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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 97–056–2]

Mediterranean Fruit Fly; Addition to Quarantined Areas; Regulated Articles

AGENCY: Animal and Plant Health Inspection Service, Agriculture.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by adding a portion of Hillsborough County, FL, to the list of quarantined areas, restricting the interstate movement of regulated articles from the quarantined area, and adding eggplant, other than commercially-produced eggplant, to the list of regulated articles. These actions are necessary on an emergency basis to prevent the spread of the Mediterranean fruit fly into noninfested areas of the continental United States.

DATES: Interim rule effective June 16, 1997. Consideration will be given only to comments received on or before August 19, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–056–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–056–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236, (301) 734–8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

The Mediterranean fruit fly regulations (7 CFR 301.78 through 301.78–10; referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States.

Recent trapping surveys by inspectors of Florida State and county agencies and by inspectors of the Animal and Plant Health Inspection Service (APHIS) have revealed that an infestation of Medfly has occurred in a portion of Hillsborough County, FL.

The regulations in § 301.78–3 provide that the Administrator of APHIS will list as a quarantined area each State, or each portion of a State, in which the Medfly has been found by an inspector, in which the Administrator has reason to believe that the Medfly is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities in which the Medfly has been found.

Less than an entire State will be designated as a quarantined area only if the Administrator determines that the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed on the interstate movement of regulated articles, and the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Medfly. The boundaries lines, for a portion of a State being designated as quarantined, are set up approximately four-and-one-half-miles from the detection sights. The boundary lines may vary due to certain factors such as the location of hosts, the location of transportation centers such as bus stations and airports, the patterns of persons moving in that State, the number and patterns of distribution of the Medfly, and the use of clearly identifiable lines for the boundaries.

In accordance with these criteria and the recent Medfly findings described above, we are amending § 301.78–3 by adding a portion of Hillsborough County in Florida. The new quarantined area is described in the rule portion of this document.

Regulated Articles

Section 301.78–2 designates as regulated articles a number of berries, fruits, nuts, and vegetables, and soil within the drip line of plants that produce the berries, fruits, nuts, and vegetables. Based on research and experience, the articles listed in § 301.78–2(a) as regulated articles are articles that are likely to cause the spread of the Medfly.

We are proposing to add eggplant, other than commercially-produced eggplant, to the list of articles regulated for Medfly. Review of the scientific literature reveals that fully ripe eggplant can be a host of Medfly. Commercially-produced eggplant—eggplant identified by an inspector as having been produced for sale and distribution in mass markets, is harvested at a stage of development when susceptibility to Medfly infestation is unlikely.

Wild or ''backyard'' produce, including eggplant, is generally grown and handled under very different conditions than commercially-produced fruits and vegetables (e.g., wild or backyard produce usually involves different varieties of produce and different cultivating techniques, little or no pest control, and a lack of sanitary controls during growing and packing, such as removal and destruction of overripe and damaged fruit). As a result, there is reason to believe that wild or backyard produce presents a greater pest risk than commercially produced fruits and vegetables. Therefore, we are amending the list of regulated articles in § 301.78–2(a) by adding ''Eggplant (*Solanum melongena* L.), other than commercially-produced.'' We are also adding a definition for ''commercially-produced'' to clarify the difference

between backyard produce and commercially grown produce.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the Medfly from spreading to noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. It will include a discussion of any comments we receive and any amendment we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

This action amends the Medfly regulations by quarantining an area in Hillsborough County in Florida, restricting the interstate movement of regulated articles from the quarantined area, and adding eggplant, other than commercially-produced eggplant, to the list of regulated articles.

This emergency situation makes compliance with section 603 and timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. If we determine that this rule would have a significant economic impact on a substantial number of small entities, then we will discuss the issues raised by section 604 of the Regulatory Flexibility Act in our Final Regulatory Flexibility Analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have been prepared for this rule. The site specific environmental assessment and programmatic Medfly environmental impact statement provide a basis for our conclusion that implementation of integrated pest management to achieve eradication of the Medfly would not have a significant impact on human health and the natural environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14 Street and Independence Avenue SW, Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.78–1 is amended by adding a definition, in alphabetical order, to read as follows:

§ 301.78–1 Definitions.

* * * * *

Commercially-produced. Fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification will be based on a variety of indicators, including, but not limited to: quantity of produce, monocultural practices, pest management programs, good sanitation practices including destruction of culls, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

* * * * *

§ 301.78–2 [Amended]

3. In § 301.78–2, paragraph (a) is amended by adding ''Eggplant (*Solanum melongena* L.), other than commercially-produced eggplant'' immediately after ''Date (*Phoenix dactylifera*)''.

4. In § 301.78–3, paragraph (c) is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) The areas described below are designated as quarantined areas:

FLORIDA

Hillsborough County. That portion of Hillsborough County beginning at the intersection of Knights Griffin Road and State Road 39; then west along Knights Griffin Road to Stacy Road (including properties on the north side of Knights Griffin Road); then north along Stacy Road to U.S. 301 (including properties on the west side of Stacy Road); then south along U.S. 301 to East Fowler Avenue (582); then west along east Fowler Avenue (582) to I–75; then north along I–75 to R. 19 E., T. 27 S., section line dividing sections 14 and 23; then west along the section line dividing sections 14 and 23, sections 15 and 22, sections 16 and 21, sections 17 and 20, and sections 18 and 19 to Debuel Road; then west along Debuel Road and its extension (including the properties on the north side of Debuel Road) to R. 18 E., T. 27 S., section line dividing sections 13 and 24, and sections 14 and 23; then west along R. 18 E., T. 27 S., section line dividing sections 13 and 24, and 14 and 23 to Van Dyke Road; then west along Van Dyke Road (including the properties on the north side of Van Dyke Road) to Veterans Expressway

(589); then south along Veterans Expressway (589) until it becomes Eisenhower Boulevard; then south along Eisenhower Boulevard to Memorial Highway; then south along Memorial Highway to Kennedy Boulevard; then east along Kennedy Boulevard (including the properties on the south side of Kennedy Boulevard) to West Shore Boulevard; then south along West Shore Boulevard (including properties on the west side of West Shore Boulevard) to Gandy Boulevard; then east along Gandy Boulevard and its extension (including the properties on the south side of Gandy Boulevard and its extension) to the water edge of Hillsborough Bay; then south, east, and north along the water edge of Hillsborough Bay (including Davis Island, Harbour Island, Hookers Point, and Port Sutton) to the northern shore line of the Alafia River; then east along the northern shoreline of the Alafia River to Turkey Creek; then north along Turkey Creek to Brandon Highway (U.S. 60); then east along Brandon Highway (U.S. 60) (including properties on the south side of Brandon Highway (U.S. 60)) to the James L. Redman Parkway (Highway 39); then north along the James L. Redman Parkway (Highway 39) to West Alexander Street; then west and north along West, South and North Alexander Street to I–4; then east along I–4 to Buchman Highway (Highway 39); then north along Buchman Highway (Highway 39) to the point of beginning.

Done in Washington, DC, this 16th day of June 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–16195 Filed 6–19–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

7 CFR Part 457

Guaranteed Production Plan of Fresh Market Tomato; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final regulation which was published Thursday, May 1, 1997 (62 FR 23628–23634). The regulation pertains to the Guaranteed Production Plan of Fresh Market Tomato Regulations.

EFFECTIVE DATES: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Louise Narber, 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:

Background

The final regulation that is the subject of this correction was intended to provide policy changes to better meet the needs of the insured and include the current Fresh Market Tomato (Guaranteed Production Plan) Crop Insurance Regulations with the Common Crop Insurance Policy for ease of use and consistency of terms.

Need for Correction

As published, the final regulation contains errors which may prove misleading. The dates for the end of the insurance period are being corrected to designate October 31, instead of November 20, for California and September 20 in all other states. A November 20 ending date creates an insurance period that is too long in California and significantly increases the risk of loss for FCIC.

Correction of Publication

Accordingly, the publication on May 1, 1997, of the final regulation at 62 FR 23628–23634 is corrected as follows:

PART 457—[CORRECTED]

§ 457.128 [Corrected]

On page 23633, in the second column, in § 457.128, section 10(b)(7) is corrected to read as follows ''October 31 of the crop year in California and September 20 in all other states.''

On page 23634, in the first column, in § 457.128, section 13(c)(1)(iii)(A) is corrected to read as follows: ''With a classification size of 6 x 7 (2 8/32 inch minimum diameter) or larger and that would grade eighty-five percent (85%) or better U.S. No. 1 for types other than cherry, roma, or plum; or''

Signed in Washington, DC, on June 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–16231 Filed 6–19–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

7 CFR Parts 735, 736, 737, 738, 739, 740, 741, 742, and 743

RIN 0560–AF07

Amending Regulations for Various Commodity Warehouses

AGENCY: Farm Service Agency.

ACTION: Final rule.

SUMMARY: This final rule updates the various commodity regulations issued under the United States Warehouse Act (USWA) governing cotton, grain, wool, dry beans, nut, sirup, and cottonseed warehouses. The changes contained in this final rule are administrative in nature. Due to the administrative nature of these changes, affected warehouse operators/warehousemen or other sectors of agricultural trade will not be adversely affected.

This final rule also revokes the ''Regulations for Field Warehouses'' which were originally issued as Service and Regulatory Announcement No. 136 (B.A.E.) July 30, 1932. These regulations have not had any appreciable activity for many years and there is no foreseeable need for them in the future.

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

EFFECTIVE DATE: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Steve Mikkelsen, Chief, Licensing Authority Branch, Warehouse and Inventory Division, Farm Service Agency, STOP 0553, 1400 Independence Avenue SW., Washington, DC 20250–0553; telephone (202) 720–7433.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

Executive Order 12988

This final rule has been reviewed in accordance with Executive Order 12988. The provisions of this final rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Analysis is needed.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372, which requires 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).

Paperwork Reduction Act

This rule does not affect reporting or recordkeeping requirements.

Regulatory Flexibility Act

Because this rule will not have an adverse impact on a substantial number of small businesses, a Regulatory Flexibility Assessment is not required.

Unfunded Mandate Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (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.

Background

Pursuant to the provisions of the USWA, the Secretary has the authority to license public warehousemen storing agricultural commodities (7 U.S.C. 241 *et seq.*) who meet statutory and regulatory standards. Changes in the economy, governmental administrative policy, and the needs of the warehousing industry in general have necessitated the Department to review, on a continuous basis, operations and requirements under the USWA.

Accordingly, rules and regulations and changes to such rules and regulations have been promulgated by the Department from time to time, under authority of 7 U.S.C. 268 (section 28) of the USWA for the efficient execution of the USWA.

List of Subjects in 7 CFR Parts 735, 736, 737, 738, 739, 740, 741, 742 and 743

Administrative practice and procedure, Agricultural commodities, Reporting and recordkeeping requirements, Surety bonds, Warehouses.

For the reasons set out in the preamble, 7 CFR is amended as follows:

1. Throughout parts 735 through 742, in OMB control numbers, revise all references to ''control number 0581–0027'' to read ''control number 0560–0120.''

PART 735—COTTON WAREHOUSES

2. The authority citation for part 735 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

3. In the sections listed below, remove the reference in the right column and insert, ''the Service'' in its place:

Section	Reference
735.2(gg)	''FSA''.
735.2(hh)	''FSA''.
735.2(ii)	''FSA''.
735.52	''Agricultural Marketing Service, USDA''.
735.100	''FSA''.
735.101(k)	''FSA''.
735.102(b)	''FSA'' (two occurrences).

4. Section 735.35 is revised to read as follows:

§ 735.35 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

§ 735.46 [Removed and Reserved]

5. Section 735.46 is removed and reserved.

6. Section 735.87 is revised to read as follows:

§ 735.87 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

7. Section 735.101(n) is removed and §§ 735.101 (o) through (q) are redesignated §§ 735.101 (n) through (p) respectively.

PART 736—GRAIN WAREHOUSES

8. The authority citation for part 736 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

§ 736.5 [Removed and Reserved]

9. Section 736.5 is removed and reserved.

10. Section 736.22 is revised to read as follows:

§ 736.22 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator,

(b) Upon distinctive paper or card stock specified by the Administrator,

(c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

11. Section 736.32 is moved to immediately follow the undesignated center heading ''Duties of Warehouseman''. Section 736.32 is also revised to read as follows:

§ 736.32 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

12. In § 736.33, paragraph (f) is revised to read as follows:

§ 736.33 Insurance; requirements.

* * * * *

(f) If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

13. In the last sentence in § 736.59, the phrase ''of 'Agricultural Marketing Service, USDA.' '' is changed to read ''of the Service.''

PART 737—TOBACCO WAREHOUSES

14. The authority citation for part 737 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

15. Section 737.19 is revised to read as follows:

§ 737.19 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator,

(b) Upon distinctive paper or card stock specified by the Administrator,

(c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

16. Section 737.42 is revised to read as follows:

§ 737.42 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

17. Section 737.46 is revised to read as follows:

§ 737.46 Reporting fire losses.

If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

§ 737.47 [Removed and Reserved]

18. Section 737.47 is removed and reserved.

19. In the last sentence in § 737.50, the phrase ''of 'Agricultural Marketing

Service, USDA.' '' is changed to read ''of the Service.''

20. Section 737.76 is revised to read as follows:

§ 737.76 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

PART 738—WOOL WAREHOUSES

21. The authority citation for part 738 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

22. Section 738.19 is revised to read as follows:

§ 738.19 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator,

(b) Upon distinctive paper or card stock specified by the Administrator,

(c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

23. Section 738.30 is revised to read as follows:

§ 738.30 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

§ 738.32 [Removed and Reserved]

24. Section 738.32 is removed and reserved.

25. Section 738.45 is revised to read as follows:

§ 738.45 Reporting fire losses.

If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

26. In the last sentence in § 738.48, the phrase ''of 'Agricultural Marketing Service, USDA.' '' is changed to read ''of the Service.''

27. Section 738.70 is revised to read as follows:

§ 738.70 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

PART 739—DRY BEAN WAREHOUSES

28. The authority citation for part 738 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

29. Section 739.19 is revised to read as follows:

§ 739.19 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator,

(b) Upon distinctive paper or card stock specified by the Administrator,

(c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

30. Section 739.40 is revised to read as follows:

§ 739.40 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipt for auditing to an entity or office of the Service as may be designated from time to time.

§ 739.52 [Removed and Reserved]

31. Section 739.52 is removed and reserved.

32. Section 739.53 is revised to read as follows:

§ 739.53 Reporting fire losses.

If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

33. In the last sentence in § 739.57, the phrase ''of 'Agricultural Marketing Service, USDA.' '' is changed to ''of the Service.''

34. Section 739.78 is revised to read as follows:

§ 739.78 Publications

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

PART 740—NUT WAREHOUSES

35. The authority citation for part 740 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

36. Section 740.21 is revised to read as follows:

§ 740.21 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator,

(b) Upon distinctive paper or card stock specified by the Administrator,

(c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

37. Section 740.27 is moved to immediately follow the undesignated center heading center heading ''Duties of Licensed Warehousemen''. Section 740.27 is also revised to read as follows:

§ 740.27 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

§ 740.49 [Removed and reserved]

38. Section 740.49 is removed and reserved.

39. Section 740.54 is revised to read as follows:

§ 740.54 Reporting fire losses.

If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

40. In the last sentence in § 740.58, the phrase ''of 'Agricultural Marketing Service, USDA.' '' is changed to read ''of the Service.''

PART 741—SIRUP WAREHOUSES

41. The authority citation for part 741 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

42. Section 741.19 is revised to read as follows:

§ 741.19 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator, (b) Upon distinctive paper or card stock specified by the Administrator, (c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

43. Section 741.36 is revised to read as follows:

§ 741.36 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

44. Section 741.46 is revised to read as follows:

§ 741.46 Reporting fire losses.

If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

45. In the last sentence in § 741.50, the phrase ''of 'Agricultural Marketing Service, USDA.' '' is changed to read ''of the Service.''

46. Section 741.71 is revised to read as follows:

§ 741.71 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

PART 742—COTTONSEED WAREHOUSES

47. The authority citation for part 742 continues to read as follows:

Authority: 7 U.S.C. 241 *et seq.*

48. Section 742.20 is revised to read as follows:

§ 742.20 Printing of receipts.

No receipt shall be issued by a licensed warehouseman unless it is:

(a) In a form prescribed by the Administrator,

(b) Upon distinctive paper or card stock specified by the Administrator,

(c) Printed by a printer with whom the United States has a subsisting agreement and bond for such printing, and

(d) On paper and/or card stock tinted with ink in the manner prescribed by the agreement under paragraph (c) of this section.

49. Section 742.43 is revised to read as follows:

§ 742.43 Canceled receipts; auditing.

Each warehouseman, if requested by the Service, shall forward canceled receipts for auditing to an entity or office of the Service as may be designated from time to time.

50. Section 742.55 is revised to read as follows:

§ 742.55 Reporting fire losses.

If at any time a fire occurs at or within any licensed warehouse, it shall be the duty of the warehouseman to report immediately the occurrence of such fire and the extent of damage to the Administrator.

51. In the last sentence in § 742.60, the phrase ''of 'Agricultural Marketing Service, USDA.' '' is changed to read ''of the Service.''

52. Section 742.82 is revised to read as follows:

§ 742.82 Publications.

Publications under the act and the regulations in this part shall be made in such media as may be deemed proper by the Administrator.

PART 743—[REMOVED]

53. Part 743 is removed and reserved.

Signed at Washington, DC, on June 11, 1997.

Bruce R. Weber,

Acting Administrator, Farm Service Agency.

[FR Doc. 97–16013 Filed 6–19–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–177–AD; Amendment 39–10048; AD 97–13–01]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 340B and Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 340B and Model SAAB 2000 series airplanes, that requires a one-time inspection to determine if certain switches are installed on the fire handle of the fire handle assembly; and replacement of the fire handle panel with a new fire handle panel, if necessary. This amendment is prompted by a report indicating that, during manufacture, a batch of defective switches were installed on certain fire handle panels on these airplanes. The actions specified by this AD are intended to ensure the proper switches are installed in the fire handle assembly. A defective switch in the fire handle assembly could prematurely fail and, consequently, prevent the proper operation of the engine fire protection system in the event of a fire.

DATES: Effective July 25, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 25, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1721; 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 Saab Model SAAB 340B and Model SAAB 2000 series airplanes was published in the **Federal Register** on March 12, 1997 (62 FR 11392). That action proposed to require a one-time inspection to determine the color of the switches installed on the fire handle panel of the fire handle assembly. If a blue switch is installed, that action proposed to require a one-time inspection to verify the serial number of the fire handle assembly, and replacement of the fire handle panel with a new fire handle panel, if necessary.

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 21 Saab Model SAAB 340B series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators of Saab Model SAAB 340B series airplanes is estimated to be $1,260, or $60 per airplane.

The FAA also estimates that 3 Saab Model SAAB 2000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators of Saab Model SAAB 2000 series airplanes is estimated to be $540, or $180 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:

97–13–01 SAAB Aircraft AB: Amendment 39–10048. Docket 96–NM–177–AD.

Applicability: Model SAAB 340B series airplanes, having serial numbers 354 through 374 inclusive; and Model SAAB 2000 series airplanes, having serial numbers 004 through 025 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure the proper switches are installed on the fire handle panel of the fire handle assembly, accomplish the following:

(a) Within 60 days after the effective date of this AD, perform a one-time inspection to determine the color of the switches installed on the fire handle panel of the fire handle assembly, in accordance with SAAB Service Bulletin 340–26–016, dated November 9, 1995 (for Model SAAB 340 series airplanes), or SAAB Service Bulletin 2000–26–006, dated November 9, 1995 (for Model SAAB 2000 series airplanes); as applicable.

(1) If all of the switches are green on the fire handle assembly, no further action is required by this AD.

(2) If any blue switch is installed, prior to further flight, perform a one-time inspection to determine the serial number of the fire handle assembly, in accordance with the applicable service bulletin.

(i) If no fire handle assembly has a serial number listed in the service bulletin, no further action is required by this AD.

(ii) If any fire handle assembly has a serial number listed in the service bulletin, prior to further flight, replace the fire handle panel with a new fire handle panel, in accordance with the applicable service bulletin.

(b) As of the effective date of this AD, no person shall install a fire handle assembly, having any serial number identified in paragraph B.(3)(g) of the Accomplishment Instructions of SAAB Service Bulletin 340–26–016, dated November 9, 1995; on any airplane.

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

Note 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.

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

(e) The inspections and replacement shall be done in accordance with SAAB Service Bulletin 340–26–016, dated November 9, 1995, or SAAB Service Bulletin 2000–26–006, dated November 9, 1995, as applicable. 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 SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on July 25, 1997.

Issued in Renton, Washington, on June 10, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–15766 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–282–AD; Amendment 39–10049; AD 97–13–03]

RIN 2120–AA64

Airworthiness Directives; Gulfstream American (Frakes Aviation) Model G–73 (Mallard) Series Airplanes Modified in Accordance With Supplemental Type Certificate (STC) SA2323WE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Gulfstream American (Frakes Aviation) Model G–73 (Mallard) series airplanes, that requires revising the Airplane Flight Manual (AFM) to prohibit positioning the power levers below the flight idle stop, and to provide a statement of consequences of positioning the power levers below the flight idle stop. This amendment is

prompted by incidents and accidents involving airplanes equipped with turboprop engines in which the propeller beta was used improperly during flight. The actions specified by this AD are intended to prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight.

EFFECTIVE DATE: July 25, 1997.

ADDRESSES: 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 FAA, Airplane Certification Office, Rotorcraft Directorate, 1601 Meacham Boulevard, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Brian Hancock, Flight Test Pilot, Airplane Certification Office, ASW–150, FAA, Rotorcraft Directorate, 1601 Meacham Boulevard, Fort Worth, Texas 76137–4298; telephone (817) 222–5152; fax (817) 222–5960.

SUPPLEMENTARY INFORMATION: 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 Gulfstream American (Frakes Aviation) Model G–73 (Mallard) series airplanes was published in the **Federal Register** on March 26, 1997 (62 FR 14368). That action proposed to require revising the Limitations Section of the Airplane Flight Manual (AFM) to prohibit positioning the power levers below the flight idle stop, and to provide a statement of the consequences of positioning the power levers below the flight idle stop.

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

There are approximately 20 Gulfstream American (Frakes Aviation) Model G–73 (Mallard) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 10 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $600, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

97–13–03 Gulfstream American (Frakes Aviation): Amendment 39–10049. Docket 96–NM–282–AD.

