonville, Florida 32202–5121 (904) 232–3528 TTY Number: (904) 232–1241

Knoxville

William S. McClister, Multifamily Housing Director, HUD-Knoxville Office, John J. Duncan Federal Building, 710 Locust Street, Third Floor, Knoxville, Tennessee 37902–2526 (423) 545–4406 TTY Number: (423) 545–4559

Louisville

R. Brooks Hatcher, Jr., Multifamily Housing Director, HUD-Louisville Office, 601 West Broad Street, Post Office Box 1044, Louisville, Kentucky 40201–1044 (502) 582–6163 x260 TTY Number: 1–800–648–6056

Nashville

Ed M. Phillips, Multifamily Housing Director, HUD-Nashville Office, 251 Cumberland Bend Drive, Suite 200, Nashville, Tennessee 37228–1803 (615) 736–5365 TTY Number: (615) 736–2886

Mid-West

Chicago

Ed Hinsberger, Multifamily Housing Director, HUD-Chicago Office, Ralph H. Metcalfe Federal Building, 77 West Jackson Boulevard,Chicago, Illinois, 60604–3507 (312) 353–6236 x2152 TTY Number: (312) 353–5944

Cincinnati

Patricia A. Knight, Multifamily Housing Director, HUD-Cincinnati Office, 525 Vine Street, 7th Floor, Cincinnati, Ohio, 45202–3188 (513) 684–2133 TTY Number: (513) 684–6180

Cleveland

Preston A. Pace, Multifamily Housing Director, HUD-Cleveland Office, Renaissance Building, 1350 Euclid Avenue, Suite 500, Cleveland, Ohio 44115–1815 (216) 522–4112 TTY Number: (216) 522–2261

Columbus

Don Jakob, Multifamily Housing Director, HUD-Columbus Office, 200 North High Street, Columbus, Ohio 43215–2499 (614) 469–2156 TTY Number: (614) 469–6694

Detroit

Robert Brown, Multifamily Housing Director, HUD-Detroit Office,Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, Michigan 48226–2592 (313) 226–7107 TTY Number: (313) 226–6899

Grand Rapids

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NY, New York

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NJ, Camden

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Friday
May 23, 1997

Part VI

The President

Proclamation 7005—National Maritime Day, 1997

Federal Register
Vol. 62, No. 100
Friday, May 23, 1997

Presidential Documents

Title 3—

The President

Proclamation 7005 of May 21, 1997

National Maritime Day, 1997

By the President of the United States of America

A Proclamation

Throughout America's history—from the Revolutionary War to today's global challenges—our United States Merchant Marine has fulfilled its mission with patriotism and efficiency, transporting our Nation's cargoes in times of both peace and conflict. Our Merchant Marine has shown its mettle time and again during major United States military engagements, proving to be a crucial component in support of our Armed Forces' efforts to protect our national interests and defend our freedom. Today, we salute these skilled civilian seafarers, who continue to distinguish their profession and demonstrate their commitment to America's security through their unwavering support of our troops abroad in both peacekeeping and humanitarian operations.

History has taught us how important a nation's flag presence is on the high seas. Heeding the lessons of the past, the Congress and I reaffirmed our pledge for a strong U.S.-flag fleet when I signed into law the Maritime Security Act of 1996. This legislation sets the course for America's Merchant Marine into the 21st century, sustaining a strong sealift capability and bolstering national security. The Act will strengthen American maritime and allied industries, while energizing our efforts to further stimulate the economy through trade and commerce.

As we look to the challenges of the future, we recognize the continuing importance of our U.S. domestic maritime fleet to the maintenance of our Nation's commercial and defense maritime interests. I commend the merchant mariners whose unstinting service has helped maintain both our domestic and our international U.S. fleets.

In recognition of the importance of the U.S. Merchant Marine, the Congress, by a resolution approved May 20, 1933, has designated May 22 of each year as ''National Maritime Day'' and has authorized and requested the President to issue annually a proclamation calling for its observance.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim May 22, 1997, as National Maritime Day. I urge all Americans to observe this day with appropriate programs, ceremonies, and activities and by displaying the flag of the United States at their homes and in their communities. I also request that all ships sailing under the American flag dress ship on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of May, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-first.

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