Applicability: Model G–73 (Mallard) series airplanes modified in accordance with Supplemental Type Certificate No. SA2323WE, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of airplane controllability, or engine overspeed and consequent loss of engine power caused by the power levers being positioned below the flight idle stop while the airplane is in flight, accomplish the following:

(a) Within 30 days after the effective date of this AD, revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statements. This action may be accomplished by inserting a copy of this AD into the AFM.

''Positioning of power levers below the flight idle stop while the airplane is in flight is prohibited. Such positioning may lead to loss of airplane control or may result in an overspeed condition and consequent loss of engine power.''

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Fort Worth Airplane Certification Office (ACO), ASW–150, FAA, Rotorcraft Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

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

(d) This amendment becomes effective on July 25, 1997.

Issued in Renton, Washington, on June 13, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–16105 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–76–AD; Amendment 39–10052; AD 97–13–06]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 340B and SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 340B and SAAB 2000 series airplanes. This action requires an inspection of the fluorescent lamps in the cabin area to ensure correct installation, and correction, if necessary. This AD also requires an inspection of the lampholders to identify any discrepancies and to ensure the security of the back covers, and replacement of discrepant lampholders with new lampholders; installation of retaining clips on certain Page Aerospace lampholders; and reinspection of the lamps to ensure correct installation after replacement or reinstallation of the lamps or lampholders, and corrections, if necessary. This amendment is prompted by reports indicating that loose back covers on the lampholders and incorrect lamp installations have led to electrical arcing between fluorescent tube pins and lampholders and consequent charring or melting of the affected areas. The actions specified in this AD are intended to prevent such electrical arcing, which could burn the surrounding area and lead to smoke and fumes in the passenger compartment or lavatory area.

DATES: Effective July 7, 1997.

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

Comments for inclusion in the Rules Docket must be received on or before August 19, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–76–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined 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.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1721; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, recently notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 340B and SAAB 2000 series airplanes. The LFV advises of reports of fluorescent lampholder charring due to the incorrect installation of fluorescent lamps in their holders; this condition resulted in smoke emission. A number of failures have occurred in airplanes equipped with Page Aerospace lampholders, where loose back covers have led to electrical arcing between the fluorescent tube pins and lampholders. Such incorrect installation or a loose back cover, if not corrected, could result in electrical arcing, which could burn the surrounding area and lead to smoke and fumes in the passenger compartment or lavatory area.

Explanation of Relevant Service Information

Saab has issued the following service bulletins:

—Service Bulletin 340–33–047, dated May 16, 1997 (for Model SAAB 340B series airplanes);

—Service Bulletin 340–33–040, Revision 02, dated February 20, 1997 (for Model SAAB 340B series airplanes);

—Service Bulletin 2000–33–014, dated May 16, 1997 (for Model SAAB 2000 series airplanes); and

—Service Bulletin 2000–33–009, dated June 19, 1996 (for Model SAAB 2000 series airplanes).

These service bulletins describe procedures for inspecting the fluorescent lamps in the cabin area to ensure correct installation, and making corrections, if necessary; inspecting the lampholders for such discrepancies as discoloration, evidence of electrical arcing at the light tube pins, and charring or melting; and ensuring the security of the back covers of the lampholders. In addition, these service bulletins describe procedures for replacing any discrepant lampholder with a new lampholder; installing retaining clips on Page Aerospace lampholders; and reinspecting the lamps to ensure correct installation after replacement or reinstallation of the lamps or lampholders, and corrections, if necessary.

The LFV classified these service bulletins as mandatory and issued Swedish airworthiness directive (SAD) 1–103R1, dated January 30, 1997; SAD 1–113, dated May 26, 1997; and SAD 1–114, dated May 26, 1997; in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

These airplane models are manufactured in Sweden and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LFV has kept the FAA informed of the situation described above. The FAA has examined the findings of the LFV, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent electrical arcing between the fluorescent tube pins and the lampholders, which could burn the surrounding area and lead to smoke and fumes in the passenger compartment or lavatory area. This AD requires an inspection of the fluorescent lamps in the cabin area to ensure correct installation, and corrections, if necessary. This AD also requires an inspection of the lampholders to identify any discrepancies and to ensure the security of the back covers, and replacement of discrepant lampholders with new lampholders; installation of retaining clips on certain Page Aerospace lampholders; and reinspection of the lamps to ensure

correct installation after replacement or reinstallation of the lamps or lampholders, and corrections, if necessary. These actions are required to be accomplished in accordance with the service bulletins described previously.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Determination of Rule's Effective Date

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, 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 shall 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 in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD 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 Number 97-NM–76-AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, 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:

97–13–06 SAAB AIRCRAFT AB: Amendment 39–10052. Docket 97–NM–76–AD.

Applicability: Model SAAB 340B series airplanes, having serial numbers –342 and –359 through –439 inclusive; and SAAB 2000 series airplanes, having serial numbers –004 through –059 inclusive; 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 (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent electrical arcing between the fluorescent tube pins and the lampholders, which could burn the surrounding area and lead to smoke and fumes in the passenger compartment or lavatory area, accomplish the following:

(a) Within 30 days after the effective date of this AD, accomplish the actions required by paragraphs (a)(1), (a)(2), and (a)(3).

(1) For all airplanes: Inspect the fluorescent lamps installed in the ceiling/window of the lavatory and passenger compartment to ensure correct installation; and inspect the lampholders for discrepancies such as discoloration, evidence of electrical arcing at the light tube pins, charring or melting, or insecure back covers; in accordance with Saab Service Bulletin 340–33–047, dated May 16, 1997 (for Model SAAB 340B series airplanes); or Saab Service Bulletin 2000–33–014, dated May 16, 1997 (for Model SAAB 2000 series airplanes); as applicable.

(i) If any lamp is installed incorrectly, prior to further flight, install the lamp correctly in accordance with the applicable service bulletin.

(ii) If any discrepancy is found, prior to further flight, replace the lampholder with a new lampholder in accordance with the applicable service bulletin.

(2) For Model SAAB 340B series airplanes on which a Page Aerospace lampholder having part number (P/N) D756–02–001 is installed: Install a retaining clip in accordance with Saab Service Bulletin 340–33–040, Revision 02, dated February 20, 1997.

Note 2: Installation of retaining clips on Page Aerospace lampholders that was accomplished prior to the effective date of this AD in accordance with Saab Service Bulletin 340–33–040, Revision 01, dated January 31, 1997, also is considered acceptable for compliance with the requirement of paragraph (a)(2) of this AD.

(3) For Model SAAB 2000 series airplanes on which a Page Aerospace lampholder having P/N C756–10–001 is installed: Install a retaining clip in accordance with Saab Service Bulletin 2000–33–009, dated June 19, 1996.

(b) Following the accomplishment of the requirements of paragraph (a) of this AD: If any fluorescent lamp or lampholder is replaced or reinstalled, within 7 days after accomplishing such replacement or reinstallation, reinspect the lamp to ensure it is still in the correct position, in accordance with Saab Service Bulletin 340–33–047, dated May 16, 1997 (for Model SAAB 340B

series airplanes); or Saab Service Bulletin 2000–33–014, dated May 16, 1997 (for Model SAAB 2000 series airplanes); as applicable. If any lamp is installed incorrectly, prior to further flight, make corrections to ensure correct installation in accordance with the applicable service bulletin.

(c) As of the effective date of this AD, no person shall install a fluorescent lampholder having Page Aerospace P/N D756–02–001 or Page Aerospace P/N C756–10–001 on any Model SAAB 340B or SAAB 2000 series airplane, unless the lampholder has been modified in accordance with the requirements of paragraph (a)(2) or (a)(3) of this AD, as applicable.

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

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

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

(f) The modifications shall be done in accordance with Saab Service Bulletin 340–33–047, dated May 16, 1997; Service Bulletin 340–33–040, Revision 02, dated February 20, 1997 (for Model SAAB 340B series airplanes); Service Bulletin 2000–33–014, dated May 16, 1997; and Service Bulletin 2000–33–009, dated June 19, 1996 (for Model SAAB 2000 series airplanes); as applicable. 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 SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. 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.

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

Issued in Renton, Washington, on June 13, 1997.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–16104 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1915

[Docket No. S–045]

RIN 1218–AA74

Personal Protective Equipment for Shipyard Employment; Effective Date and Office of Management and Budget Control Numbers Under Paperwork Reduction Act

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Final rule: amendment; announcement of effective date and OMB approval of information collection requirements.

SUMMARY: The Occupational Safety and Health Administration is announcing that the collections of information regarding § 1915.152(b), hazard assessment and equipment selection, § 1915.152(e), training, § 1915.159(d), personal fall arrest systems training, and § 1915.160(d), positioning device systems training have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This document announces the effective dates of those paragraphs and the OMB approval number 1218–0215. It also adds the OMB number to the CFR.

DATES: The amendment in this final rule and §§ 1915.152 (b) and (e), 1915.159(d) and 1915.160(d) published at 61 FR 26352 and corrected at 61 FR 29957 are effective July 21, 1997.

FOR FURTHER INFORMATION CONTACT: Chappell Pierce, Director, OSHA Office of Fire Protection Engineering and Systems Safety Standards, U.S. Department of Labor, N3609, 200 Constitution Avenue, NW., Washington, DC. 20210. Telephone (202) 219–7216, ext. 111.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 24, 1996, (61 FR 26322), the agency announced that the information collection request for the final rule on Personal Protective Equipment for Shipyards had been submitted to OMB for review and clearance. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), OMB has approved the information collection and assigned OMB control number 1218–0215. The approval expires on April 30, 2000. Under 5 CFR 1320.5(b), an agency may not conduct or sponsor a collection of information unless: (1) The collection displays a valid control number; and (2) the agency informs potential persons who may respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number. Sections 1915.152 (b) and (e), 1915.159(d) and 1915.160(d) are effective July 21, 1997.

Authority and Signature

This document was prepared under the direction of Gregory R. Watchman, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington , DC 20210.

List of Subjects in 29 CFR Part 1915

Hazardous substances, Longshore and harbor workers, Occupational safety and health, Reporting and recordkeeping requirements, Vessels.

Signed at Washington, DC, this 13th day of June 1997.

Gregory R. Watchman,

Acting Assistant Secretary of Labor.

Accordingly, OSHA amends 29 CFR part 1915 as set forth below.

PART 1915—[AMENDED]

1. The authority citation for Part 1915 continues to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), 9–83 (48 FR 35736) or 1–90 (55 FR 9033), as applicable; 29 CFR part 1911.

Section 1915.100 also issued under Section 29, Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. 1801–1891 and 5 U.S.C. 553).

2. Section 1915.8 is amended by removing the existing entry for § 1910.152 and by adding (in numerical order) the following entities to read as follows:

§ 1915.8 OMB control numbers under the Paperwork Reduction Act.

* * * * *

29 CFR citation	OMB control No.
* * * * *	
1915.152(b)	1218–0215
1915.152(e)	1218–0215
1915.159(d)	1218–0215
1915.160(d)	1218–0215
* * * * *	

[FR Doc. 97–16116 Filed 6–19–97; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 357

Regulations Governing Book-Entry Treasury Bonds, Notes and Bills (Department of the Treasury Circular, Public Debt Series No. 2–86); Correction

AGENCY: Bureau of the Public Debt, Fiscal Service, Department of the Treasury.

ACTION: Final rule; correction.

SUMMARY: The Fiscal Service published in the **Federal Register** of April 16, 1997, a final rule amending regulations governing book-entry Treasury bills, notes and bonds. This document corrects the amendatory instructions for an amendment to 31 CFR part 357.

EFFECTIVE DATE: April 16, 1997.

FOR FURTHER INFORMATION CONTACT: Jacqueline L. Jackson, Attorney, Office of the Chief Counsel, Bureau of the Public Debt (202) 219–3485.

SUPPLEMENTARY INFORMATION: The Fiscal Service published a final rule in the issue of the **Federal Register** for April 16, 1997 (62 FR 18694), amending text in the definition section. The section was designated § 357.3 instead of 357.2. This final rule corrects the amendatory instruction and regulatory text that described the intended amendment.

Correction

1. In final rule document 97–9543, beginning on page 18694 in the **Federal Register** issue of April 16, 1997, make the following correction. On page 18694, correct instruction No. 2 and the section heading that follows it to read as follows:

2. Section 357.2 is amended by adding the following definition to read as follows:

§ 357.2 Definitions.

* * * * *

Dated: June 16, 1997.

Richard L. Gregg,

Commissioner of the Public Debt.

[FR Doc. 97–16172 Filed 6–19–97; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 370

Regulations Governing Payments by the Automated Clearing House Method on Account of United States Securities

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: The Department of the Treasury published in the **Federal Register** of October 22, 1996 a document concerning the use of debit ACH for the purchase of Treasury bills, bonds and notes. Inadvertently a numbering error occurred which designated sections 370.1 through 370.4 as Subpart A, when only section 370.1 should have been so designated.

EFFECTIVE DATE: October 22, 1996.

FOR FURTHER INFORMATION CONTACT: Maureen Parker, Director, Division of Securities Systems, Bureau of the Public Debt (304) 480–7761; Susan Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt (304) 480–5192.

SUPPLEMENTARY INFORMATION: The Department of the Treasury published in the **Federal Register** of October 22, 1996, a document which, in part, designated section 370.1 through 370.4 as Subpart A, when only section 370.1 should have been so designated. This correction clarifies the amendatory instruction that described the intended redesignation.

Correction

1. In final rule document 96–26376, on page 54910 in the **Federal Register** issue of October 22, 1996, make the following correction: On page 54910, in the second column, correct instruction 4 to read as follows:

§ 370.1 [Corrected]

4. Section 370.1 is designated as Subpart A and a heading for subpart A is added to read as follows:

Dated: June 16, 1997.

Richard L. Gregg,

Commissioner of the Public Debt.

[FR Doc. 97–16173 Filed 6–19–97; 8:45 am]

BILLING CODE 4810–39–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR65–7280; FRL–5823–8]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a revision to the State of Oregon Implementation Plan. This revision establishes and requires a source-specific Reasonably Available Control Technology (RACT) volatile organic compound (VOC) emissions standard for PCC Structurals, Inc., Large Parts Campus, at 4600 SE Harney Drive, Portland, Oregon. This action is being taken under Part D of the Clean Air Act.

EFFECTIVE DATE: July 21, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Denise Baker, Office of Air Quality (OAQ–107), EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, phone (206) 553–8087.

SUPPLEMENTARY INFORMATION:

I. Background

Section 172 (a)(2) and (b)(3) of the Clean Air Act (CAA), as amended in 1977 (1977 Act), required sources of VOC to install, at a minimum, RACT in order to reduce VOC emissions. EPA has defined RACT as the lowest emission limit 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 53761, September 17, 1979). EPA has developed Control Technology Guidelines (CTGs) for the purpose of informing State and local air pollution control agencies of air pollution control techniques available for reducing emissions of VOC from various categories of sources. Each CTG contains recommendations to the States of what EPA calls the ''presumptive norm'' for RACT. This general statement of agency policy is based on EPA's evaluation of the capabilities of, and problems associated with, control technologies currently used by facilities

within individual source categories. EPA has recommended that the States adopt requirements consistent with the presumptive norm level.

On March 3, 1978, the entire Portland-Vancouver Interstate Air Quality Maintenance Area (AQMA) was designated by EPA as a non-attainment area for ozone. The Portland-Vancouver Interstate AQMA contains the urbanized portions of three counties in Oregon (Clackamas, Multnomah, and Washington) and one county (Clark) in the State of Washington.

The 1977 Act required States to submit plans to demonstrate how they would attain and maintain compliance with national ambient air standards for those areas designated non-attainment. The 1977 Act further required these plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension of the compliance deadline to December 31, 1987, was possible if the State could demonstrate that, despite implementation of all Reasonably Available Control Measures, the December 31, 1982, date could not be met.

On October 7, 1982, EPA approved the Portland-Vancouver area ozone attainment plan, including an extension of the attainment date to December 31, 1987 (47 FR 44262).

On June 15, 1988, pursuant to section 110(a)(2)(H) of the pre-amended CAA, former EPA Regional Administrator Robie Russell notified the State of Oregon by letter that the State Implementation Plan (SIP) for the Portland-Vancouver area was substantially inadequate to provide for timely attainment of the National Ambient Air Quality Standards (NAAQS). In that letter, EPA identified specific actions needed to correct deficiencies in State regulations to require RACT for sources of VOC. When the CAA was amended in 1990, it required States to correct deficiencies. In amended section 182(a)(2)(A), Congress statutorily adopted the requirement that ozone non-attainment areas fix their deficient RACT rules for ozone. Areas designated non-attainment before the effective date of the amendments, and which retained that designation and were classified as marginal or above as of the effective date, are required to meet the RACT fix-up requirement. Under section 182(a)(2)(A), States with such non-attainment areas were mandated to correct their RACT requirements by May 15, 1991. The corrected requirements were to be in compliance with Section 172(b), as it existed before the amendments, and as that section was interpreted in the pre-amendment guidance. The Portland part of the Portland-Vancouver non-attainment area is classified as marginal. Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

On May 15, 1991, the State of Oregon submitted Oregon Administrative Rules (OAR) 340–22–100 through 340–22–220, General Emission Standards for Volatile Organic Compounds, as an amendment to the Oregon SIP. On September 29, 1993, EPA approved these revisions to the Oregon SIP (58 FR 50848). Part of these amended rules included a requirement for RACT for non-CTG sources.

On February 3, 1997, the Oregon Department of Environmental Quality (ODEQ) submitted to EPA a proposed revision to its SIP. This proposed revision was a draft source-specific revision to the State of Oregon Clean Air Act Implementation Plan, OAR 340–020–0047, and was submitted pursuant to 40 CFR 51.103. The proposed revision consisted of a RACT determination for PCC Structurals, Inc., Large Parts Campus, at 4600 SE Harney Drive, Portland, Oregon.

On March 7, 1997 (62 FR 10498), EPA proposed to approve ODEQ's revision to the SIP, establishing and requiring a source-specific RACT VOC emissions standard for PCC Structurals, Inc. In its notice of proposed approval, EPA reviewed in detail the basis for its proposed actions. The March 7, 1997, revision was proposed under a procedure called parallel processing, whereby EPA proposed rule-making action concurrently with the State's procedures for amending its regulations.

Since no substantial changes were made to the proposed rule-making action, other than those areas cited in the notice, ODEQ published a Final Rule-making Notice on the revisions. The SIP revision was adopted by ODEQ and, on April 7, 1997, submitted formally to EPA for incorporation into the SIP.

II. Response to Comments

The following comments were received during the public comment period ending April 7, 1997. EPA's response follows each comment.

(1) Comment: The commenter asserted that only conditions 19, 20, and 21 in PCC Structurals' proposed Addendum No. 2 should be incorporated into the SIP. These conditions are specifically identified in the addendum as RACT conditions, and only those conditions are relevant to the RACT determination. Conditions 12, 13, and 22 were included in PCC Structurals' proposed Addendum No. 2, but are unrelated to the RACT determination. Therefore, conditions 12, 13, and 22 do not belong in the SIP.

Response: The commenter is correct. The conditions cited in EPA's March 7, 1997, notice of proposed approval were based on an earlier draft of PCC Structurals' Air Permit, constituting ODEQ's RACT determination. EPA agrees that conditions 12, 13, and 22 are not part of the ODEQ RACT determination and should therefore not be part of the SIP amendment.

III. Final Action

EPA is approving a revision to the SIP, establishing and requiring a source-specific RACT VOC emissions standard for PCC Structurals, Inc., Large Parts Campus, at 4600 SE Harney Drive, Portland, Oregon. Only conditions 19, 20, and 21 in PCC Structurals' proposed Addendum No. 2 are incorporated into the SIP.

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.

IV. 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

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small

entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

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 on by the rule.

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 19, 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 30, 1997.

Philip G. Millam,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(121) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(121) On April 7, 1997, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted a Reasonably Available Control Technology (RACT) determination for VOC emissions from PCC Structurals, Inc., Large Parts Campus, at 4600 SE Harney Drive, Portland, Oregon.

(i) Incorporation by reference.

(A) The letter dated April 7, 1997, from the Director of ODEQ submitting a SIP revision for a RACT determination contained in PCC Structurals, Inc.'s Oregon Title V Operating Permit for VOC emissions, consisting of permit #26–1867, expiration date 4–1–2000, effective date April 4, 1997. Only conditions 19, 20, and 21 in PCC Structurals' Addendum No. 2 to permit #26–1867 are incorporated into the SIP.

[FR Doc. 97–16114 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300506; FRL–5725–7]

RIN 2070–AB78

Tebuconazole; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of the fungicide tebuconazole in or on barley grain, barley hay, barley straw, wheat hay, wheat straw, pistachios, milk, and meat byproducts of cattle, goats, hogs, horses, poultry and sheep in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act. These tolerances will expire and are revoked on June 30, 1998.

DATES: This regulation becomes effective June 20, 1997. Objections and requests for hearings must be received by EPA on or before August 19, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300506], 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–300506], 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–300506]. 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: Second Floor, Crystal Mall #2, Rm. 267, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703) 308–9362, 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 residues of the fungicide tebuconazole (*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol) in or on barley grain at 2.0 parts per million (ppm), barley hay at 20 ppm, barley straw at 20 ppm, wheat hay at 15 ppm, wheat straw at 2.0 ppm, and pistachios at 1.0 ppm; the currently established tolerance of 0.05 ppm for wheat grain is adequate to cover any residues in wheat grain expected from these section 18 uses. EPA is establishing tolerances for the combined residues of tebuconazole and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1*H*-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061), hereafter referred to in this document as tebuconazole, in milk at 0.1 ppm and in meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 0.2 ppm. These tolerances will expire and are revoked on June 30, 1998. After June 30, 1998, EPA will publish a document in the **Federal Register** to remove 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 Exemptions for Tebuconazole on Barley, Pistachios, and Wheat and FFDCA Tolerances

On April 16, 1997, the Louisiana Department of Agriculture and Forestry availed of itself the authority to declare the existence of a crisis situation within its state, thereby authorizing use under FIFRA section 18 of tebuconazole on wheat to control rust. On April 21 and April 25, the Mississippi Department of Agriculture and Commerce and the Arkansas State Plant Board, respectively, followed suit by declaring crisis situations within their states for the same pest. Unusually wet and cool weather this year are to blame for this disease outbreak. Triadimefon is registered for use on wheat, but existing stocks have been depleted; other registered alternatives, including tebuconazole, do not allow application at a sufficiently late stage to control rust. These emergency exemptions allow application later in the growth stage of wheat than is currently specified on the existing label. The Washington Department of Agriculture has requested a specific exemption for the use of tebuconazole on wheat to control stripe rust; a similar situation exists in which application of registered alternatives is not allowed at the later growth stages needed to control the disease. The Oregon, Washington and Idaho Departments of Agriculture have requested specific exemptions for the use of tebuconazole on barley to control rust, and North Dakota and Minnesota have requested use of this chemical on this crop to control head blight. The California Environmental Protection Agency, Department of Pesticide Regulation, has requested a specific exemption for the use of tebuconazole on pistachios to control late blight. After having reviewed these submissions, EPA concurs that emergency conditions exist for these states.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of tebuconazole in or on wheat, barley, and pistachios, as well as potential risks presented by secondary residues in milk and meat byproducts of cattle, goats, hogs, horses, poultry and sheep. 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 these commodities treated in accordance with the provisions of the section 18 emergency exemptions. Consistent with the need to

move quickly on these emergency exemptions in order to address urgent non-routine situations 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 June 30, 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 these commodities after that date will not be unlawful, provided the pesticide is applied in a manner that is lawful under 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.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether tebuconazole meets EPA's registration requirements for use on barley, wheat, or pistachios or whether permanent tolerances for these uses would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of tebuconazole 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 those listed above to use this pesticide on these crops under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR part 166. For additional information regarding these emergency exemptions for tebuconazole, 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. 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 percent 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.

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.

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.

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.)

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.

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 percent 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 these actions. Tebuconazole is already registered by EPA for numerous food uses. For the purpose of these emergency exemptions, EPA has sufficient data to assess the hazards of tebuconazole and to make a determination on aggregate exposure, consistent with 408(b)(2), for time-limited tolerances for residues of tebuconazole on barley grain at 2.0 ppm, barley hay at 20 ppm, barley straw at 20 ppm, wheat hay at 15 ppm, wheat straw at 2.0 ppm, pistachios at 1.0 ppm, milk at 0.1 ppm, and meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 0.2 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 tebuconazole are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, OPP recommended use of the developmental NOEL of 10 mg/kg/day from the developmental toxicity study in mice. Effects observed at the lowest observed effect level (LOEL) of 30 mg/kg/day are an increased number of runts and fetuses with malformations of the skull, brain, and spinal cord. The population subgroup of concern for this acute dietary risk assessment is females (13+ years).

2. *Short- and intermediate-term toxicity.* OPP has determined that short- and intermediate-term inhalation risk assessments and short-term dermal risk assessments are appropriate for non-occupational, non-dietary routes of exposure. OPP recommends that the NOEL of 1,000 mg/kg/day, taken from the dermal developmental toxicity study in mice, be used for the short-term dermal MOE calculations. This NOEL was the highest dose tested in the study. For short- and intermediate-term inhalation MOE calculations, OPP recommends using the NOEL of 0.0106 mg/L/day (1.75 mg/kg/day), based on liver toxicity and piloerection at the LOEL of 0.1558 mg/L/day (25.7 mg/kg/day) in the 3–week inhalation rat toxicity study.

3. *Chronic toxicity.* The RfD of 0.03 mg/kg/day was established based on the NOEL of 2.96 mg/kg/day from a 1–year dog feeding study. Adrenal effects (fatty change and hypertrophy) were observed at the LOEL of 4.39 mg/kg/day. An Uncertainty Factor (UP) of 100 was applied to account for both interspecies and intraspecies variability.

4. *Carcinogenicity.* OPP's Cancer Peer Review Committee (CPRC) has determined that tebuconazole is a Group C (possible human carcinogen) chemical, based on mouse liver tumors in both sexes (adenomas and carcinomas in males and carcinomas in females) at 280 mg/kg/day, the highest dose tested. 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 180.474) for parent tebuconazole (*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol), in or on a variety of raw agricultural commodities at levels ranging from 0.05 ppm in barley, oat and wheat grain to 4.0 ppm in cherries and peanut hulls. Time-limited tolerances for wheat commodities are based on residue data provided with the section 18 submission; time-limited tolerances for barley commodities are based on residue data submitted with tolerance petition PP#9F3724; and the time-limited tolerance for pistachios is based on residue data submitted with tolerance petition PP#3F4222. Time-limited tolerances for the combined residues of tebuconazole and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1*H*-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061) will be established to address potential secondary residues of tebuconazole in milk and meat byproducts of cattle, goats, hogs, horses, poultry and sheep.

For the purpose of assessing potential chronic dietary exposure from tebuconazole, EPA assumed tolerance level residues and 100% of 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 tebuconazole. These same assumptions were made in assessing acute dietary exposure as well.

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).

There are no groundwater data for tebuconazole available in OPP's One-Liner Data Base. No Maximum Concentration Level and no Health Advisory Level has been established for residues of tebuconazole in drinking water.

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 tebuconazole 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 tebuconazole 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.

Tebuconazole is not currently registered for indoor or outdoor residential use. Thus, no non-dietary, non-occupational exposure is expected.

C. Cumulative Exposure to Substances With Common Mechanism of Toxicity

Tebuconazole is a member of the triazole class of systemic fungicides (The Pesticide Book, 4th ed., 1994). Other triazoles include bitertanol, cyproconazole, diclobutrazole, difenoconazole, diniconazole, fenbuconazole, flusilazole, hexaconazole, myclobutanil, penconazole, propiconazole, tetraconazole, triadimefon, and triadimenol.

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 tebuconazole 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, tebuconazole 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 tebuconazole has a common mechanism of toxicity with other substances.

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* EPA has concluded that for the population subgroup of concern, females (13+ years), acute aggregate exposure to tebuconazole from existing and proposed food uses will result in an MOE of 1,000. Despite the potential for exposure to tebuconazole in drinking water, EPA does not expect the aggregate exposure to exceed the level of concern for acute dietary exposure. EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to tebuconazole residues.

2. *Chronic risk.* EPA has concluded that aggregate exposure to tebuconazole from food will utilize 6% 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 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to tebuconazole in drinking water, 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 tebuconazole residues.

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 tebuconazole, EPA considered data from developmental toxicity studies in the rat, rabbit, and mouse 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 tebuconazole 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.

From the rat developmental study, the maternal NOEL was 30 mg/kg/day, based on increased liver weight at the LOEL of 60 mg/kg/day. The developmental NOEL was 30 mg/kg/day, based on delayed ossification and supernumerary ribs at the developmental LOEL of 60 mg/kg/day. In the rabbit developmental study, the maternal NOEL was 30 mg/kg/day, based on decreased weight gain and food consumption at the maternal LOEL of 100 mg/kg/day. The developmental NOEL was 30 mg/kg/day, based on increased resorptions due to post-implantation loss at the developmental LOEL of 100 mg/kg/day. The maternal NOEL in the mouse study was 10 mg/kg/day, with reduced hematocrit occurring at the maternal LOEL of 30 mg/kg/day in the oral developmental toxicity study. The developmental NOEL was 10 mg/kg/day, with effects at the LOEL of 30 mg/kg/day being an increased number of runts, and fetuses with malformations of the skull, brain and spinal cord.

In the 2–generation rat reproduction study, the parental NOEL was 15 mg/kg/day, based on decreased body weight and increased spleen weight at the LOEL of 50 mg/kg/day. The reproductive NOEL was 15 mg/kg/day, with decreased body weight of neonates being the effect at the LOEL of 50 mg/kg/day.

FDCA 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 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 of exposure/safety factor.

Neither the rat, rabbit, and mouse developmental studies nor the rat reproduction study seem to demonstrate any special pre- or post-natal sensitivity for infants and children, since the NOELs and LOELs were the same for both parental and pup toxicity in all of these studies. This demonstrates that developmental or reproductive toxicity to pups occurs only in the presence of maternal effects. EPA therefore concludes that reliable data support use of the standard hundredfold uncertainty factor and that an additional safety factor is not needed to protect infants and children.

1. *Acute risk*. The acute dietary MOE for females (13+ years), the subpopulation of concern for developmental toxicity, is 1,000. Generally, MOEs of greater than 100 are of no concern to the Agency. Despite the potential for exposure to tebuconazole in drinking water, EPA does not expect the aggregate exposure to infants or children to exceed the level of concern for acute dietary exposure. EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to tebuconazole residues.

2. *Chronic risk*. Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to tebuconazole from food will utilize 32% of the RfD for non-nursing infants and 14% of the RfD for children 1 through 6 years old. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to tebuconazole in drinking water, 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 chronic aggregate exposure to tebuconazole residues.

V. Other Considerations

The nature of tebuconazole residues in plants and animals is adequately understood. The residue of concern in plants is tebuconazole *per se*. In ruminants and poultry, the residue of concern is the parent compound and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1*H*-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061). Adequate enforcement methodology is available to enforce the tolerance expressions. For the pistachio, barley and wheat tolerances, a gas chromatographic method is available with the Agency, associated with PP#9F3724; for the meat byproduct and milk tolerances, a gas chromatographic method for determining residues of tebuconazole and its metabolite HGW 2061 is available with the Agency, also associated with PP#9F3724. Residues of tebuconazole per se are not expected to exceed 2.0 ppm in/on barley grain, 20 ppm in/on barley hay, 20 ppm in/on barley straw, 15 ppm in/on wheat hay, 2.0 ppm in/on wheat straw, and 1.0 ppm in/on pistachios as a result of these section 18 uses. Combined residues of tebuconazole and its metabolite HGW 2061 are not expected to exceed 0.1 ppm in/on milk, and 0.2 ppm in/on meat byproducts of cattle, goats, hogs, horses, poultry and sheep as a result of these section 18 uses.

Codex maximum residue limits (MRLs) exist for residues of tebuconazole *per se* in/on barley grain at 0.2 ppm; barley straw and dry fodder at 10 ppm; wheat grain at 0.05 ppm; wheat straw and dry fodder at 10 ppm; milk (cattle) at 0.01 ppm; cattle edible offal at 0.05 ppm; and chicken edible offal at 0.05 ppm. These Codex MRLs are not in harmony with those of the United States with respect to: (a) the tolerance expression for animal commodities; (b) the definitions of the tolerated commodities; and, (c) the tolerance levels. These disparities can not be harmonized for purposes of these section 18 actions.

OPP suggests that, once permanent tolerances and section 3 registrations are established for the uses on barley and wheat, the registrant consider providing all relevant studies to Codex in order that Codex MRLs may be amended to accommodate U.S. use needs.

There is no Canadian MRL established for use of tebuconazole on barley. There is a Mexican MRL of 0.2 ppm for residues of tebuconazole *per se* in/on barley (grain); the use pattern of these section 18s does not permit harmonization to that tolerance level.

There is a Canadian MRL established for tebuconazole on ''wheat seed'' at 0.1 ppm. There is no Mexican MRL.

There are no Codex, Canadian or Mexican MRLs for residues of tebuconazole in or on pistachios. International harmonization is not an issue for this section 18 use.

VI. Conclusion

Therefore, tolerances in connection with the FIFRA section 18 emergency exemptions are established for residues of tebuconazole in or on barley grain at 2.0 ppm, barley hay at 20 ppm, barley straw at 20 ppm, wheat hay at 15 ppm, wheat straw at 2.0 ppm, and pistachios at 1.0 ppm. Tolerances are established for the combined residues of tebuconazole and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1*H*-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061) in milk at 0.1 ppm and in meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 0.2 ppm. These tolerances will expire and are revoked on June 30, 1998.

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 August 19, 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 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–300506] (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 Virginia 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 control number [OPP–300506]. Electronic comments on this rule may be filed online at many Federal Depository Libraries.

IX. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, since this action does not impose any information collection requirements as defined by the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because FFDCA section 408(l)(6) permits establishment of this regulation without a notice of proposed rulemaking, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 604(a), do not apply. Nonetheless, the Agency has previously assessed whether establishing tolerances or exemptions from tolerance, raising tolerance levels, or expanding exemptions adversely impact small entities and concluded, as a generic matter, that there is no adverse impact. (46 FR 24950) (May 4, 1981).

Under 5 U.S.C. 801(a)(1)(A) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104–121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 9, 1997.

James Jones,

Acting Director, Registration Division, 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 180.474 is amended as follows:

i. The section heading is revised to read as set forth below.

ii. The existing text is designated as paragraph (a) ''General''.

iii. Paragraphs (b), (c), and (d) are added as follows:

§ 180.474 Tebuconazole; tolerances for residues.

(a) *General.* * * *

* * * * *

(b) *Section 18 emergency exemptions*—(1) *Use on grains, hay and other plant products.* Time-limited tolerances are established for residues of the fungicide tebuconazole (*alpha*-[2-(4-chlorophenyl)-ethyl]-*alpha*-(1,1-dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol) 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
Barley, grain	2.0	June 30, 1998
Barley, hay	20.0	Do.
Barley, straw	20.0	Do.
Pistachios	1.0	Do.
Wheat, hay	15.0	Do.
Wheat, straw	2.0	Do.

(2) *Use on meat and meat byproducts.* Time-limited tolerances are established for the combined residues of the fungicide tebuconazole and its 1-(4-chlorophenyl)-4,4-dimethyl-3-(1*H*-1,2,4-triazole-1-yl-methyl)-pentane-3,5-diol metabolite (HGW 2061) 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
Milk	0.1	June 30, 1998
Cattle, meat byproducts	0.2	Do.
Goats, meat byproducts	0.2	Do.
Hogs, meat byproducts	0.2	Do.
Horses, meat byproducts	0.2	Do.
Poultry, meat byproducts	0.2	Do.
Sheep, meat byproducts	0.2	Do.

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–16216 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300348; FRL–5718–7]

RIN 2070–AC78

Terbacil; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for residues of the herbicide, terbacil in or on the raw agricultural commodities watermelons in connection with EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of terbacil on watermelons in Delaware, Maryland, and Virginia. This regulation establishes maximum permissible levels for residues of terbacil on watermelons pursuant to section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. This tolerance will expire and is revoked on May 31, 1998.

DATES: This regulation becomes effective June 20, 1997. Objections and requests for hearings must be received by EPA on August 19, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, ''OPP–300348,'' 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–300348,'' should be submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring 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–300348.'' 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: Virginia Dietrich, Registration Division (7505C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location,

telephone number, and e-mail address: Document Processing Desk, (7505C), Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–9359, e-mail: dietrich.virginia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA, 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 residues of the herbicide terbacil (3-tert-Butyl-5-chloro-6-methyluracil and its three metabolites 3-tert-butyl-5-chloro-6-hydroxymethyluracil, 6-chloro-2,3-dihydro-7-hydroxymethyl-3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one, and 6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one) which are calculated as terbacil in or on watermelons at 0.4 parts per million (ppm). This tolerance will expire and is revoked on May 31, 1998. After May 31, 1998, EPA will publish a document in the **Federal Register** to remove 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 Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 *et seq.*, and the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* The FQPA amendments went into effect immediately. Among other things, FQPA amends FFDCA to bring all EPA pesticide tolerance-setting activities under a new 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 FR 58135, November 13, 1996) (FRL–5572–9).

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 drinking water, 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) 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. Section 408(l)(6) also requires EPA to promulgate regulations by August 3, 1997, governing the establishment of tolerances and exemptions under section 408(l)(6) and requires that the regulations be consistent with section 408(b)(2) and (c)(2) and FIFRA section 18.

Section 408(l)(6) allows EPA to establish tolerances or exemptions from the requirement for a tolerance, in connection with EPA's granting of FIFRA section 18 emergency exemptions, without providing notice or a period for public comment. Thus, consistent with the need to act expeditiously on requests for emergency exemptions under FIFRA, EPA can establish such tolerances or exemptions under the authority of section 408(e) and (l)(6) without notice and comment rulemaking.

In establishing section 18-related tolerances and exemptions during this interim period before EPA issues the section 408(l)(6) procedural regulation and before EPA makes its broad policy decisions concerning the interpretation and implementation of the new section 408, EPA does not intend to set precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Rather, these early section 18 tolerance and exemption decisions will be made on a case-by-case basis and will not bind EPA as it proceeds with further rulemaking and policy development. EPA intends to act on section 18-related tolerances and exemptions that clearly qualify under the new law.

II. Emergency Exemptions for Terbacil on Watermelons and FFDCA Tolerances

Between November 4 and December 3, 1996, Departments of Agriculture from three states, Delaware, Maryland, and Virginia, each requested a specific exemption under FIFRA section 18 for the use of terbacil to control weeds in watermelons. They asserted that no efficacious pesticide is registered under section 3 of FIFRA for control of weeds in watermelons. This situation was caused by the suspension of dinoseb in 1987. They also said that growers will experience significant economic loss if the weeds are not controlled. After having reviewed their submission, EPA concurs that an emergency condition exists.

As part of its assessment of these applications for emergency exemption, EPA assessed the potential risks presented by residues of terbacil on watermelons. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided to grant the section 18 exemptions only after concluding that the necessary tolerance under FFDCA section 408(l)(6) would clearly be consistent with the new safety standard and with FIFRA section 18. This tolerance for terbacil will permit the marketing of watermelons treated in accordance with the provisions of the section 18 emergency exemptions. Consistent with the need to move quickly on the emergency exemptions and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment under section 408(e) as provided in section 408(l)(6). EPA will take action to revoke this tolerance 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 terbacil meets the requirements for registration under FIFRA section 3 for use on watermelons or whether permanent tolerances for terbacil for watermelons would be appropriate. This action by EPA does not serve as a basis for registration of terbacil by a State for special local needs under FIFRA section 24(c). Nor does this action serve as the basis for any State other than Delaware, Maryland, and Virginia to use this product on watermelons under section 18 of FIFRA without following all provisions of section 18 as identified in 40 CFR 180.166. For additional information regarding the emergency exemptions for terbacil, 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 percent or less of the RfD) is generally considered by EPA to pose a reasonable certainty of no harm.

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, and other non-occupational exposures, such as where residues leach into groundwater or surface water that is consumed as drinking water. 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 percent of the watermelons 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 watermelons treated data) which show, generally, that pesticide residues in most foods when they are eaten are well below established tolerances.

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. Terbacil is not registered by EPA for indoor or outdoor residential use. Existing food and feed use tolerances for terbacil are listed in 40 CFR 180.209. EPA has sufficient data to assess the hazards of terbacil and to make a determination on aggregate exposure, consistent with section 408(b)(2), for the time-limited tolerances for residues of terbacil in or on watermelons at 0.4 ppm. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

1. *Dietary endpoint selection*—i. *Acute risk*. For acute dietary risk assessment, the Agency selected the NOEL of 12.5 milligrams/kilograms/day (mg/kg/day) from the developmental study in rats. This was based on a decrease in the number of implants and a decrease in the number of live fetuses at the LEL of 62.5 mg/kg/day. This risk assessment will evaluate acute dietary risk to females age 13+.

ii. *Chronic risk*. The RfD of 0.013 mg/kg/day was established based on a chronic dog study with a NOEL of 1.25 mg/kg/day and an uncertainty factor of 100 based on increased thyroid:body weight ratio, slight increase in liver weight and elevated alkaline phosphatase at the LEL of 6.25 mg/kg/day.

iii. *Cancer risk*. Terbacil has been classified as a Group E chemical (evidence of noncarcinogenicity for humans) by the RfD Committee.

iv. *Infants and children*—a. *Developmental studies*—(1) *Rat*. From the rat developmental study, the maternal (systemic) NOEL was 12.5 mg/kg/day, based on decreased body weight at the lowest observed effect level (LOEL) of 62.5 mg/kg/day. The developmental (pup) NOEL was 12.5 mg/kg/day, based on decreased number of implantations and live fetuses at the LOEL of 62.5 mg/kg/day.

(2) *Rabbit*. From the rabbit developmental study, the maternal (systemic) NOEL was 200 mg/kg/day, based on decreased weight gain at the LOEL of 600 mg/kg/day. The developmental (pup) NOEL was 600 mg/kg/day (highest dose tested).

b. *Reproduction studies*. Rat - From the rat reproduction study, the parental (systemic) LOEL was 2.5 mg/kg/day [lowest dose tested], based on decreased body weight. The reproductive/developmental (pup) NOEL was 12.5 mg/kg/day [highest dose tested].

B. Aggregate Exposure and Risk

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).

The nature of the residue in plants is adequately understood for the purposes of this section 18 request. The residues of concern are terbacil and its three metabolites (all calculated as terbacil). Tolerances currently exist for residues on more than a dozen commodities (see 40 CFR 180.209). Residues of terbacil and its regulated metabolites are not

expected to exceed 0.4 ppm in watermelons as a result of this use.

For purposes of assessing the potential dietary exposure under this tolerance, EPA assumed tolerance level residues and 100 percent of crop treated to estimate the TMRC from all established food uses for terbacil (for more than a dozen commodities) and the proposed use on watermelons. There are no watermelon animal feed items so no residue levels in animal commodities potentially resulting from feeding of these commodities were considered.

Because terbacil is very persistent and very mobile, there is potential for terbacil to leach to ground water and to subsequently be ingested in drinking water. In fact, terbacil has been found in groundwater. The document ''Pesticides in Groundwater Database'' EPA 734-12-92-001, September 1992 cites data that 6 wells out of 288 tested positive for terbacil at levels up to 0.009 ppm. However detections were at levels well below the Health Advisory Levels (1–day, 0.3 ppm, 10–day, 0.3 ppm, and lifetime, 0.09 ppm).

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 consumption of contaminated water, the ranges the Agency is continuing to examine are all well below the level that would cause terbacil to exceed the RfD if the tolerances being considered in this document were granted. The Agency has therefore concluded that the potential exposures associated with terbacil 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 tolerances are granted.

The Agency identified both acute and chronic duration of exposure as appropriate for aggregate risk assessment. For acute exposure, this estimate does not exceed the Agency's level of concern (MOE <100). For females 13+ years (the population subgroup of concern), the resulting high-end exposure estimate is 0.005 mg/kg/day. This results in a dietary (food only) MOE of 2,500. This acute aggregate risk assessment takes into account exposure from dietary food and water only. The acute dietary (food only) risk assessment used tolerance level residues and assumed 100% crop treated. Therefore this estimate should be viewed as a conservative risk estimate.

For aggregate chronic risk (food plus drinking water), the Agency estimates do not exceed the RfD for terbacil. For example, for non-nursing infants (<1 year old), the population subgroup most highly exposed, the Agency estimated that up to 72% of the RfD may be occupied by exposure to terbacil with risk from residues potentially present in water assumed to account for 10% of the total allowable chronic and acute risk until further data are provided. Estimates for other population subgroups were much less. The Agency used the following formula to estimate risk. The aggregate chronic risk is equal to the sum of the chronic risk from exposure from food + water + residential (indoor and outdoor) uses. Since terbacil is not registered for any residential uses, no exposure from this route is expected and thus not considered this estimate.

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 terbacil 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, terbacil 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 terbacil has a common mechanism of toxicity with other subtances.

D. Safety Determinations for U.S. Population

Based on the completeness and reliability of the toxicity data and the conservative TMRC dietary exposure assumptions, EPA has concluded that dietary exposure from food to terbacil will utilize 23 percent of the RfD for the U.S. population. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Whatever reasonable bounding figure the Agency eventually decides upon for the contribution from water, that number is expected to be well below 99% of the RfD. EPA

concludes that there is a reasonable certainty that no harm will result from aggregate exposure to terbacil residues.

E. Determination of Safety 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 data base 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 MOE 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 NOEL in the animal study appropriate to the particular risk assessment. This 100-fold 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 100-fold 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. Based on current toxicological data requirements, the data base for terbacil relative to pre- (provided by rat and rabbit developmental studies) and post-natal (provided by the rat reproduction study) toxicity is complete.

In assessing the adequacy of the standard uncertainty factor for terbacil, 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.

In the rat developmental study, the NOEL and LOEL for developmental and maternal effects occurred at the same levels (12.5 and 62.5 mg/kg/day, respectively). The Agency notes that the effects seen at the LOEL were more severe in the pups than the maternal effects. This indicates a potential special, pre-natal sensitivity. The results of the rabbit developmental study demonstrated that there were no developmental effects up to 600 mg/kg/day (highest dose tested). There was no evidence of post-natal toxicity to infants and children, since the pup NOEL was 12.5 mg/kg/day [highest dose tested] in the 2-generation rat reproduction study. The acute dietary MOE for females 13+ years was 2,500. This MOE is considered sufficient to protect infants and children against a pre- and post-natal toxicity from aggregate exposure to terbacil.

OPP believes that reliable data show that the standard uncertainty factor will be protective of the safety of infants and children and an additional uncertainty factor is not needed.

Based on TMRC exposure estimates for food, as described above, EPA has concluded that the percentage of the RfD that will be utilized by dietary exposure to residues of terbacil does not exceed 100% of the RfD for any of the population subgroups. Estimates range from 20 percent for nursing infants up to 62 percent for non-nursing infants (the most highly exposed population subgroup). Therefore, taking into account the completeness and reliability of the toxicity data and the conservative exposure assessment, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to terbacil residues.

V. Other Considerations

The metabolism of terbacil in plants is adequately understood for the purposes of this tolerance. There is no Codex maximum residue level established for residues of terbacil on watermelons. There is a practical analytical method (GC/ELCD) for detecting and measuring levels of terbacil in or on food with a limit of detection that allows monitoring of food with residues at or above the level set by the terbacil tolerance (Method II of PAM Vol. II). EPA has provided information on this method to FDA. The method is available to anyone who is interested in pesticide residue enforcement from: By mail, Calvin Furlow, 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. Office location and telephone number: Crystal Mall #2, Rm. 1128, 1921 Jefferson Davis Hwy., Arlington, VA 22202, 703–305–5805.

VI. Conclusion

Therefore, tolerances in connection with the FIFRA section 18 emergency exemptions are established for residues of terbacil in or on watermelons at 0.4 ppm. These tolerances will expire and be revoked by EPA on May 30, 1998. No further action will be taken by EPA to revoke these tolerances after the expiration of their term other than publishing a notification that the revocation has occurred.

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 August 19, 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 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 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 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

A record has been established for this rulemaking under docket control number OPP–300348. A public version of this record, 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 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.

The official record for this rulemaking, as well as the public version, as described above, is kept in paper form. Accordingly, in the event there are objections and hearing requests, 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. The official rulemaking record is the paper record maintained at the address in **ADDRESSES** at the beginning of this document.

IX. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB) and the requirements of the Executive Order. Under section 3(f), the order defines ''a significant regulatory action'' as an action that is likely to result in a rule: (1) Having an annual effect on the economy of $100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as ''economically significant''); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not ''significant'' and is therefore not subject to OMB review. This action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled ''Enhancing the Intergovernmental Partnership,'' or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because FFDCA section 408(l)(6) permits establishment of this regulation without a notice of proposed rulemaking, the regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 604(a), do not apply. Nonetheless, the Agency has previously assessed whether establishing tolerances or exemptions from tolerance, raising tolerance levels, or expanding exemptions adversely impact small entities and concluded, as a generic matter, that there is no adverse impact. (46 FR 24950) (May 4, 1981).

Under 5 U.S.C. 801(a)(1)(A) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Title II of Pub. L. 104-121, 110 Stat. 847), EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 9, 1997.

James Jones,

Acting Director, Registration Division, 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. By revising 180.209 to read as follows:

§ 180.209 Terbacil; tolerances for residues.

(a) *General*. (1) Tolerances are established for residues of the herbicide terbacil (3-*tert*-butyl-5-chloro-6-methyluracil) in or on the following raw agricultural commodities:

Commodity	Parts per million
Apples	0.1
Citrus fruits	0.1
Peaches	0.1
Pears	0.1
Sugarcane	0.1

(2) Tolerances are established for combined residues of the herbicide terbacil (3-tert-butyl-5-chloro-6-methyluracil) and its metabolites 3-*tert*-butyl-5-chloro-6-hydroxymethyluracil, 6-chloro-2, 3-dihydro-7-hydroxymethyl-3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one, and 6-chloro-2,3-dihydro-3,3, 7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one (calculated as terbacil) in or on raw agricultural commodities as follows:

Commodity	Parts per million
Alfalfa, forage	5.0
Alfalfa, hay	5.0
Asparagus	0.2
Blueberries	0.1
Caneberries (blackberries, boysenberries, dewberries, loganberries, raspberries, and youngberries)	0.1
Cattle, fat	0.1
Cattle, mbyp	0.1
Cattle, meat	0.1
Goats, fat	0.1
Goats, mbyp	0.1
Goats, meat	0.1
Hogs, fat	0.1
Hogs, mbyp	0.1
Hogs, meat	0.1
Horses, fat	0.1
Horses, mbyp	0.1
Horses, meat	0.1
Milk, fat (=0.1 in whole milk)	0.5
Mint hay (peppermint and spearmint)	2.0
Pecans	0.1
Sainfoin, forage	5.0
Sainfoin hay	5.0
Sheep, fat	0.1
Sheep, mbyp	0.1

Commodity	Parts per million
Sheep, meat	0.1
Strawberries	0.1

(b) *Section 18 emergency exemptions.* Time limited tolerances are established for residues of the herbicide terbacil (3-tert-Butyl-5-chloro -6-methyluracil and its three metabolites 3-tert-butyl-5-chloro-6-hydroxymethyluracil, 6-chloro-2, 3-dihydro-7-hydroxymethyl 3,3-dimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one, and 6-chloro-2,3-dihydro-3,3,7-trimethyl-5H-oxazolo (3,2-a) pyrimidin-5-one), calculated as terbacil, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerance is specified in the following table. The tolerance expires and will be revoked by EPA on the date specified in the table.

Commodity	Parts per million	Expiration/ revocation date
Watermelon	0.4	5/30/98

(c) *Tolerances with regional registration.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 97–16214 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[OPP–300496; FRL–5720–4]

RIN 2070–AB78

Bentazon; Pesticide Tolerance for Emergency Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for residues of the herbicide bentazon and its metabolite(s) in or on the raw agricultural commodity succulent peas 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 succulent peas in Minnesota and Wisconsin. The tolerance will expire and is revoked on June 30, 1998.

DATES: This regulation becomes effective June 20, 1997. Objections and requests for hearings must be received by EPA on or before August 19, 1997.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300496], 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 document control number, [OPP–300496], 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 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: Virginia Dietrich, 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 Hwy., Arlington, VA (703) 308-8347, e-mail: dietrich.virginia@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 a tolerance for residues of the herbicide bentazon and its 6- and 8-hydroxy metabolites in or on succulent peas at 3 part per million (ppm). This tolerance will expire and is revoked on June 30, 1998. After June 30, 1998, EPA will publish a document in the **Federal Register** to remove 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 Bentazon on Succulent Peas and FFDCA Tolerances

In February and March of 1997, the Departments of Agriculture from Minnesota and Wisconsin each applied for emergency exemptions for the use of bentazon on succulent peas. Bentazon is currently registered for use on succulent peas for the control of Canada thistle. However, to effectively control Canada thistle with bentazon, two applications are needed. The current 30–day preharvest interval (PHI) does not allow for a second application of bentazon. If Canada thistle is not adequately controlled, its buds can be harvested along with the peas because they are similar in size and shape. Growers face docking or rejection of their crop if contaminated with Canada thistle buds. This could result in significant economic loss. Minnesota and Wisconsin therefore have requested an exemption from the 30–day PHI currently required for the use of bentazon in succulent peas to control Canada thistle; requesting a 10–day PHI instead. This exemption was granted on May 9, 1997. They also requested that a time-limited tolerance be established that would accommodate residues greater than those allowed under the current tolerance for succulent peas.

EPA has authorized the use of bentazon on succulent peas for control of Canada thistle under FIFRA section 18. After having reviewed the submission, EPA concurs that emergency conditions exist for these states.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of bentazon in or on succulent peas. In doing so, EPA considered the new safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the new safety standard and with FIFRA section 18. This tolerance will permit the marketing of succulent peas 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 this tolerance without notice and opportunity for public comment under section 408(e), as provided in section 408(l)(6). Although this tolerance will expire and is revoked on June 30, 1998, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on succulent peas after that date will not be unlawful, provided the pesticide is applied in a manner that is lawful under FIFRA. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this tolerance is being approved under emergency conditions, EPA has not made any decisions about whether bentazon meets EPA's registration requirements for use on succulent peas or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this tolerance serves as a basis for registration of bentazon by a State for special local needs under FIFRA section 24(c). Nor does this tolerance serve as the basis for any State other than Minnesota and Wisconsin 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 bentazon, 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 percent 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 hundreddfold 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 percent 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.

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.

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 bentazon are discussed below.

1. *Acute toxicity.* For acute dietary risk assessment, the Agency selected the NOEL of 100 milligrams per kilogram per day (mg/kg/day), based on developmental effects of increased post-implantation loss and decreased fetal body weight at the lowest effect level (LEL) of 250 mg/kg/day, from the developmental toxicity study in rats. Since there were no maternal findings, but there were developmental findings, at the highest dose tested of 250 mg/kg/day, an MOE of at least 300 is considered appropriate for females 13+ years of age exposed to dietary residues of bentazon.

2. *Chronic toxicity.* An RfD of 0.03 mg/kg/day was established based on the 1–year dog feeding study with a NOEL of 3.2 mg/kg/day and an uncertainty factor of 100 based on body weight loss and anemia at the LEL of 13.1 mg/kg/day. Due to the extra sensitivity of pups in the rat reproductive toxicity study, an additional modifying factor of 3 should be added to the usual uncertainty factor of 100. The RfD should be, therefore, changed from 0.03 mg/kg/day to 0.01 mg/kg/day for purposes of these section 18's only, resulting in a total uncertainty factor of 300.

3. *Carcinogenicity.* Bentazon has been classified as a Group ''E'' chemical (evidence of non-carcinogenicity in two acceptable animal studies) by the Office of Pesticide Program's Cancer Peer Review Committee.

B. Aggregate Exposure

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). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

Bentazon is currently registered for use on food and feed crops and for outdoor residential uses on ornamentals and ornamental turf. Permanent tolerances (see 40 CFR 180.355) for combined residues of bentazon and its 6- and 8- hydroxy metabolites, have been established for over 2 dozen food or feed commodities. Permanent tolerances are also established in animal raw agricultural commodities for bentazon and its metabolite, 2-amino-*N*-isopropyl benzamide.

1. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. Drinking water is also considered a component of the acute dietary exposure, however, EPA generally will not include residential or other non-dietary exposure as a component of the acute exposure assessment. Theoretically, it is also possible that a residential, or other non-dietary, exposure could be combined with the acute total dietary exposure from food and water. However, the Agency does not believe that aggregating multiple exposure to large amounts of pesticide residues in the residential environment via multiple products and routes for a one day exposure is a reasonably probable event. Additionally, the concept of an acute exposure as a single exposure does not allow for including post-application exposures, in which residues decline over a period of days after application. Therefore, the Agency believes that residential exposures are more appropriately included in the short-term exposure scenario.

The acute dietary (food only) risk assessment used tolerance level residues and assumed 100% crop-treated. The resulting high-end exposure estimate of 0.01125 mg/kg/day, results in a dietary (food only) MOE of 8,888 for females 13+ years old which is considered acceptable.

Using the available monitoring data for groundwater, an exposure estimate of 3×10^{-3} mg/kg/day for adults was calculated. Adding this water exposure to the food exposure resulted in a MOE of 7,000 for females 13+ years.

It should be noted that the acute drinking water component of the risk calculations presented in this document are relevant to sub-populations with high-end exposure within the United States (FL and CA). Because the calculated risk, based on high-end exposure is acceptable, we believe that the overall risk assessment is protective of the whole U.S. population.

In the best scientific judgment of the Office of Pesticide Programs, the aggregate acute risk (food and water) from the currently registered uses and this section 18 use of bentazon does not exceed our level of concern.

2. *Chronic exposure*— i. *Dietary-food exposure.* The chronic dietary (food only) risk assessment used tolerance level residues and assumed 100% crop treated. Therefore, the resulting exposure estimates should be viewed as conservative; further refinement using anticipated residues and percent of crop-treated would result in lower dietary exposure estimates. The existing bentazon tolerances plus the proposed Section 18 use resulted in a Theoretical Maximum Residue Contribution (TMRC) that is equivalent to the following percentages of the RfD:

Subpopulation	TMRC(mg/kg/day)	Percent RfD
U.S. Population	0.001079	12
Nursing Infants ..	0.001755	18
Non-Nursing Infants (< 1 year old)	0.003755	39
Children (1-6 years old)	0.002411	24
Children (7-12 years old)	0.001633	15
Hispanics	0.001074	12

The subgroups listed above are: (1) The U.S. population (48 states); (2) those for infants and children; and, (3) the other subgroups for which the percentage of the RfD occupied is greater than that occupied by the subgroup U.S. population (48 states).

ii. *Dietary and drinking water exposure.* To account for the exposure from drinking water, the Agency decided to use the Health Advisory level of 20 ppb. This level is a conservative estimate of exposure since it is unlikely that a person would be exposed to this level daily for a lifetime. The following assumptions were made during the calculations: an adult weighs 70 kg and consumes 2 liters of water a day, a child weighs 10 kg and consumes 1 liter of water a day. Using the Health Advisory level of 20 ppb for bentazon in groundwater, and adding the calculated percentage of the RfD based on consumption by adults and children, to the existing percent of the RfD for food consumption, the total percentage of the RfD taken up by food and water consumption is:

Subpopulation	Percent RfD		Total Percent RfD
	Food	Water	
U.S. Population.	12	6	18
Nursing Infants.	18	21	39
Non-Nursing Infants (<1 year old).	39	21	60
Children (1-6 years old).	24	21	45
Children (7-12 years old).	15	21	36
Hispanics	12	6	18

Using these conservative estimates, the sum total of the aggregate chronic risk estimates (food + water) for bentazon for the population subgroup with the largest percentage of the RfD occupied (non-nursing infants less than 1 year old) is 60%. In the best scientific judgement of HED, the bentazon aggregate chronic risk does not exceed our level of concern.

3. *Short- and intermediate-term exposure.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Although residential exposure data are not available for ornamentals and ornamental turf uses of bentazon, the Agency notes that large MOEs were calculated for acute aggregate risk (≥ 7,000) and occupational exposure (> 6,000 for the most highly exposed group, aerial mixer loader). Therefore the Agency believes short- and intermediate-term aggregate risk is likely to be below the Agency's level of concern.

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 bentazon 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, bentazon 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 bentazon has a common mechanism of toxicity with other substances.

D. Determination of Safety for U.S. Population

1. *Acute risk.* The acute dietary (food only) risk assessment used tolerance level residues and assumed 100% crop-treated. The resulting high-end exposure estimate of 0.01125 mg/kg/day, results in a dietary (food only) MOE of 8,888 for females 13+ years old, which is considered acceptable.

Using the available monitoring data for groundwater, an exposure estimate of 3×10^{-3} mg/kg/day for adults was calculated. Adding this water exposure to the food exposure resulted in a MOE of 7,000 for females 13+ years.

It should be noted that the acute drinking water component of the risk calculations presented in this document are relevant to sub-populations with high-end exposure within the United States (FL and CA). Because the calculated risk, based on high-end exposure is acceptable, we believe that the overall risk assessment is protective of the whole U.S. population.

The Agency believes that the aggregate acute risk (food and water) from the currently registered uses and this Section 18 use of bentazon does not exceed our level of concern.

2. *Short- and intermediate-term risk.* Although residential exposure data are not available for ornamental lawn uses of bentazon, the Agency notes that large MOEs were calculated for acute aggregate risk (≥ 7,000) and occupational exposure (> 6,000 for the most highly exposed group, aerial mixer loader). In the best scientific judgement of the Agency, short- and intermediate-term aggregate risk will be below the Agncy's level of concern.

3. *Chronic risk.* Using the conservative TMRC exposure assumptions described above, EPA has concluded that aggregate exposure to bentazon from food will utilize 18% of the RfD for the U.S. population. The major identifiable subgroup with the

highest aggregate exposure is non-nursing infants which is discussed below. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose 0appreciable risks to human health. Despite the potential for exposure to bentazon 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 bentazon residues.

E. Determination of Safety for Infants and Children

In assessing the potential for additional sensitivity of infants and children to residues of bentazon, 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.

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 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 of exposure/safety factor.

1. *Developmental toxicity studies*—a. *Rat study.* From the rat developmental toxicity study, the maternal (systemic) NOEL was 250 mg/kg/day, the highest dose tested (HDT). The developmental (fetal) NOEL was 100 mg/kg/day, based on increased post-implantation loss and decreased fetal body weight at the lowest observed effect level (LOEL) of 250 mg/kg/day.

b. *Rabbit study.* From the rabbit developmental toxicity study, the maternal (systemic) NOEL was 150 mg/kg/day, based on abortion and embryonic resorptions at the LOEL of 375 mg/kg/day. The developmental (fetal) NOEL was 375 mg/kg/day, the HDT.

The presence of developmental effects in the absence of maternal effects in the rat developmental toxicity study indicates that there is extra pre-natal sensitivity for infants and children. The significant developmental findings in the rat required an acute dietary risk assessment for females 13+ years of age.

2. *Reproductive toxicity study.—a.* Rat study. From the rat reproductive study, the parental (systemic) NOEL was 62 mg/kg/day, based on increased incidences of kidney mineralization and liver microgranules at the LOEL of 249 mg/kg/day. The reproductive (pup) NOEL was 15 mg/kg/day, based on decreased pup body weight and weight gain at the LEL of 62 mg/kg/day.

3. *Pre- and post-natal sensitivity.* Based on the results of the reproductive toxicity study in rats, there were developmental (pup) effects in the absence of parental effects. These results indicate extra post-natal sensitivity for infants and children. This finding requires a modifying factor of 3 to be added to the RfD. The RfD should be, therefore, changed from 0.03 mg/kg/day to 0.01 mg/kg/day for purposes of these section 18's only.

4. *Acute risk.* The acute dietary (food only) risk assessment used tolerance level residues and assumed 100% crop-treated. The resulting high-end exposure estimate of 0.01125 mg/kg/day, results in a dietary (food only) MOE of 8,888 for females 13+ years old. If water is considered in the acute exposure, the MOE is 7,000. Exposure estimates (MOEs) for both scenarios are considered acceptable.

5. *Short- or intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Although residential exposure data are not available for ornamental lawn uses of bentazon, the Agency notes that large MOEs were calculated for acute aggregate risk (≥ 7,000) and occupational exposure (> 6,000 for the most highly exposed group, aerial mixer loader). Therefore the Agency believes short- and intermediate-term aggregate risk is likely to be below the Agency's level of concern.

6. *Chronic risk.* Using the conservative exposure assumptions described above, EPA has concluded that aggregate exposure to bentazon from food and water will utilize no more than 60% of the RfD for non-nursing infants and children, the most highly exposed sub-population. EPA generally has no concern for exposures below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. (Despite the potential for exposure to bentazon 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 bentazon residues.

V. Other Considerations

1. *Metabolism in plants and animals.* The qualitative nature of the residue in plants is considered to be adequately understood. Radiolabelled studies conducted at rates of up to 2.5 lb active ingredient/acre on beans, corn, soybeans, rice and wheat indicate that bentazon is readily absorbed from foliage, roots and seeds, and translocates in some plant types. Bentazon is rapidly metabolized, conjugated and incorporated into natural plant constituents. Metabolism involves the hydroxylation of bentazon at the 6- and 8-position. The terminal residues of regulatory concern are bentazon, 6-hydroxy bentazon, and 8-hydroxy bentazon (as specified in 40 CFR 180.355 (a)).

2. *Analytical enforcement methodology.* Adequate enforcement methods are available for the determination of residues of bentazon and its 6- and 8-hydroxy metabolites in/on plant commodities. The Pesticide Analytical Manual (PAM) Vol. II lists Method II, a GLC method with flame photometric detection for the determination of bentazon and its hydroxy metabolites in/on corn, rice, and soybeans; the limit of detection for each compound is 0.05 ppm. Method III, modified from Method II, is available for the determination of bentazon and its hydroxy metabolites in/on peanuts and seed and pod vegetables with a limit of detection of 0.05 ppm for each compound.

3. *Magnitude of residues.* Regulable residues of bentazon and its metabolites are not expected to exceed 3 ppm in/on succulent peas as a result of this Section 18 use only.

4. *Rotational crop restrictions.* Confined rotational crop data indicate that bentazon residues may be taken up by rotational crops (39 to 102 day plantback intervals), and that field rotational crop studies are needed for the purposes of reregistration in order to determine if plantback restrictions for bentazon end-use products are needed. The petitioner will need to modify the proposed Basagran label once the field rotational crop studies are submitted by the petitioner and review by the Agency.

5. *International residue limits.* There is a Codex MRL of 0.2 ppm for bentazon and its metabolites established in/on garden peas (young pods), a Canadian MRL for parent only of 0.1 ppm (negligible) established in/on peas, and a Mexican limit for parent (presumed) of 0.05 ppm established in/on green peas. Therefore, a compatibility issue is relevant to the proposed tolerance. Harmonization of the U.S. tolerance will not be possible as the use pattern proposed in this petition will result in residues which greatly exceed the Codex MRL.

VI. Conclusion

Therefore, a tolerance in connection with the FIFRA section 18 emergency exemptions is established for residues of bentazon in succulent peas at 3 ppm. In addition to the tolerance being established for residues of bentazon in succulent peas, EPA is also, removing § 186.375 which contains a tolerance for residues of bentazon on spent mint hay. That tolerance is being transferred to the table in paragraph (a) of § 180.355.

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 August 19, 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 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 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 number [OPP–300499] (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–300499]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

IX. Regulatory Assessment Requirements

This final rule establishes a time-limited tolerance under section 408 of the FFDCA and is related to EPA's granting emergency exemptions under section 18 of the FIFRA. 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 additional 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 these tolerances are established without notice and comment rulemaking, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. Nonetheless, 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 significant adverse economic impact associated with these actions (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 Parts 180 and 186

Environmental protection, Administrative practice and procedure, Agricultural commodities, Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 2, 1997.

James Jones,

Acting Director, Registration Division, 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 180.355 is amended as follows:

i. By adding a paragraph heading to paragraph (a), and revising the phrase ''raw agricultural commodities'' to read ''food commodities''.

ii. By adding alphabetically an entry for ''Mint, spent hay'' to the table in paragraph (a).

iii. In paragraph (b), by transferring and alphabetically adding all of the entries currently in the table to the table in paragraph (a)

iv. By revising the remainder of paragraph (b).

v. By adding and reserving paragraphs (c) and (d).

§ 180.355 Bentazon; tolerances for residues.

(a) *General.* * * *

Commodity	Parts per million
* * * * *	
Mint, spent hay	4
* * * * *	

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the herbicide bentazon and its metabolites 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
Peas, succulent	3	6/30/98

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

* * * * *

PART 186—[AMENDED]

2. In part 186:

a.The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 342, 348, and 701.

§ 186.375 [Removed]

b. Section 186.375 is removed.

[FR Doc. 97–16215 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA–7667]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule identifies communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the third column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the NFIP at: Post Office Box 6464, Rockville, MD 20849, (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Robert F. Shea, Jr., Division Director, Program Implementation Division, Mitigation Directorate, 500 C Street SW., room 417, Washington, DC 20472, (202) 646–3619.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Executive Associate Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM). The date of the flood map, if one has been published, is indicated in the fourth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4012(a), requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard areas shown on the map.

The Executive Associate Director finds that the delayed effective dates would be contrary to the public interest. The Executive Associate Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

National Environmental Policy Act

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

Regulatory Flexibility Act

The Executive Associate Director certifies that this rule will not have a significant economic impact on a substantial number of small entities in accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because the rule creates no additional burden, but lists those communities eligible for the sale of flood insurance.

Regulatory Classification

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

Paperwork Reduction Act

This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, October 26, 1987, 3 CFR, 1987 Comp., p. 252.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778, October 25, 1991, 56 FR 55195, 3 CFR, 1991 Comp., p. 309.

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

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

§ 64.6 [Amended]

2. The tables published under the authority of § 64.6 are amended as follows:

State/location	Community No.	Effective date of eligibility	Current effective map date
New Eligibles—Emergency Program			
Kentucky:			
Pendleton County, unincorporated areas	210297	May 1, 1997	July 30, 1976.
Owen County, unincorporated areas	210186	May 2, 1997	May 27, 1977.
Christian County, unincorporated areas	210277	.....do	June 24, 1977.
Michigan:			
Goodland, township of, Lapeer County	260988	May 6, 1997.	
Roscommon, village of, Roscommon County	260497	.....do.	
Montana: Neihart, town of, Cascade County	300183	.....do	Aug. 17, 1982.
South Dakota:			
Alpena, city of, Jerauld County	460096	May 7, 1997.	
Gregory County, unincorporated areas	460267	.....do.	
Harrisburg, city of, Lincoln County	460114	.....do.	
North Dakota:			
Churchs Ferry, city of, Ramsey County	380698	.....do.	
Towner County, unincorporated areas	380699	May 8, 1997.	
Virginia: Monterey, town of, Highland County	510379	May 9, 1997.	
Wyoming:			
Opal, town of, Lincoln County	560098	.....do.	
Dubois, town of, Fremont County	560018	.....do	Mar. 7, 1978.
Michigan: Homer, township of, Midland County	260989	May 14, 1997.	
Kentucky: Union, city of, Boone County	210270	May 15, 1997	Aug. 1, 1975.
Minnesota:			
Clinton, city of, Big Stone County	270024	.....do.	
Morris, city of, Stevens County	270465	.....do.	
Idaho:			
East Hope, city of, Bonner County	160237	.....do.	
Oakley, city of, Cassia County	160045	.....do	Oct. 31, 1978.
Georgia: Randolph County, unincorporated areas	130553	May 16, 1997.	
Wyoming: Hulett, town of, Crook County	560016	May 21, 1997	Dec. 10, 1976.
Kentucky: Uniontown, city of, Union County	210218	May 23, 1997	Mar. 5, 1976.
Indiana: Pike County, unincorporated areas	180473	May 27, 1997	June 15, 1979.
New Eligibles—Regular Program			
North Carolina:			
Stokedale, town of, Guilford County [1]	370489	May 5, 1997	Dec. 5, 1989.
Bogue, town of, Carteret County [2]	370491	.....do	Dec. 19, 1996.
Weaverville, town of, Buncombe County	370269	May 6, 1997	May 6, 1996.
White Lake, town of, Blade County [3]	370490	May 8, 1997	Sept. 1, 1989.
Montana: St. Ignatius, town of, Lake County	300123	.....do	NSFHA.
Idaho: Malta, city of, Cassia County	160197	May 15, 1997	Sept. 24, 1984.
Oregon: Sutherlin, city of, Douglas County	410275	May 21, 1997	NSFHA.
North Carolina: Fremont, town of, Wayne County [4]	370492	May 27, 1997	Sept. 30, 1983.
Reinstatements			
Idaho: Idaho County, unincorporated areas	160213	Feb. 16, 1979, Emerg.; May 2, 1997, Reg.; January 16, 1980, Susp.; May 2, 1997, Rein.	Sept. 27, 1991.
Ohio: Amsterdam, village of, Jefferson County	390296	Mar. 19, 1976, Emerg.; Dec. 1, 1983, Reg.; Aug. 16, 1994, Susp.; May 6, 1997, Rein.	Dec. 1, 1983.
Wyoming: Baggs, town of, Carbon County	560009	Dec. 16, 1975, Emerg.; Aug. 16, 1988, Reg.; July 18, 1994, Susp.; May 6, 1997, Rein.	Aug. 16, 1988.
Vermont: Rutland, city of, Rutland County	500101	Aug. 30, 1973, Emerg.; Apr. 17, 1978, Reg.; Feb. 19, 1997, Susp.; May 13, 1997, Rein.	Apr. 17, 1978.
New York: Putnam, town of, Washington County	361236	May 7, 1976, Emerg.; Aug. 19, 1986, Reg.; Nov. 20, 1996, Susp.; May 15, 1997, Rein.	Nov. 20, 1996.
Pennsylvania: Dunbar, borough of, Fayette County	420461	June 20, 1974, Emerg.; July 4, 1988, Reg.; Mar. 18, 1991, Susp.; May 16, 1997, Rein.	Mar. 18, 1991.
Oregon: Cave Junction, city of, Josephine County	410107	May 13, 1975, Emerg.; June 10, 1980, Reg.; Sept. 16, 1982, Susp.; May 21, 1997, Rein.	June 1, 1982.

State/location	Community No.	Effective date of eligibility	Current effective map date
Michigan: Ross, township of, Kalamazoo County	260624	July 24, 1975, Emerg.; Mar. 15, 1982, Reg.; Oct. 6, 1982, Susp.; May 23, 1997, Rein.	Mar. 15, 1982.
Regular Program Conversions			
Region IX			
California:			
Blue Lake, city of, Humboldt County	060438	May 5, 1997, Suspension Withdrawn	May 5, 1997.
Marin County, unincorporated areas	060173	.....do	Do.
Region III			
Pennsylvania: Stroudsburg, borough of, Monroe County.	420694	May 19, 1997, Suspension Withdrawn	May 19, 1997.
Region IV			
Georgia: Jasper County, unincorporated areas	130519	.....do	Do.
Region V			
Illinois:			
Huntley, village of, Kane and McHenry Counties	170480	.....do	Do.
McHenry County, unincorporated areas	170732	.....do	Do.
Minnesota: North Branch, city of, Chisago County	270072	.....do	Do.
Region VI			
Louisiana: Caddo Parish, unincorporated areas	220361	.....do	Do.
Oklahoma:			
Blackwell, city of, Kay County	400078	.....do	Do.
Kay County, unincorporated areas	400477	.....do	Do.
Region IX			
California: Angels, city of, Calaveras County	060021	.....do	Do.

[1] The Town of Stokedale has adopted the Guilford County (CID #137001) Flood Insurance Rate Map dated Dec. 5, 1989, panels 0002 and 0010B.
[2] The Town of Bogue has adopted the Carteret County (CID # 370491) Flood Insurance Rate Map dated Dec. 19, 1996.
[3] The Town of White Lake has adopted the Blade County (CID # 370293) Flood Insurance Rate Map dated Sept. 1, 1989.
[4] The Town of Fremont has adopted the Wayne County (CID # 370254) Flood Insurance Rate Map dated Sept. 30, 1983.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Rein.—Reinstatement; Susp.—Suspension; With.—Withdrawn; SFHA—Non Special Flood Hazard Area.

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

Issued: June 16, 1997.

Richard W. Krimm,

Executive Associate Director, Mitigation Directorate.

[FR Doc. 97–16227 Filed 6–19–97; 8:45 am]

BILLING CODE 6718–05–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1501, 1504, 1505, 1509, 1513, 1514, 1515, 1516, 1517, 1519, 1522, 1523, 1532, 1533, 1542, 1545, 1546, 1548, and 1552

[FRL–5842–9]

Acquisition Regulation; Administrative Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is redesignating section numbering in the EPA Acquisition Regulation (EPAAR) (48 CFR Chapter 15) to parallel corresponding Federal Acquisition Regulation (FAR) sections, is removing from the EPAAR unnecessary coverage that duplicates existing FAR coverage, and making other administrative changes.

EFFECTIVE DATE: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Louise Senzel, Environmental Protection Agency, Office of Acquisition Management (3802F), 401 M Street, SW, Washington, D.C. 20460. Telephone: (202) 260–6204.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule updates section numbering to parallel corresponding FAR sections numbering, eliminates EPAAR coverage that duplicates existing FAR coverage, and makes other administrative changes.

B. Executive Order 12866

The final rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this final rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.)

D. Regulatory Flexibility Act

The EPA certifies that this final rule does not exert a significant economic impact on a substantial number of small entities. The requirements to contractors under the final rule impose no reporting, record-keeping, or any compliance costs.

E. Unfunded Mandates

This final rule will not impose unfunded mandates on state or local entities, or others.

List of Subjects in 48 CFR Parts 1501, 1504, 1505, 1509, 1513, 1514, 1515, 1516, 1517, 1519, 1522, 1523, 1532, 1533, 1542, 1545, 1546, 1548, and 1552

Government procurement.

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

Therefore, 48 CFR Chapter 15 is amended as set forth below:

1. The authority citation for parts 1501, 1504, 1505, 1509, 1513, 514, 1515, 1516, 1517, 1519, 1522, 1523, 1532, 1533, 1542, 1545, 1546, 1548, and 1552 continues to read as follows:

Authority: Sec. 205(c), 63 stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1501.104 is redesignated as 1501.105 and section 1501.103 is redesignated as 1501.104 and is revised to read as follows:

1501.104 Applicability.

The FAR (48 CFR chapter 1) and the EPAAR (48 CFR chapter 15) apply to all EPA acquisitions as defined in part 2 of the FAR, except where expressly excluded.

3. Section 1501.104–1 is redesignated as 1501.105–1, and 1501.104–2 is redesignated as 1501.105–2, the FAR reference ''1.104–2(c)'' in newly designated 1501.105–2 is revised to read ''1.105–2(c)'', and section 1501.104–3 is redesignated as 1501.105–3.

4.–5. Section 1501.602–3 is amended by removing paragraph (a), and redesignating paragraphs (b) through (f) as (a) through (e) respectively.

5–6. Section 1505.203 is amended by revising the FAR reference ''5.203 (b) or (c)'' to read ''5.203 (c) or (d)'' and revising ''5.203(d)'' to read ''5.203(e)''.

7. Section 1509.507–1(b) is revised to read as follows:

1509.507–1 Solicitation provisions.

* * * * *

(b) *Required solicitation provision.* The Contracting Officer shall include the provisions at 1552.209–70 and 1552.209–72 in all solicitations, except where the following applies:

(1) An Organizational Conflict of Interest provision is drafted for a particular acquisition (see Section 1509.507–1(a));

(2) When the procurement is with another Federal agency (however, the provision is included in solicitations issued under the Small Business Administration's (SBA) 8(a) program); and

(3) When the procurement is accomplished through simplified acquisition procedures, use of the provision is optional.

8. Section 1513.404 is redesignated as 1515.403.

9. Section 1513.505–2 is redesignated as the text of 1513.505.

10. Section 1514.000 is removed.

11. Section 1514.205–5 is removed.

12. Section 1515.413 paragraph (c) is removed and paragraphs (d), (e), (f), and (g) are redesignated as (c), (d), (e) and (f).

13. Section 1515.600 is removed.

14. Section 1515.603 is removed.

15. Section 1515.608 is amended by revising paragraphs (a)(1), and (a)(2) to read as follows:

1515.608 Proposal evaluation.

(a) * * *

(1) The evaluation of technical proposals (including past performance factors) shall be accomplished using the following scoring plan or one specifically developed for the solicitation, e.g., other numeric, adjectival or color rating systems. Contracting Officers may request that the TEP also indicate whether proposals are acceptable or unacceptable, and/or whether the offerors' responses to individual criteria are acceptable or unacceptable.

SCORING PLAN

Value	Descriptive statement
0	The factor is not addressed, or is totally deficient and without merit.
1	The factor is addressed, but contains deficiencies and/or weaknesses that can be corrected only by major or significant changes to relevant portions of the proposal, or the factor is addressed so minimally or vaguely that there are widespread information gaps. In addition, because of the deficiencies, weaknesses, and/or information gaps, serious concerns exist on the part of the TEP about the offeror's ability to perform the required work.
2	Information related to the factor is incomplete, unclear, or indicates an inadequate approach to, or understanding of the factor. The TEP believes there is question as to whether the offeror would be able to perform satisfactorily.
3	The response to the factor is adequate. Overall, it meets the specifications and requirements, such that the TEP believes that the offeror could perform to meet the Government's minimum requirements.
4	The response to the factor is good with some superior features. Information provided is generally clear, and the approach is acceptable with the possibility of more than adequate performance.
5	The response to the factor is superior in most features.

(2) *Ranking.* The use of pre-established cut-off scores to determine the competitive range or the source to be selected is prohibited. Each member of the TEP shall independently evaluate and score each offer. The TEP shall develop a consensus opinion on the scores assigned to each offer. The averaging of individual TEP members' scores to arrive at an overall panel score is prohibited.

* * * * *

16. Section 1515.609 is amended by revising paragraph (a), by removing paragraph (b), and by redesignating paragraph (c) as (b) and revising newly designated paragraph (b) (1) and (2) to read as follows:

1515.609 Competitive range.

(a) The Contracting Officer shall prepare the determination of the competitive range for the subsequent approval of the SSO only if the determination is tantamount to selection, for example when there is only a single offeror in the competitive range or when there are only two proposals in the competitive range and multiple awards are anticipated. All determinations must be completely documented to support the competitive range decision.

(b)(1) When there is only one proposal in the competitive range, the Contracting Officer shall examine the solicitation to determine if it was unduly restrictive. As part of the discussion in the competitive range determination, the Contracting Officer shall address at a minimum, the following four factors: whether the requirement could have been broken up into smaller components; whether the solicitation provided adequate response time; whether the requirement could have been satisfied with reduced staffing levels (discussion may be combined with the first factor); and if applicable, whether the work required on-site could otherwise be performed at a contractor's facility, avoiding the cost and logistical implications of relocating employees. If it is determined that unduly restrictive requirements inhibited competition, the Contracting Officer shall consider appropriate changes to those requirements and cancellation and reissuance of the solicitation.

(2) In cases where only a single proposal has been received and a competitive range determination has not been prepared, the discussion of the reasons for receipt of the single proposal which otherwise would be contained in the competitive range determination shall be included in the source selection document. The discussion in the source selection document at a minimum shall address the factors referenced in paragraph (b)(1) of this section. If it is determined that unduly restrictive requirements inhibited competition, the Contracting Officer shall consider appropriate changes to those

requirements and cancellation and reissuance of the solicitation.

* * * * *

17. Section 1515.611 is removed.
18. Section 1516.000 is removed.
19. Section 1516.404–270 is removed.
20. Section 1516.404–271 is removed.
21.–22. Section 1517.200 is removed.
23. Section 1519.000 is removed.
24. Section 1522.000 is removed.
25.–26. Section 1532.000 is removed.
27. Section 1533.000 is removed.
28. Section 1542.000 is removed.
29. Section 1542.700 is removed.
30. Section 1542.705–70 is revised to read as follows:

1542.705–70 Solicitation and contract clause.

The Contracting Officer shall insert the clause in 1552.242–70, Indirect Costs, in solicitations and contracts where indirect costs apply, unless contracting with an educational institution where there are approved predetermined final indirect cost rates.

31. Section 1545.000 is removed.
32. Section 1546.000 is removed.
33.–34. Section 1552.209–70 is amended by removing paragraphs (a) through (c) and revising the introductory text to read as follows:

1552.209–70 Organizational Conflict of Interest Notification.

As prescribed in 1509.507–1(b) insert the following solicitation provision in all solicitations.

* * * * *

35. The introductory text of section 1552.211–70 is amended by revising the reference ''1510.011–70'' to read ''1511.011–70.''
36. The introductory text of section 1552.211–72 is amended by revising the reference ''1510.011–72'' to read ''1511.011–72.''
37. The introductory text of section 1552.211–73 is amended by revising the reference ''1512.104(a)'' to read ''1511.011–73.''
38. The introductory text of Section 1552.211–74 is amended by revising the reference ''1512.104(b)'' to read ''1511.011–74.''
39. The introductory text of Section 1552.211–75 is amended by revising the reference ''1510.011–75'' to read ''1511.011–75.''
40. The introductory text of Section 1552.211–76 is amended by revising the reference ''1510.011–76'' to read ''1511.011–76.''
41. The introductory text of Section 1552.211–77 is amended by revising the reference ''1510.011–77'' to read ''1511.011–77.''
42. The introductory text of Section 1552.211–78 is amended by revising the reference ''1510.011–78'' to read ''1511.011–78.''
43. The introductory text of Section 1552.211–79 is amended by revising the reference ''1510.011–79'' to read ''1511.011–79.''
44. The introductory text of Section 1552.209–75 is amended by revising the reference ''1510.011–80'' to read ''1509.507–2(d).''

Dated: May 20, 1997.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 97–15856 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 62, No. 119
Friday, June 20, 1997

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 46

[Docket Number FV97–355]

Proposed Revision to Part 46, Regulations Under the Perishable Agricultural Commodities Act (PACA)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture (USDA) invites comments on proposed revisions to the PACA Regulations to establish that electronic transmissions will be considered ''ordinary and usual billing or invoice statements'' within the meaning of the PACA.

DATES: Comments must be received by July 21, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to Charles W. Parrott, Assistant Chief, PACA Branch, Fruit and Vegetable Division, AMS, USDA, Room 2095-So. Bldg., P.O. Box 96456, Washington, DC. 20090–6456. All comments should reference the docket number and the date and page number of this issue in the **Federal Register** and will be made available for public inspection in the PACA Branch during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Parrott, Assistant Chief, PACA Branch, Room 2095-So. Bldg., Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, Phone (202) 720–4180.

SUPPLEMENTARY INFORMATION: This proposal is issued under authority of section 15 of the PACA (7 U.S.C. 499o).

Background

The Perishable Agricultural Commodities Act (PACA or Act) establishes a code of fair trading practices covering the marketing of fresh and frozen fruits and vegetables in interstate and foreign commerce. The PACA protects growers, shippers, distributors, and retailers dealing in those commodities by prohibiting unfair and fraudulent trade practices. With this regulatory scheme, the law fosters an efficient nationwide distribution system for fresh and frozen fruits and vegetables, benefitting the whole marketing chain from farmer to consumer. The Act provides for a forum to adjudicate private disputes, which awards damages against a licensee who fails to meet contractual obligations in violation of the PACA. The Act also imposes a statutory trust on perishable agricultural commodities received but not yet paid for, products derived from those commodities, and any receivables or proceeds due from the sale of those commodities or products thereof for the benefit of unpaid suppliers or sellers. USDA's Agricultural Marketing Service (AMS) administers and enforces the PACA.

The 1995 PACA amendments, among other things, eliminated the requirement for unpaid produce suppliers to file trust notices with USDA in order to preserve their trust rights under the statutory trust provision of the Act. Additionally, the amendments to the PACA allow unpaid sellers of fresh and frozen fruits and vegetables to preserve trust benefits by augmenting existing invoice and billing documentation to advise the buyer of the creditor's intention to preserve trust benefits. This addition to billing or invoicing eliminates the need for a trust creditor to provide any additional notice to the debtor of the creditor's intention to preserve trust benefits. However, the PACA does not indicate that information transmitted in the course of electronic transactions constitute ''ordinary and usual billing or invoice statements'' that could fulfill the Act's requirements for creditors to provide prior notice that a sale may be subject to the trust provisions.

Electronic commerce is becoming increasingly common as companies communicate with each other via remote computers over ordinary telephone lines. The data exchanged in an electronic transaction may include the buyer's purchase order, followed by a shipping order and an invoice from the seller, and a remittance advice and payment from the buyer. Prior to engaging in an electronic transaction, both parties to a transaction must agree to the format of the information to be transmitted and received to assure that all necessary and appropriate terms of sale are included and are readily understandable.

The purchase and sale of goods by electronic means has grown steadily in the United States over the past decade. Nearly one quarter of businesses surveyed in 1993 anticipated the use of electronic transactions within 2 years and 20 percent were already conducting business electronically. By 1993, electronic transmission was the second most common means of exchanging business documents in the United States. The use of paper remains number one, but has fallen by 50 percent since 1988.[1]

The federal government and many state governments have recognized and accepted the reliability and usefulness of Electronic Data Interchange (EDI). Some jurisdictions currently use EDI for tax and Uniform Commercial Code filing systems. President Clinton, by Executive Order, has mandated the use of EDI systems in federal procurement.[2]

Representatives of the fruit and vegetable industry have requested that USDA clarify whether the exchange of commercial date in electronic transactions will be considered ''ordinary and usual billing or invoice statements'' within the meaning of the 1995 PACA legislation.

On January 15, 1997, the United Fresh Fruit and Vegetable Association (UFFVA), a produce industry trade association based in Alexandria, Virginia, petitioned AMS to promulgate regulations under PACA to recognize the use of EDI. Ten other produce industry organizations joined the UFFVA on the petition. The petitioners sought clarification as to whether EDI transactions are considered by AMS to be ''ordinary and usual billing or invoice statements'' within the meaning of the 1995 PACA amendments.

USDA agrees with petitioners that a revision to the regulations would eliminate any uncertainty in this regard and ensure that licensees can use reasonable technological advances

[1] This data was included in the January 15, 1997 petition for rulemaking submitted by the United Fresh Fruit and Vegetable Association.

[2] Executive Order 12873, 58 Fed.Reg. 54,911 (October 22, 1993).

while still receiving appropriate trust protection under the PACA. To achieve this effect, a definition for the term ''ordinary and usual billing or invoice statements'' would be added in section 46.46(b), as follows:

''Ordinary and usual billing or invoice statements' as used in section 5(c)(4) of the Act and ''invoice or other billing statement'' as used in section 46.46(f)(3) mean communications customarily used between parties to a transaction in perishable agricultural commodities in whatever form, documentary or electronic, for billing or invoicing purposes.

This definition would specify that ''ordinary and usual billing or invoice statements'' as used in the PACA and ''invoice or other billing statement'' as used in section 46.46(f)(3) include both paper documentation and electronic transmissions customarily used between a seller and a buyer for billing or invoicing purposes. This proposed change to the regulations is similar to the change suggested in the UFFVA petition. The petitioners also suggested a change to section 46.46(f)(3) of the regulations. However, the Department has determined that the proposed definition set out above makes the suggested change unnecessary.

Executive Orders 12866 and 12988

This rule, issued under the Perishable Agricultural Commodities Act (7 U.S.C. 499 *et seq.*), as amended, has been determined to be not significant for the purposes of Executive Order 12866.

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

Effects on Small Businesses

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), USDA has considered the economic impact of this proposed rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5,000,000. The PACA requires all businesses that operate subject to its provisions maintain a license issued by USDA. There are approximately 15,700 PACA licensees, many of which may be classified as small entities.

The proposed regulations would establish that the electronic transmissions used in perishable agricultural commodity transactions are, in fact, ''ordinary and usual billing or invoice statements.'' The use of electronic transactions would be voluntary, and would specifically provide companies an electronic alternative to paper documentation to give notice of intent to preserve trust rights.

Accordingly, based on the information in the above discussion, AMS has determined that the provisions of this rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements covered by this proposed rule were approved by OMB on October 31, 1996, and expire on October 31, 1999.

List of Subjects in 7 CFR Part 46

Agricultural commodities, Brokers, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 46 is proposed to be amended as follows:

PART 46—[AMENDED]

1. The authority citation for part 46 continues to read as follows:

Authority: Sec. 15, 46 Stat. 537; 7 U.S.C. 499o

2. In § 46.46, paragraph (b)(5) would be added, as follows:

§ 46.46 Statutory trust.

* * * * *

(b) * * *

* * * * *

(5) *Ordinary and usual billing or invoice statements* as used in section 5(c)(4) of the Act, and *invoice or other billing statement* as used in § 46.46(f)(3), mean communications customarily used between parties to a transaction in perishable agricultural commodities in whatever form, documentary or electronic, for billing or invoicing purposes.

Dated: June 17, 1997

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–16196 Filed 6–19–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

RIN 0563–AB07

General Administrative Regulations; Insurance Coverage by Written Agreement

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The regulations contained in this subpart are issued pursuant to the Federal Crop Insurance Act, as amended, to prescribe the procedures for offering insurance coverage by written agreement and are applicable to limited and additional coverage policies insured or reinsured by the Federal Crop Insurance Corporation (FCIC).

DATES: Written comments and opinions on this proposed rule will be accepted until close of business August 19, 1997 and will be considered when the rule is to be made final.

ADDRESSES: Written comments on this proposed rule should be sent to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131.

FOR FURTHER INFORMATION CONTACT: For further information, contact Bill Smith, Supervisory Program Analyst, Research and Development Division, Product Development Branch, FCIC, at the Kansas City, MO address listed above, telephone (816) 926–7743.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

The Office of Management and Budget (OMB) has determined this rule to be significant for the purposes of Executive Order 12866 and, therefore, this rule has been reviewed by OMB.

Cost-Benefit Analysis

A Cost-Benefit Analysis has been completed and is available to interested persons at the address listed above. In summary, the analysis finds that producers will benefit from this regulation because a greater number of producers will be able to obtain insurance coverage to meet their risk

management needs. The benefit to producers on obtaining insurance coverage not otherwise available outweighs the associated cost.

Paperwork Reduction Act of 1995

The information collection requirements contained in these regulations are being reviewed by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0053. The written agreements are described in the background.

The title of this information collection is ''Multiple Peril Crop Insurance.''

The burden associated with the written agreement is estimated at 20 minutes per response from approximately 23,597 respondents each year for a total number of 7,865 hours.

The information requested is necessary to for the insurance providers and FCIC to provide insurance and reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums, and pay indemnities. Failure to furnish this number will result in rejection of or substantial reduction in any claim for indemnity, ineligibility for insurance, and a unilateral determination of the amount of premium due.

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

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

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

Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures 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. 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 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections 2(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions published at 7 CFR part 11 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

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

Background

FCIC publishes actuarial tables which exclude certain land, farming practices, crop classes or types from insurability since the associated risk does not conform to general methods of establishing insurance yields and rates employed by FCIC. This proposed rule provides the regulatory authority for FCIC to make insurance offers on any insurable crops in counties where insurance coverage is not provided for the crop, crop type, land, or farming practice and to allow written agreements to amend specified terms of insurance. This authority provides a risk management tool to the greatest number of producers in a cost-effective manner and is fair to the participants yet does not expose FCIC to excessive insurance risk. Authority for reinsured companies to issue and approve written agreements designated by FCIC is provided.

List of Subjects in 7 CFR Part 400

Crop insurance.

Accordingly, as set forth in the preamble, the Federal Crop Insurance Corporation proposes to add a new subpart S to 7 CFR part 400, as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

Subpart S—Insurance Coverage by Written Agreement

Sec.

400.511 Basis and applicability.
400.512 OMB control numbers.
400.513 Definitions.
400.514 Availability of written agreements.

400.515 Qualifications for written agreements to provide insurance for insurable crops in counties without an actuarial table.
400.516 Qualifications for written agreements in counties with actuarial tables.
400.517 Responsibilities.
400.518 Issuance and approval of written agreements by a reinsured company.

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

Subpart S—Insurance Coverage by Written Agreement

§ 400.511 Basis and applicability.

The regulations contained in this subpart are issued pursuant to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*) to prescribe the rules and criteria for offering insurance coverage by written agreement and are applicable to limited and additional coverage policies insured or reinsured by FCIC.

§ 400.512 OMB control numbers.

The collecting of information requirements in this subpart has been approved by the Office of Management and Budget and assigned OMB control numbers 0563–0053.

§ 400.513 Definitions.

Acreage reporting date. The date contained in the Special Provisions by which the insured is required to submit an acreage report.

APH form. An FCI–19A Actual Production History (APH) or FCIC approved company form which is used to report the yield history of the insurance unit for the purpose of calculating the approved insurance yield.

Actual yield. Refer to 7 CFR part 400, subpart G.

Actuarial table. The forms and related material for the crop year approved by FCIC, which are available to the public, and show premium rates, practices, price elections, levels of coverage, production guarantees, amounts of insurance, special provisions, insurable and uninsurable acreage, insurance program dates, and other related information for a crop program in a county.

Applicant. The named person as shown on the application submitted to a reinsured company or FSA office. This term does not extend to any other person having a share or interest in the crop unless specifically indicated on the application.

Approved APH yield. Refer to 7 CFR part 400, subpart G.

Assigned yield. Refer to 7 CFR part 400, subpart G.

Base period. Refer to 7 CFR part 400, subpart G.

CCC. The Commodity Credit Corporation, a wholly owned corporation within the United States Department of Agriculture.

CCC program crop. Barley, corn, cotton, ELS cotton, grain sorghum, oats, rice, and wheat. These regulations also include hybrid corn seed, hybrid sorghum seed, and soybeans.

Crop year. Refer to 7 CFR part 400, subpart G.

Days. Calendar days.

Expiration date. The date established in the written agreement by which it must be accepted by the applicant or insured.

FCIC. The Federal Crop Insurance Corporation, a wholly owned corporation within the United States Department of Agriculture.

FSA. The Farm Service Agency (formerly the Agricultural Stabilization and Conservation Service).

FSA program yield. For barley, corn, cotton, ELS cotton, grain sorghum, oats, rice, and wheat, the yield established by the FSA county committee or proven from production records for individual farms by FSA farm serial number (FSN). Generally, these yields are provided on an ASCS–156EZ, ASCS–423, ASCS–424 or ASCS–476 form or their successor forms. Historical Weighted Yields (HWY) shown on these forms are not considered program yields and are not used for APH purposes.

Insured. The named person as shown on the application for insurance which has been accepted by a reinsured company or FSA office. This term does not extend to any other person having a share or interest in the crop unless specifically indicated on the accepted application.

Local producing area. An area in a county without an actuarial table that has similar production capabilities, cropping practices and conditions and which borders a county with an actuarial table for the subject crop.

Marketing outlet. A place where the crop is bought and sold.

Nonprogram crop. Includes all crops that are not defined as CCC program crops and for which an insurance policy is established by FCIC.

Production guarantee. The quantity determined by multiplying the approved yield per acre times the coverage level percentage elected.

Production report. Refer to 7 CFR part 400, subpart G.

Reference county. The county, designated in the written agreement, used to obtain the information normally provided in the actuarial table for the county where the insured is farming.

Reference state. The state, designated on the written agreement, used to obtain the information normally provided in the actuarial table for the county where the insured is farming.

Request for actuarial change form. An FCI–5 or FCIC approved company form that provides information required by the FCIC to evaluate requests for written agreements.

Sales closing date. The date designated in the Special Provisions on which sales for each crop year ceases. For the purposes of requests for written agreements in counties without an actuarial table, the sales closing date will be the applicable crop cancellation date in the policy or Special Provisions for the area where the county is located.

Special Provisions. A document which displays specific information concerning the county crop program including, but not limited to, administrative dates (sales closing date, final planting date, acreage reporting date, and billing date) and statements pertaining to insurance coverage, price elections, and amounts of insurance.

Transitional yield (T-yield). Refer to 7 CFR part 400, subpart G.

Verifiable records. Refer to 7 CFR part 400, subpart G.

Verifier. Refer to 7 CFR part 400, subpart G.

Viable markets. An outlet for the production of the crop that is located within a reasonable distance and capable of accepting the volume that is reasonably expected to be produced from the insured acreage.

§ 400.514 Availability of written agreements.

For limited and additional coverage policies, FCIC authorizes the use of written agreements for insurable crops for the following purposes:

(a) To provide insurance coverage for insurable crops in counties without a published actuarial table;

(b) To assign actuarial classifications if such classifications are not provided, or amend actuarial classifications contained in the actuarial documents if information is provided in a request for reconsideration of the published classification which would substantially change the classification;

(c) To provide insurance coverage for farming practices for which a premium rate is not included in the actuarial table;

(d) To provide insurance coverage for crop classes, types, or varieties for which a premium rate is not included in the actuarial table or Special Provisions;

(e) To provide insurance for acreage designated as unrated or unclassified by the actuarial table;

(f) To provide alternative methods of unit division on an individual basis

when geographic features or good farming practices make it impossible for the insured to conform to optional unit division guidelines;

(g) To insure overage stands of forage provided an acceptable stand exists;

(h) To insure portions of fields which extend across a county line when the exact location of the county line is not determinable;

(i) To amend the terms of insurance provided in the insurance policy when specifically permitted by the policy;

(j) To offer alternative rates and or coverages based on a request for reconsideration of actuarial classifications assigned to land which is designated as high risk by the actuarial table;

(k) To amend or remove Nonstandard Classification System (NCS) as a result of an appeal determination or error in assignment of such classifications; or

(l) To amend other actuarial classifications as a result of appeal determinations.

§ 400.515 Qualifications for written agreements to provide insurance for insurable crops in counties without an actuarial table.

(a) FCIC is authorized to provide insurance coverage by written agreement for insurable crops, at its own discretion and upon its sole determination that:

(1) Adequate information is available to develop an actuarially sound premium rate and insurance coverage;

(2) The crop, including practice, type, and variety, is suited and adapted to the prevalent conditions in the county including, but not limited to, soils, topography, climate, rainfall, length of growing season, and other such considerations, with reasonable production risks;

(3) The crop is commercially grown in the county;

(4) All required information is received by the specified deadlines; and

(5) All other criteria outlined in this subpart are satisfied.

(b) FCIC will deny any request that does not meet the requirements of these regulations, or which involves a crop that:

(1) Is not insurable;

(2) FCIC does not have adequate data to establish actuarially sound premium rates and insurance coverage;

(3) Is not commercially grown in the county; or

(4) FCIC cannot determine that viable markets are available.

(c) A Request for Actuarial Change Form must be submitted to an agent of a reinsured company or the FSA office by the applicant no later than the sales closing date and must include the following:

(1) A completed APH form based on verifiable records of actual yields for at least the most recent three consecutive crop years during the base period: (If the producer expands the farming operation across a county or state line into a local producing area, FCIC may consider existing production reports from the current crop production to be sufficient);

(2) The dates the applicant and other growers in the area normally plant and harvest the crop;

(3) The name and location of, and approximate distance to, the location at which the crop will be marketed by the applicant;

(4) A copy of the ASCS–156EZ, ASCS–423, ASCS–424, or ASCS–476 forms (or successor forms) providing notice of crop acreage bases, program yields, allotments or quotas for the acreage on which insurance is requested, if applicable; and

(5) The legal description of the land and FSA aerial photographs or maps delineating field boundaries where the applicant intends to plant the crop for which insurance is requested.

(d) If FCIC authorizes a written agreement, the written agreement will include:

(1) Transitional yields or factors, APH yields, classifications or any other basis of insurance coverage as appropriate for the crop;

(2) The premium rate;

(3) The reference state and county for determining the Special Provisions, if applicable;

(4) Terms and conditions including any exceptions to the Special Provisions of the reference state and county;

(5) The expiration date; and

(6) Other necessary administrative statements as determined by FCIC.

§ 400.516 Qualifications for written agreements in counties with actuarial tables.

(a) FCIC is authorized to provide written agreements for such purposes as noted in § 400.514 (b)(1) at its own discretion and upon its determination that:

(1) Adequate information is available to develop an actuarially sound premium rate and insurance coverage;

(2) The requested insurance or variation to the terms of insurance represents practices, types, varieties, or other conditions which are suited and adapted to the prevalent production practices of the county and able to produce the yield upon which the insurance guarantee would be based;

(3) All required information is received by the specified deadlines; and

(4) All other criteria outlined in this subpart are satisfied.

(b) FCIC will deny requests that do not meet the requirements of this subpart or which:

(1) FCIC does not have available data to establish actuarially sound premium rates and insurance coverage;

(2) The requested change to the terms of insurance does not conform to sound insurance principles as determined by FCIC;

(3) FCIC determines the risk is excessive;

(4) The requested change would result in an insignificant variation from the terms established by the policy or actuarial table as determined by FCIC; or

(5) The requested change to the terms of insurance are prohibited by the Federal Crop Insurance Act, applicable laws and regulations, or by the insurance policy or not specifically authorized by the regulations or policy.

(c) If a request for written agreement is denied, an authorized written agreement is not executed by the expiration date, the written agreement is rejected or the written agreement is not approved, the original terms of the insured's contract will remain in force. The request must specify that the original terms of the contract are effective if any of these actions apply.

(d) A Request for Actuarial Change Form must be submitted to an agent of a reinsured company or the FSA office by the applicant or insured no later than the sales closing date and must include:

(1) A copy of the most recent APH forms;

(2) A copy of the ASCS–156EZ, ASCS–423, ASCS–424, or ASCS–476 (OMB control number 0560–0092) forms (or successor forms) providing notice of crop acreage bases, program yields, allotments and quotas for the acreage on which insurance is requested, if applicable;

(3) The legal description of the land and FSA aerial photographs or, legible maps delineating field boundaries where the acreage is planted or intended to be planted to the crop for which insurance is requested or requested to be amended;

(4) Evidence of adaptability if the request is to provide insurance for practices, types or varieties that are not designated as insurable or are specifically excluded from insurability by the Special Provisions;

(5) A copy of the contract between the wildlife management agency and the insured if the request is to insure land contained in a wildlife protection or management area;

(6) The full scientific and common name of the plant, hardiness zone, and number of years that the nursery has been growing the plant, if the request is to insure nursery crops not listed on the ''Nursery Eligible Plant Listing'';

(7) A report of prices received for a specific class (type) of dry beans and either two years of university test plot data and recommendations or two years of seed company data supplemented by university data, if the request is to insure a class (type) of dry beans which is not designated as insurable by the actuarial table. If university or seed company data is not available, then two years of production data for the requested class and prices received must be provided; and

(8) A statement that the original terms of the contract that will be in effect if the written agreement is denied.

(e) If FCIC authorizes a written agreement, all variations to the contract will be specified in the written agreement, including:

(1) The actuarial document, form, term or condition amended by the agreement;

(2) Applicable transitional yield or factor, APH yield, and classifications or any other basis for coverage for the crop;

(3) Applicable premium rate;

(4) The terms and conditions of the agreement;

(5) The expiration date; and

(6) Other necessary administrative statements as determined by FCIC.

(f) In unusual situations FCIC may, at its discretion, provide or amend insurance coverage by written agreements for requests submitted after the sales closing date if the insured was unaware of the condition requiring a written agreement. In addition to the requirements contained in this section, the following apply:

(1) Such requests should be submitted when the need for a written agreement is discovered, but must be submitted to the agent or the FSA office by the insured no later than the acreage reporting date.

(2) FCIC will require a growing season inspection if the written agreement establishes insurability and if the crop has been planted at the time that the written agreement terms are presented to the insured. FCIC will not approve any insurance if the inspection does not determine that the crop has the expectancy of making at least ninety percent (90%) of the yield per acre used to determine the production guarantee or amount of insurance. Insurance liability will be assumed as of the date of the inspection if the agreement is given final approval by FCIC.

(3) No prevented planting liability will be established for requests submitted after the sales closing date.

§ 400.517 Responsibilities.

A final decision authorizing a written agreement will be made by FCIC within 30 days of receipt of all required information. A written agreement or letter of rejection will be provided to the reinsured company or FSA office by FCIC.

(a) A reinsured company or FSA may issue the written agreement on the form provided by FCIC or use its own form with FCIC authorized language, which must include the authorized expiration date. If the agreement is accepted by the applicant or insured, the company will provide a copy of the agreement to the insured, the agent, and FCIC. The FSA office will provide a copy of the accepted agreement to the insured and FCIC. If the agreement is not accepted by the applicant or the insured by the expiration date, a copy will be returned to FCIC with the rejection noted. The reinsured company will provide to FCIC a copy of any agreement it does not approve.

(b) FCIC will provide final approval of written agreements requested after the sales closing date, as provided in § 400.516(f), and any written agreement for an FSA applicant or insured.

(c) The written agreement offer is valid until the expiration date unless the crop is damaged, as provided in § 400.516(f)(2), prior to acceptance by the applicant or insured.

(d) The applicant or insured may reject a written agreement if FCIC determines the approved offer differs from the original request made by the applicant or insured.

(e) The approved written agreement is valid only for the crop year shown in the agreement.

(f) FCIC may authorize a reinsured company or FSA to reissue a written agreement from year to year provided no substantial changes are made to the farming operation, actual production reports are properly provided, and the agreement is in place prior to the sales closing date. All required elements of written agreements must be contained in subsequent agreements.

§ 400.518 Issuance and approval of written agreements by a reinsured company.

FCIC may permit a reinsured company to issue and approve written agreements designated by FCIC, in accordance with the requirements contained in this subpart.

Signed in Washington, D.C., on June 16, 1997.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 97–16232 Filed 6–19–97; 8:45 am]

BILLING CODE 3410–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–17]

Proposed Establishment of VOR Federal Airway; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a Very High Frequency Omnidirectional Range (VOR) Federal airway 607 (V–607) to be located in the Mendocino, CA, area. This proposal would provide an airway between Mendocino and Arcata, CA. The proposed airway is necessary to efficiently manage air traffic operations during those periods when nonradar procedures are in use.

DATES: Comments must be received on or before August 5, 1997.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, AWP–500, Docket No. 97–AWP–17, Federal Aviation Administration, P. O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed 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–AWP–17.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in 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 FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should call the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish V–607 to be located in the Mendocino, CA, area to efficiently manage air traffic operations during those periods when nonradar procedures are in use. This proposal would provide an airway between Mendocino and Arcata, CA.

Approximately 25 to 30 air carrier and general aviation flights per day currently fly a direct route, which coincides with the proposed airway. During nonradar operations, however, all north/south traffic is forced onto V–27 and over the Fortuna Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC). This causes delays to, and conflicts with, departure aircraft that would not be necessary with the proposed airway. Currently, the only alternative to V–27 is V–494; however, V–494 has a 13,000-foot mean sea level minimum en route altitude, and an over water segment which renders V–494 unsuitable for a large number of general aviation aircraft. Another problem arises whenever the Fortuna VORTAC is out of service; at such times, both V–27 and V–494 cease to exist. This proposed action would provide controllers and pilots with an alternative to V–27 and facilitate air traffic operations.

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. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant 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.

§ 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 6010(a)—Domestic VOR Federal airways

* * * * *

V–607 [New]

From Mendocino, CA; INT Mendocino 346° and Arcata, CA, 156° radials; Arcata.

* * * * *

Issued in Washington, DC, on June 10, 1997.

Nancy B. Kalinowski,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 97–16221 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–13–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–47

RIN 3090–AG53

Utilization and Disposal of Real Property

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This proposed rule amends certain sections of the regulations issued by the General Services Administration (GSA) pertaining to the disposal of government-owned improvements and related personal property on surplus land. This action is being undertaken to establish $15,000 as the maximum value of surplus property and improvements that agencies may dispose of through abandonment, destruction, or donation without prior GSA concurrence. The rule is intended to clarify and make consistent the extent of agencies' discretion to dispose of government-owned improvements and related personal property.

DATES: Comments must be received on or before August 19, 1997.

ADDRESSES: Written comments should be sent to the Office of Property Disposal (PR), General Services Administration, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John Q. Martin, Acting Director, Redeployment Services Division (202) 501–0067.

SUPPLEMENTARY INFORMATION:

A. Executive Order 12866

The General Services Administration (GSA) has determined that this is not a significant rule for the purposes of Executive Order 12866 of September 30, 1993, because it is not likely to result in any of the impacts noted in Executive Order 12866, affect the rights of specified individuals, or raise issues

arising from the policies of the Administration. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of the rule; has determined that the potential benefits to society from this rule outweigh the potential costs; has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society. This is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not required to be published in the **Federal Register** for public comment, therefore the Regulatory Flexibility Act does not apply.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 501 et seq.

List of Subjects in 41 CFR Part 101–47

Government property management, Surplus Government property.

Therefore, it is proposed that 41 CFR part 101–47 be amended as set forth below:

PART 101–47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

1. The authority citation for 41 CFR part 101–47 continues to read as follows:

Authority: 40 U.S.C. 486(c).

Subpart 101–47.5—Abandonment, Destruction, or Donation to Public Bodies

2. Section 101–47.501–4 is revised to read as follows:

§ 101–47.501–4 Findings.

(a) Property shall not be abandoned, destroyed, or donated by a Federal agency under § 101–47.501–2, unless a duly authorized official of that agency finds, in writing, either that:

(1) Such property has a current appraised fair market value of not more than $15,000, or

(2) The estimated cost of its continued care and handling would exceed the estimated proceeds from its sale. Such finding shall not be made by any official directly accountable for the property covered thereby.

(b) Whenever all the property proposed to be disposed of hereunder by a Federal agency at any one location at any one time has a current appraised fair market value in excess of $15,000, findings made under § 101–47.501–4(a), shall be approved by a reviewing authority before any such disposal.

3. Section 101–47.502–1 is revised to read as follows:

§ 101–47.502–1 Cost limitations.

Improvements on land or related personal property with a current appraised fair market value in excess of $15,000 shall be donated to public bodies only with the prior concurrence of GSA. The request for such concurrence shall be made to the regional office of GSA for the region where the property is located. This section applies to improvements only; land, regardless of value, shall be donated to public bodies only with prior concurrence of GSA.

4. Section 101–47.503–1 is amended by revising paragraph (c) to read as follows:

§ 101–47.503–1 General.

* * * * *

(c) The concurrence of GSA shall be obtained prior to the abandonment or destruction of improvements on land or related personal property.

(1) Which has a current appraised fair market value in excess of $15,000, or

(2) Which are of permanent type construction, or

(3) Where their retention would enhance the value of the underlying land, if it were to be made available for sale or lease.

5. Section 101–47.503–3 is revised to read as follows:

§ 101–47.503–3 Abandonment or destruction without notice.

If

(a) The property has a current appraised fair market value of not more than $15,000; or

(b) The cost of its care and handling is so great that its retention in order to post public notice is clearly not economical; or

(c) Immediate abandonment or destruction is required by consideration of health, safety, or security; or

(d) The assigned mission of the agency might be jeopardized by the delay, and a finding with respect to paragraph (a), (b), (c), or (d) of this section, is made in writing by a duly authorized official of the Federal agency and approved by a reviewing authority, abandonment or destruction may be made without public notice. Such finding shall be in addition to the findings prescribed in §§ 101–47.501–4 and 101–47.503–1(a).

Dated: June 4, 1997.

G. Martin Wagner,

Associate Administrator, Office of Governmentwide Policy.

[FR Doc. 97–16161 Filed 6–19–97; 8:45 am]

BILLING CODE 6820–23–P

Notices

Federal Register
Vol. 62, No. 119
Friday, June 20, 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

Farm Service Agency

U.S. Warehouse Act Fees

AGENCY: Farm Service Agency, USDA.
ACTION: Notice.

SUMMARY: The purpose of this notice is to publish a schedule increasing the fees to be charged under the United States Warehouse Act (USWA) regulations covering cotton, grain, tobacco, wool, dry bean, nut, syrup, and cottonseed warehouse operators for licensing and inspection services.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Mikkelsen, Warehouse and Inventory Division, Farm Service Agency, United States Department of Agriculture, 1400 Independence Avenue, SW, STOP 0553, Washington, DC 20250–0553, telephone (202) 720–7433, FAX (202) 690–3123.

Background

Pursuant to the provisions of the USWA which regulates warehouse operations for the benefit of all depositors, the Secretary has the authority to license public warehouse operators. Warehouse operators that opt to have a USWA license understand that fees will be imposed to cover the costs of the program. Specifically, the Omnibus Budget Reconciliation Act of 1981 mandates the imposition of fees for USWA licensed warehouses. The Act provides in part, that:

The Secretary of Agriculture * * * shall charge, assess, and cause to be collected a reasonable fee for: (l) Each examination or inspection of a warehouse * * *; (2) each license issued to any person to classify, inspect, grade, sample, or weigh agricultural products stored or to be stored * * *; (3) each annual warehouse license issued to a warehouseman to conduct a warehouse * * *; and (4) each warehouse license amended, modified, extended, or reinstated * * *. Such fees shall cover, as nearly as practicable, the costs of providing such services and licenses * * * including administrative and supervisory costs * * *.

The USWA mandates fee collections to help self-sustain the Federal warehouse licensing and examination programs. The Farm Service Agency (FSA) is raising USWA license and user fees to increase the amount of revenue generated to recover more of the actual operating costs for the USWA in fiscal year 1998 (FY).

The regulations used in administering USWA fees were last amended effective October 1, 1994, (59 FR 51355), at which time an annual fee was imposed with respect to cotton warehouse operators. These regulations at 7 CFR part 735–743 provide that USWA fees could be adjusted annually in order to cover, as nearly as practicable, the operating costs for the program.

A comprehensive review of the warehouse examination program was performed to review staffing levels, travel expenses, services that warehouse operators can expect to receive, services for which warehouse operators are willing to pay, and the type and scope of examinations needed to adequately protect a depositor's interest in warehouses licensed under the USWA.

As a result of streamlining and restructuring of the Kansas City Commodity Office (KCCO) FSA, and the Washington office of FSA, the total staffing of FSA personnel associated with USWA activities has been reduced by 18.5 percent (i.e., warehouse examiners and office personnel) while supervisory staffing levels have been reduced by 24 percent. Other efficiencies have been achieved through a variety of means including: the purchase and use of laptop computers for field warehouse examiners, thereby reducing time in performing examinations and reducing printing costs for forms used in examinations; and the reduction in travel expenses by personnel in KCCO and in Washington.

The FY 98 fee adjustments reflect increases of no greater than 10 percent for each type of commodity with the rate of increase depending on FSA's direct costs with respect to warehouse examinations for that commodity.

Establishing an electronic data interchange (EDI) system for those agricultural products approved under the USWA has the potential of providing U.S. agribusiness and the USWA warehouse examination program considerable savings. For example, since 1995 electronic warehouse receipts (EWRs) have been used by the cotton industry and it is estimated that $5 to $10 per bale has been saved for each EWR issued in lieu of a paper receipt for a total savings of $40 to $80 million per year. The use of EDI for cotton has reduced the costs of the USWA warehouse examination program by approximately 30 percent. Similarly, the use of EWRs for grain and other agricultural products approved under the USWA would represent a major step in reducing the paperwork burden that currently impedes efficiency and add costs to the operations of agribusiness and the USWA. However, because of statutory restriction EWRs are only authorized for cotton.

Warehouse and Service License Fees

The fee for original issuance, reissuance, or duplication of a license for cotton, grain, tobacco, wool, dry beans, nut, syrup, and cottonseed is $75 for each license issued. The fee charged to license individuals to inspect, sample, grade, classify, or weigh commodities is $30 for each service license issued.

Warehouse Annual and Inspection Fees

These fees are shown in the following tables by agricultural product. Inspection fees are assessed for each original examination or inspection, or reexamination or reinspection for modification of an existing license. Annual fees are assessed independently of inspection fees.

COTTON
[In bales]

Licensed capacity	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
1–20,000	$550	$1,100
20,001–40,000	715	1,430
40,001–60,000	880	1,760
60,001–80,000	1,100	2,200
80,001–100,000	1,375	2,750

COTTON—Continued

[In bales]

Licensed capacity	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
100,001–120,000	1,650	3,300
120,001–140,000	1,925	3,850
140,001–160,000	2,200	4,400
160,001+	[1] 2,200	[2] 4,400

[1] Plus $55 per 5,000 bale capacity above 160,000 bales or fraction thereof.

[2] Plus $110 per 5,000 bale capacity above 160,000 or fraction thereof.

Inspection fees will be charged at the rate of $75 for each 1,000 bales of licensed capacity, or fraction thereof, but in no case less than $150 nor more than $1,500.

GRAIN

[In bushels]

Licensed Capacity	Annual fee for each warehouse location with a CCC storage agreement	Annual fee for each warehouse location without a CCC storage agreement
1–150,000	$145	$290
150,001–250,000	290	580
250,001–500,000	430	860
500,001–750,000	575	1,150
750,001–1,000,000	715	1,430
1,000,001–1,200,000	860	1,720
1,200,001–1,500,000	1,000	2,000
1,500,001–2,000,000	1,145	2,290
2,000,001–2,500,000	1,290	2,580
2,500,001–5,000,000	1,430	2,860
5,000,001–7,500,000	1,575	3,150
7,500,001–10,000,000	1,720	3,440
10,000,001+	[1] 1,720	[2] 3,440

[1] Plus $45 per million bushels above 10,000,000 or fraction thereof.

[2] Plus $90 per million bushels above 10,000,000 or fraction thereof.

Inspection fees will be charged at the rate of $15 for each 10,000 bushels or fraction thereof, but in no case less than $150 nor more than $1,500.

DRY BEANS

[In hundredweight]

Licensed capacity	Annual fee
100–90,000	$715
90,001–150,000	1,000
150,001–300,000	1,290
300,001–450,000	1,575
450,001–600,000	1,860

DRY BEANS—Continued

[In hundredweight]

Licensed capacity	Annual fee
600,001–720,000	2,145
720,001–900,000	2,435
900,001–1,200,000	2,720
1,200,001–1,500,000	3,000
1,500,001–3,000,000	3,290
3,000,001+	3,575

Inspection fees will be charged at the rate of $15 for each 1,000 hundredweight, or fraction thereof, but in no case less than $150 nor more than $1,500.

Tobacco and Wool

Annual fee: $15 for each 100,000 pounds of licensed capacity, or fraction thereof, but in no case less than $575.

Inspection fee: $15 for each 100,000 pounds of licensed capacity, or fraction thereof, but in no case less than $1,500.

Nuts

Annual fee: 13¢ for each 100 short ton of licensed capacity, or fraction thereof, but in no case less than $575.

Inspection fee: $7 for each 100 short ton of licensed capacity, or fraction thereof, of peanuts and $13 for each 1,000 hundredweight, or fraction thereof, but in no case less than $150 nor more than $1,500.

Syrup

Annual fee: $15 for each 5,000 gallons of licensed capacity, or fraction thereof, but in no case less than $575.

Inspection fee: $5 for each 5,000 gallons, or fraction thereof, but in no case less than $150 nor more than $1,500.

Cottonseed

Annual fee: $15 for each 1,000 short tons of licensed capacity, or fraction thereof, but in no case less than $575.

Inspection fee: $15 for each 1,000 short tons of licensed capacity, or fraction thereof, but in no case less than $150 nor more than $1,500.

Signed at Washington, D.C., on June 16, 1997.

Richard O. Newman,

Acting Administrator, Farm Service Agency.

[FR Doc. 97–16248 Filed 6–19–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 97–042N]

HACCP-Based Meat and Poultry Inspection Concepts; Public Meeting Time and Date Extension

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is seeking comments on new inspection models for meat and poultry establishments where Hazard Analysis and Critical Control Points (HACCP) Systems are being implemented. Because members of the public have expressed a high level of interest in participating in the public meeting scheduled to be held on this subject, FSIS is extending the meeting an additional half day.

DATES: The public meeting is scheduled for June 24, 1997, from 8 a.m. to 5 p.m. and for June 25, 1997, from 8 a.m. to 12 noon.

ADDRESSES: The public meeting will be held in Galleries 1, 2, and 3 of the Arlington Hilton Hotel, 950 North Stafford Street, Arlington, VA 22203. Comments are welcome at any time. Please submit written comments to Ms. Patricia Stolfa, Assistant Deputy Administrator, Office of Policy, Program Development and Evaluation, Room 402 Cotton Annex, 300 12th Street SW, Washington, D.C. 20250–3700. Comments may also be provided by facsimile (202–401–1760).

FOR FURTHER INFORMATION CONTACT: To register for the public meeting, contact Ms. Mary Gioglio at (202) 501–7244, (202) 501–7138, or FAX (202) 501–7642. Persons wishing to speak at the public meeting are requested to submit an advance written summary of their remarks. Please submit written summaries pertaining to in-plant and/or in distribution inspection concepts to Ms. Patricia Stolfa, (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION: FSIS recently published a **Federal Register** notice concerning a public meeting to discuss the development of new inspection models (62 FR 31533; June 10, 1997). The public meeting was originally scheduled to begin and end on one day, June 24, 1997. Since publication of the notice, FSIS has received numerous comments from members of the public expressing interest in attending and participating in discussions at the meeting. FSIS has decided that, to better accommodate participants, the meeting should be

extended for an additional half day, to run through the morning hours of June 25, 1997.

Even though the time for the meeting is being extended, FSIS is aware of concerns among those planning to attend that there still may not be enough time for presentations on inspection-related topics. Accordingly, meeting participants are requested to limit the duration of their oral remarks to 5 minutes. The official transcript of the meeting will be held open for the inclusion of participants' written remarks.

FSIS will make available at the meeting copies of short papers representing the Agency's current thinking on a number of topics relating to HACCP-based meat and poultry inspection. Comments or information on the ideas presented in these papers will be welcome.

Done, at Washington, D.C., on June 17, 1997.

Thomas J. Billy,

Administrator.

[FR Doc. 97–16391 Filed 6–18–97; 2:33 pm]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Deschutes Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Deschutes PIEC Advisory Committee will meet on July 21 & 22, 1997 at The Best Western Inn in Prineville, OR on Highway 26. The meeting will start at 9:00 am. and finish at 5:00 pm. both days. Agenda items include: (1) Update on rangelands, (2) Review of DEIS documents for the Eastside Ecosystem project, (3) Reports from subcommittees, and (4) Open public forum. All Deschutes Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT:

Pam Beyer, Province Liaison, USDA, Fort Rock Ranger District, 1230 N.E. 34d, Bend, Oregon 97701, 541–383–4705.

Dated: June 10, 1997.

Sally Collins,

Deschutes National Forest Supervisor.

[FR Doc. 97–16145 Filed 6–19–97; 8:45 am]

BILLING CODE 3410–11–M

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 commodity and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: July 21, 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 December 6, 1996, April 25, May 2 and 9, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 63820, 62 FR 20149, 25586 and 24077) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and services and impact of the additions on the current or most recent contractors, the Committee has determined that the commodity 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 commodity and services to the Government.

2. The action will not 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.

Accordingly, the following commodity and services are hereby added to the Procurement List:

Commodity

Cover, Helmet, Arctic White
8415–00-NIB–0068

(Requirements for the U.S. Army Soldier Systems Command, Natick, Massachusetts)

Services

Grounds Maintenance, Smithsonian National Gallery of Art 6th and Constitution Avenue, NW., Washington, DC

Janitorial/Custodial, Federal Building, U.S. Post Office and Courthouse, Moscow, Idaho

Janitorial/Custodial, U.S. Border Stations, Lynden/Sumas, Washington

Janitorial/Custodial, U.S. Coast Guard, 2420 South Lincoln Memorial Parkway, Milwaukee, Wisconsin

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. 97–16209 Filed 6–19–97; 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 commodities 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: July 21, 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: 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 commodities 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 commodities and services to the government.

2. The action does not appear to 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 not known regulatory alternatives which 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.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information. The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Cross ''Solo'' Pen and Refill
7520–01–424–4846
7520–01–424–4881
7520–01–424–4860
7520–01–424–4848
7520–01–424–4871
7510–01–425–6802 (Refill)
NPA: In-Sight; Providence, Rhode Island

VuRyte—VuRyser Ergonomic Computer Workstation
7520–01–443–4902
NPA: Tarrant County Association for the Blind, Fort Worth, Texas

Bag, T-Shirt Style & Bag, Produce, Star Bottom
8105–00–NIB–1023 (23″×12″)
8105–00–NIB–1046 (20″×15″)
(Requirements for the Defense Commissary Agency (DeCA), Fort Lee, Virginia)
NPA: Envision, Inc, Wichita, Kansas

Services

Janitorial/Custodial, Puget Sound Naval Shipyard, Bremerton, Washington
NPA: Skookum Educational Programs, Port Townsend, Washington

Mailroom Operation, Fort Bragg, North Carolina
NPA: Fairfax Opportunities Unlimited, Inc., Springfield, Virginia

Switchboard Operation, Department of Veteran Affairs Medical Center, 800 Zorn Avenue, Louisville, Kentucky
NPA: Kentucky Industries for the Blind, Louisville, Kentucky

Beverly L. Milkman,

Executive Director,

[FR Doc. 97–16210 Filed 6–19–97; 8:45 am]

BILLING CODE 6353–01–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Connecticut Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Connecticut Advisory Committee to the Commission will convene at 12:30 p.m. and adjourn at 4:30 p.m. on Wednesday, July 2, 1997, at the Catholic Charities, Conference Room, 467 Bloomfield Avenue, Bloomfield, Connecticut 06002. The purpose of the meeting is to discuss and plan details of the forthcoming civil rights leadership conference to be held late 1997.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Neil Macy, 860–242–7287, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, June 11, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–16160 Filed 6–19–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; David McKeeve; Order Denying Permission To Apply For or Use Export Licenses

On August 22, 1996, David McKeeve (McKeeve) was convicted in the United States District Court for the District of Massachusetts of violating the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1997)) (IEEPA). McKeeve was convicted of knowingly and willfully exporting, reexporting, diverting, and transshipping computers and related equipment to Libya, in violation of the embargo against Libya.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1997)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating IEEPA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (61 FR 12734–13041, March 25, 1996, to be codified at 15 CFR Parts 730–774) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to §§ 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating IEEPA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any license Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of McKeeve's conviction for violating IEEPA and following consultations with the Acting

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)) and August 14, 1996 (61 *Fed. Reg.* 42527, August 15, 1996), continued the Export Administration Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

Director, Office of Export Enforcement, I have decided to deny McKeeve permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on August 22, 2006. I have also decided to revoke all licenses issued pursuant to the Act in which McKeeve had an interest at the time of his conviction.

Accordingly, it is hereby *Ordered*

I. Until August 22, 2006, David McKeeve, 35A Kevlinside Gardens, Glasgow, Scotland, and currently incarcerated at FCI Fort Dix, P.O. Box 7000, Unit 5812, Fort Dix, New Jersey 08640, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to McKeeve by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until August 22, 2006.

VI. A copy of this Order shall be delivered to McKeeve. This Order shall be published in the **Federal Register**.

Dated: June 10, 1997.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 97–16143 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

McNeil International, 10 Eglinton Circle, Edinburgh, Scotland EH12 5DE; Order Denying Permission to Apply For or Use Export Licenses

On August 22, 1996, McNeil International was convicted in the United States District Court for the District of Massachusetts of violating the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1997)) (IEEPA). McNeil International was convicted of knowingly and willfully exporting, reexporting, diverting, and transshipping computers and related equipment to Libya, in violation of the embargo against Libya.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1997)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating IEEPA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulation (61 *FR* 12734–13041, March 25, 1996, to be codified at 15 CFR Parts 730–774) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating IEEPA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of McNeil International's conviction for violating IEEPA and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny McNeil International permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of this conviction. The 10-year period ends on August 22, 2006. I have also decided to revoke all licenses issued pursuant to the Act in which McNeil International had an interest at the time of its conviction.

Accordingly, it is hereby

Ordered

I. Until August 22, 2006, McNeil International, 10 Eglinton Circle, Edinburgh, Scotland EH12 5DE, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)) and August 14, 1996 (61 *FR*. 42527, August 15, 1996), continued the Export Administration Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtained from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to McNeil International by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-producted direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until August 22, 2006.

VI. A copy of this Order shall be delivered to McNeil International. This Order shall be published in the **Federal Register**.

Dated: June 10, 1997.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 97–16154 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–815, A–580–816]

Notice of Amended Final Results of Antidumping Duty Administrative Reviews: Certain Cold-Rolled Carbon Steel Flat Products From Korea; Certain Corrosion-Resistant Carbon Steel Flat Products from Korea

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

ACTION: Notice of amendment to final results of Antidumping Duty Administrative Review.

SUMMARY: On April 15, 1997, the Department of Commerce (the Department) published the final results of its administrative review of the antidumping duty order on certain cold-rolled carbon steel flat products from Korea, and certain corrosion-resistant carbon steel flat products from Korea (62 FR 18404). The period of review (POR) is August 1, 1994, through July 31, 1995. On April 23, 1997, Pohang Iron and Steel Co., Ltd. (POSCO) alleged, in a timely fashion, that the Department had made six ministerial errors with respect to the final results for POSCO and the companies collapsed with POSCO (Pohang Coated Steel Co., Ltd. (POCOS) and Pohang Steel Industries Co., Ltd. (PSI)), collectively referred to below as the POSCO Group. POSCO therefore requested that we amend the final results of the review as published on April 15, 1997. On April 30, 1997, petitioners asserted that none of the issues raised by POSCO in its April 23, 1997, submission constituted ministerial errors.

The Department has determined that one of the alleged errors is in fact a ministerial error. We have corrected the error in question and recalculated the dumping margins for the POSCO Group. The margin for cold-rolled products has changed from 0.54 percent to 0.49 percent, and the margin for corrosion-resistant products remains at 0.09 percent.

EFFECTIVE DATE: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Steve Bezirganian or Alain Letort, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone 202/482–1395 (Bezirganian) or 202/482–4243 (Letort), fax 202/482–1388.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

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

Background

On April 15, 1997, the Department published the final results of its administrative reviews of the antidumping duty orders on certain cold-rolled and corrosion-resistant carbon steel flat products from Korea, for the period August 1, 1994 through July 31, 1995 (62 FR 18404). The reviews covered shipments of the merchandise from Korea by the POSCO Group that entered the United States during the period August 1, 1994 through July 31, 1995.

Subsequent to the publication of the final results, POSCO alleged, in a timely fashion, that the Department had made six ministerial errors with respect to the final results for the POSCO Group. POSCO therefore requested that we amend the final results of the review as published on April 15, 1997. Petitioners

subsequently asserted that none of the alleged errors cited by POSCO constituted ministerial errors.

Section 353.28(d) of the Department's regulations defines a ''ministerial error'' as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial.'' 19 CFR § 353.28(d). The first error that POSCO alleged was the Department's failure to reflect in its margin calculations the methodology explicitly stated in the final results with regard to the deduction from U.S. price of one-half of the POSTRADE markup. *See* the May 2, 1997, memorandum from Steve Bezirganian for John Kugelman. We agree with POSCO that this constituted a ministerial error as defined by 19 CFR § 353.28(d), and have corrected the error in question.

The Department has determined that the other five ministerial errors alleged by POSCO are not ministerial errors. *See* the May 2, 1997, memorandum from Steve Bezirganian for John Kugelman. Therefore, we did not amend the final results on those five points.

Amended Final Results of Review

As a result of the correction, we have determined that the following *de minimis* percentage weighted-average margins exist for the period August 1, 1994 through July 31, 1995:

Manufacturer/producer/exporter	Weighted-average margin (percent)
Certain Cold-Rolled Carbon Steel Flat Products	
POSCO	0.49
Certain Corrosion-Resistant Carbon Steel Flat Products	
POSCO	0.09

The Department shall determine, and the United States Customs Service shall assess, antidumping duties on all appropriate entries. The Department shall issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements shall be effective, upon publication of this notice for all shipments of the subject merchandise from Korea that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, as provided by section 751(a)(1) of the Tariff Act of 1930, as amended (''the Act''): (1) The cash deposit rates for POSCO and the collapsed companies (POCOS and PSI) shall be zero percent; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate shall continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, or the original investigations, but the manufacturer is, the cash deposit rate shall be that established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews, the cash deposit rate will continue to be 14.44 percent (for certain cold-rolled carbon steel flat products) and 17.70 percent (for certain corrosion-resistant carbon steel flat products), which were the ''all others'' rates in the LTFV investigations.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

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

This notice also is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR § 353.34(d). Failure to comply is a violation of the APO.

These amended final results of administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. § 1675(a)(1)) and 19 CFR § 353.28(c).

Dated: June 13, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–16244 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–805]

Extruded Rubber Thread From Malaysia, Final Results of Antidumping Duty Administrative Review

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

SUMMARY: On December 10, 1996, the Department of Commerce (the Department) published in the **Federal Register** its preliminary results of the administrative review of the antidumping duty order on extruded rubber thread from Malaysia (61 FR 65019). This review covers Heveafil Sdn. Bhd. (''Heveafil''), Rubberflex Sdn. Bhd. (''Rubberflex''), Filati Lastex Elastofibre (Malaysia) (''Filati''), Rubfil Sdn. Bhd. (''Rubfil'') (collectively ''respondents''), manufacturers/exporters of the subject merchandise to the United States. The period of review (POR) is October 1, 1994 through September 30, 1995. We gave interested parties an opportunity to comment on our preliminary results. Petitioner and respondents submitted case briefs on March 10, 1997 and rebuttal briefs on March 17, 1997. Respondents requested a hearing on January 2, 1997, but later withdrew their request for a hearing. Therefore, we have based our analysis on the comments received, and have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or James Terpstra, AD/CVD Enforcement Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4740 or (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

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

Background

On October 7, 1992, the Department published in the **Federal Register** (57 FR 46150) the antidumping duty order on extruded rubber thread from Malaysia. On October 30, 1995, the petitioner, North American Rubber Thread, requested that the Department conduct an antidumping administrative review for the following producers and exporters of extruded rubber thread: Heveafil Sdn. Bhd (''Heveafil''), Rubberflex Sdn. Bhd. (''Rubberflex''), Filati Lastex Elastofibre (Malaysia) (''Filati''), and Rubfil Sdn. Bhd (''Rubfil''). On October 31, 1995, these same producers and exporters requested to be reviewed. On November 16, 1995, we published a notice of initiation of an administrative review of this order for the period October 1, 1994, through September 30, 1995 (60 FR 57573), for the following producers and exporters of extruded rubber thread: Heveafil, Rubberflex, Filati, and Rubfil. We conducted a vertification of Rubberflex in Malaysia from September 23, 1996 until October 5, 1996, and of its U.S. affiliate in Hickory, North Carolina from October 16 to 18, 1996. Our preliminary results of review were published in the **Federal Register** on December 10, 1996 (61 FR 65019). Petitioner and all respondents filed case briefs on March 10, 1997 and rebuttal briefs on March 17, 1997. The Department has now completed this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

The product covered by this review is extruded rubber thread. Extruded rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inch or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter. Extruded rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and U.S. Customs purposes. Our written description of the scope of this review is dispositive.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from North American Rubber Thread (petitioner), and Rubberflex, Rubfil, Heveafil and Filati (respondents).

Facts Available for Rubberflex

We found that responses provided by Rubberflex could not be verified within the meaning of section 776(a)(2)(D) of the Act, and that the complete verification failure renders the response unusable under section 782(e) of the Act. For a significant portion of the cost and expense items reviewed at verification, the information provided in the questionnaire response was inaccurate or could not be verified. This includes, but is not limited to, indirect selling expenses, overhead, selling, general and administrative (SG&A) expenses, labor, materials, rebates, corporate structure, and the completeness of U.S. sales reporting. For numerous items, Rubberflex attempted to present revised information at verification. However, Rubberflex failed to disclose the numerous errors in its response prior to, or at the start of verification, as repeatedly requested by the Department. Rather, Rubberflex attempted to present its new information in a piecemeal manner, often late in the verification. This effectively precluded the Department from having adequate time to evaluate the scope and magnitude of the changes. Accordingly, we determined that Rubberflex failed to demonstrate the completeness and accuracy of its questionnaire response at verification and thus has failed verification.

As discussed in comments 1 through 26 below, we carefully reviewed Rubberflex's arguments in light of the verification report and the supporting verification exhibits. This analysis reveals that Rubberflex's brief systematically mischaracterizes, and seeks to minimize the importance of, all of the myriad problems encountered at verification. As described below, as in the preliminary results of review, we find that, pursuant to sections 776(a) and 782(e) of the Act, the errors and problems found at verification render Rubberflex's questionnaire response unusable for purposes of calculating a margin.

Where a party provides information requested by the Department but the information cannot be verified as required by section 782(i) of the Act, section 776(a)(2)(D) of the Act requires the Department to use facts otherwise available in reaching the applicable determination. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all the applicable requirements established by the Department if: (1) the information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

In this case we have determined that the information submitted could not be verified and that Rubberflex did not act to the best of its ability. Moreover, using Rubberflex's information would create undue difficulty. Verification revealed numerous errors in Rubberflex's information. Using this information would require the Department to use information it knows is incorrect, unverified or both. At verification, we determined that a substantial portion of the information submitted by Rubberflex was incorrect and we were not always able to determine the correct information for every error found at verification. Thus, any attempt to use Rubberflex's data, in whole or in part, would be unduly difficult. Accordingly, we must decline to consider information submitted by Rubberflex.

Moreover, we determine that, pursuant to section 776(b) of the Act, Rubberflex did not cooperate to the best of its ability to comply with our requests for information and therefore we are using adverse facts available to determine Rubberflex's margin. Such adverse inferences may include information derived from: (1) the petition, (2) a final determination in the investigation, (3) any previous review under section 751 of the Act of determination under section 753 of the Act, or (4) any other information placed on the record.

In selecting a margin would be sufficiently adverse, we considered Rubberflex's degree of cooperation and the nature of the deficiencies detected at verification. Further, we note that Rubberflex's normal audit cycle coincided with verification in such a way as to hamper Rubberflex's preparation for the verification of certain items. In selecting a facts available margin which is appropriate in light of these circumstances, we determine that (as we did in our preliminary results) that 20.38 percent, which is Rubberflex's highest rate from a prior segment of this proceeding, is sufficiently adverse to encourage full cooperation in future segments of the proceeding. Moreover, this rate has

probative value because it is Rubberflex's calculated rate from the less than fair investigation. Furthermore, there is no evidence on the record indicating that this selected margin in not appropriate as adverse facts available (*see, e.g., Antifriction Bearings (Other than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore and the United Kingdom; Final Results of Antidumping Duty Administrative Review,* 62 FR 2081, 2088 (January 15, 1997)).

Section 776(c) of the Act requires the Department to corroborate secondary information used as facts available to the extent practicable. Secondary information is information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. The Statement of Administrative Action, H.R. Doc. 316, Vol 1, 103d Cong., 2d Sess. 870 (1994), (''SAA'') provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870). Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. However, unlike other type of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is an administrative determination . After reviewing the record, we are satisfied that this rate has probative value because it is Rubberflex's calculated rate from the less than fair value proceeding. Thus, we have determined that information and inferences which we have applied are reasonable to use under the circumstances of this review. See SAA at 869. Further, there is no reliable evidence on the record indicating that this selected margin is not appropriate as adverse facts available. (*See,* e.g., *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (February 22, 1996).

Comments Concerning Rubberflex

Rubberflex argues that the Department was not justified in disregarding its responses and assigning facts available in the preliminary results. Rubberflex contends that the Department verified Rubberflex's questionnaire responses, and that, at most, the Department should use partial facts available for certain aspects of its dumping calculations. Rubberflex made numerous detailed arguments refuting and rebutting the Department's preliminary results, verification report, and verification failure memo. We have addressed these to the greatest extent practicable in this notice. However, many of the comments are extremely detailed and many can only be completely addressed by reference to proprietary data. Accordingly, we addressed each comment in complete detail in a proprietary analysis memorandum to the file dated June 9, 1997.

Comment 1: Reconciliation of Sales, Profit and Expenses.

Rubberflex maintains that it provided the Department with a reconciliation of its calendar year 1994 and 1995 trial balances to the appropriate audited, consolidated financial statements at verification. Rubberflex states that, contrary to the verification report, total sales, profit, financing expenses, and indirect selling expenses were reconciled to the audited financial statements.

DOC Position: We agree that Rubberflex was able to reconcile its audited financial statements to its trial balance for the above-mentioned figures. We disagree that this had any bearing on the verification of specific items. This reconciliation was not what was requested of them at verification. Rubberflex voluntarily provided all of this information in response to the Department's request that it demonstrate that the indirect selling expenses reported in the revised response provided at verification tied to the audited financial statements. Rubberflex did not demonstrate that the figures reported in its revised response for indirect selling expenses and G&A tied to its audited financial statements.

Comment 2: Reconciliation of Rubberflex's Affiliates' Financial Statements.

Rubberflex disputes the Department's determination that its home market indirect selling expenses did not reconcile to its current financial statement due to the fact that indirect selling expenses incurred in Rubberlex's U.K. and German branch offices (expenses which account for differences between the home market indirect selling expenses and the financial statement) could not be verified. Rubberflex contends that during verification it demonstrated how total sales, expenses, and profits of the U.K. and German branches accounted for differences between consolidation totals and totals for Rubberflex in Malaysia. Further, Rubberflex claims that it should not be held accountable for providing original copies of the auditors' consolidation worksheets in the short time permitted at verification. Rubberflex also contends that it stressed during verification that information involving its U.K. and German branches could only be accurately verified on site in those particular countries.

DOC Position: We disagree. It is one of the primary requirements of verification that a company is required to tie the information in its questionnaire response to its audited consolidated financial statements. Rubberflex failed to do so at verification. Rubberflex is essentially arguing that we should accept their attempt, but ultimate failure. We disagree. Given the circumstances of this review, where Rubberflex provided numerous, inadequately explained or documented, revisions to its questionnaire response, Rubberflex's failure in this regard undermines the entire verification.

Comment 3: Home Market Sales List.

Rubberflex states that verification demonstrated that all home market sales were correctly reported and traced through the accounting records. In addition, Rubberflex maintains that the Department found that Rubberflex's date-of-sale methodology accurately reflected the date that all material terms of the sale were established and that all credit memos for returned and defective merchandise were accurately reported.

DOC Position: We agree with Rubberflex in general that the home market sales list verified. The verification report identifies the minor discrepancies noted.

Comment 4: Home Market Movement Expenses.

Rubberflex states that the verification report indicates that home market movement expenses were traced to the general ledger and that all freight expenses were properly accounted for. Further, Rubberflex argues that the Department confused the facts in this review with verification difficulties regarding home market movement expenses in the 1993/1994 administrative review and that this confusion resulted in the Department's erroneous decision to use adverse facts available on issues relating to another review.

DOC Position: We agree with Rubberflex's characterization of the verification of home market movement expenses. We disagree that any of the information presented in the 1993–1994 review influenced the use of adverse facts available in the instant review.

Comment 5: Home Market Credit Expenses.

Rubberflex states that its original response contained the information needed to calculate home market credit expenses and that this response was neither revised nor found to contain any significant errors during verification. Rubberflex states that the one clerical error found by the Department at verification resulted in an increase to the short-term interest rate.

DOC Position: We agree with Rubberflex that we found only small clerical error at verification which resulted in an increase to the short-term interest rate. However, we disagree that this was the only error found at verification. We also found that Rubberflex failed to include certain expenses related to export credit refinancing (ECR) expenses in its calculation of the interest rate used to impute credit expenses on home market sales.

Comment 6: Home Market Packing Expenses.

Rubberflex claims that at the beginning of verification, it disclosed to the Department that it had erroneously allocated the cost of all factory workers' benefits in the category of fixed overhead costs, rather than allocating that cost among direct labor costs, fixed overhead costs, and packing labor costs. Rubberflex stated that a corrected worksheet reflecting this reallocation was submitted to the department at the beginning of the cost verification, and subsequently verified. Rubberflex contends that a comparison of the original to the corrected worksheets reveals only minor changes in the calculation of packing labor costs. Further, Rubberflex also contends that it submitted an additional worksheet which proved that the reallocation did not affect the total cost of production (COP) or constructed value (CV).

DOC Position: We agree with Rubberflex that we found only minor discrepancies in Rubberflex's calculation of packing material and labor. However, we disagree that Rubberflex presented any documentation at the beginning of verification to demonstrate what changes it made to the classification of labor expenses in its sale and cost response. Rubberflex did make a general oral statement that it had reallocated some labor costs across packing, indirect overhead and factory labor, but it did not spell out those changes. The Department then directly and repeatedly requested Rubberflex to provide this information in writing, which it said it would do. However, Rubberflex failed to report any of its changed allocations until each subject arose in the course of the verification.

Comment 7: Home Market Indirect Selling Expenses.

Rubberflex states that the worksheets provided in its questionnaire response regarding home market indirect selling expenses and general and administrative expenses (G&A) were based on its auditor's presentation of G&A expenses, which in turn were based on Rubberflex's trial balance and general ledger. Rubberflex contends that the titles of the concepts listed in the auditor's presentation did not always relate directly to the titles of the accounts used by Rubberflex in the ordinary course of business because the auditor collapsed several accounts into a single concept. Rubberflex further contends that while preparing for verification, it discovered that the worksheets in its response required two corrections. However, Rubberflex maintains that: (1) it disclosed these changes on the first day of verification, (2) the Department reviewed these revisions, and (3) these revisions were tied to the financial statements.

DOC Position: As we explained in the *Facts Available for Rubberflex* section of this notice and the Department's position to Comments 1 and 2, Rubberflex failed to demonstrate that it reported all of the appropriate indirect selling expenses and G&A expenses to the Department, despite three separate submissions, and that it failed to tie the reported expenses to its audited financial statements. It failed to provide a worksheet, or any other type of document, reconciling the ''titles and concepts'' used in its trial balance to those on the audited financial statements. (*See* page 2 of the Department's December 12, 1996 memorandum concerning the verification failure for Rubberflex.) Therefore, Rubberflex failed to demonstrate that it included all appropriate indirect selling expenses and G&A expenses in its revised exhibit, and that those expenses tied to the total amount of expenses recorded for Rubberflex Malaysia on Rubberflex's financial statements.

Comment 8: U.S. Sales Listing.

Rubberflex contends that it demonstrated at the verification in Malaysia that (1) all export price (EP) sales entered into the United States during the review period were reported; (2) it accurately reported the date of sale for EP sales as the Malaysian bill of lading date; and (3) it accurately reported foreign inland freight, packing, indirect selling expenses, brokerage and handling, international freight and marine insurance pertaining to U.S. sales that were incurred in Malaysia.

DOC Position: We disagree with Rubberflex's characterization of the portion of the U.S. sales verification which took place in Malaysia. At the Malaysian portion of verification, Rubberflex showed that it reported all entries into the United States during the period of review and that it used the Malaysian bill of lading date as the date of sale for EP sales, including certain ''consignment'' sales. However, our review of Rubberflex's U.S. sales reporting during the U.S. portion of the verification revealed a great deal of confusion concerning the date of sale and the accuracy of the computer sales listing. Rubberflex was unable to demonstrate that the price, quantity and date of sale were accurately reported on the computer sales listing. In Malaysia, and in the questionnaire response, the date of sale for all EP sales was identified as the Malaysian bill of lading date. However, in the United States, company officials stated that for certain consignment sales, Rubberflex used the date on which the rubber thread is withdrawn from Rubberflex's customer's inventory as the date of sale. Thus, the questionnaire response, and the Malaysian verification findings, were contradicted. Moreover, because Rubberflex failed to indicate on its computer tape which sales were consignment sales, it was not possible to know what date of sale was operative for any of the sales listed on the computer tape.

With respect to the accuracy of the other expenses: (1) the problems with foreign inland freight and indirect selling expenses are discussed elsewhere, and (2) we found only minor discrepancies with ocean freight, marine insurance or brokerage and handling.

Comment 9: The Total Volume and Value of EP and Constructed Export Price (CEP) Sales.

Rubberflex argues that the Department was able to reconcile the quantity and value of Rubberflex's sales to the response after certain adjustments were made at the U.S. verification. Rubberflex contends that, at the U.S. verification, Rubberflex provided worksheets that traced the reported quantities and values of the U.S. sales to Rubberflex's audited financial statements.

DOC Position: We disagree. The verification report establishes that Rubberflex was never able to conclusively demonstrate that its U.S. sales were correctly reported. Rubberflex was not able to demonstrate the validity of the information provided on the computer tapes by the end of the verification.

As Rubberflex explains in its case brief, it presented a reconciliation of the

volume and value of sales from its financial statements to the response. We found a number of clerical errors and omissions, such as credit memos that were initially omitted from the reconciliation exercise because they were omitted from the response. We found that: (1) certain sales were reported in two review periods; (2) others were misclassified between EP and CEP sales; (3) the date of sale for certain EP sales was misreported; and (4) Rubberflex could not reconcile its credit memos to the specific line items on the computer tape. Given that we found errors in almost every phase of the numerous attempted reconciliations of U.S. sales, it is not accurate to claim, as does Rubberflex, that the quantity of U.S. sales was in any way reconciled completely. Consequently, we found that these errors and omissions undermined the integrity of the response and made the computer tape unusable for the purpose of calculating a margin.

Comment 10: Date of Sale Methodology for U.S. Sales in the 1993–1994 Review.

Rubberflex notes that the Department's December 12, 1996 memorandum stated that ''Rubberflex failed to use the appropriate date of sale methodology for purchase price sales in the 1993–1994 review.'' Rubberflex contends that the date of sale issues relating to the 1993/1994 review were erroneously considered in the Department's determination to use ''adverse facts available'' in the 1994–1995 review.

DOC Position: We note that the December 12, 1996 memorandum applied both to the 1993–1994 and the 1994–1995 reviews. In the example cited by Rubberflex, the Department identified that the date of sale issue applied clearly to the 1993–1994 review, based on the evidence on the record in that segment of the proceeding. Rubberflex is incorrect that such information was considered in our determination to use ''adverse facts available'' in the instant review. The Department's determination in the instant review is based only on information pertaining to the 1994–1995 period of review.

Comment 11: Review Classification According To Date of Entry.

Rubberflex states that its inadvertent error of classifying 37 sales under two different review periods can be easily rectified, and should not form the basis for the assignment of total facts available. Rubberflex disputes the Department's contention that Rubberflex was not able to state with any clarity for which review the 37 sales should have been reported. Rubberflex claims that the Department verified the entry dates for the sales in question and noted no discrepancies. Therefore, Rubberflex requests that the Department revisit this issue and reclassify those 37 sales into the appropriate review period according to date of entry.

DOC Position: At verification, Rubberflex was unable to appropriately classify all of its sales to the United States with regard to review period and type of sale (export price (EP) or constructed export price (CEP)). We asked Rubberflex to properly classify 37, of the approximately 125 EP sales, that we found reported in both reviews. Rubberflex claimed that all consignment sales should be classified in the 1994–1995 review. However, this classification did not coincide with the narrative of its response which indicated that it used the Malaysian bill of lading date as the date of sale. Some of these consignment sales had U.S. entry dates which occurred during the 1993–1994 review. Therefore, since the U.S. entry date always follows the bill of lading date in Malaysia (since the ship arrives in the U.S. after it leaves Malaysia), these sales could not properly be classified in the 1994–1995 review. When the Department tried to examine the rest of the computer sales listing for the treatment of the date of sale in consignment sales, it found that Rubberflex did not indicate which sales were consignment sales on the computer sales listing submitted to the Department. Consequently, the Department cannot determine whether the rest of the sales reported on the computer tape were appropriately classified with respect to review period, and therefore, we have no basis by which to accurately reclassify these 37 sales or to verify the accuracy of respondent's classification of the remaining U.S. sales as reported by respondent.

We note again that it is Rubberflex's responsibility, not the Department's, to prepare the questionnaire response. The errors we found at verification in the preparation of Rubberflex's U.S. sales data were so wide-spread and pervasive that the Department could not ensure that any of the reported information was correct unless we were to undertake the task of reconstructing the questionnaire response ourselves.

Comment 12: CEP and EP Sales.

Rubberflex disputes the Department's determination that it misreported or duplicated the reporting of certain sales (*i.e.*, certain sales classified as both CEP and EP). Rubberflex explains that it clarified during verification the reason why certain invoices were referenced under different review periods and classified under different U.S. databases. As an example, Rubberflex states that sales must be reported under various U.S. classification because certain consignment sales and sales made out of inventory normally result in a number of invoices issued by the U.S. affiliate, whereas the container corresponding to those sales is recorded in Rubberflex's books as a single invoice. Moreover, Rubberflex claims that during verification, the Department examined a few invoices having similar circumstances and indicated its satisfaction with Rubberflex's explanations, and did not request to view additional invoices. Rubberflex contends that it properly reported all U.S. sales.

Petitioner contends Rubberflex misstates the standard for when sales are EP versus CEP. If a subsidiary is fully responsible for setting the terms of the sale (as Rubberflex's U.S. subsidiary is for all U.S. sales), that alone makes the sales CEP sales according to *Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China*, 62 FR 9171, 9171–72 (February 28, 1997) (Comments 14 and 16).

DOC Position: We disagree with Rubberflex. the verification report states that company officials were confused about the classification of Rubberflex's U.S. sales with respect to CEP and EP and with respect to review period. At the conclusion of the verification, company officials were still unable to determine which sales should or should not be reported, or whether they were EP or CEP sales.

Comment 13: Credit Memos in the U.S. Market.

Rubberflex contends that the Department overstates the impact of the omitted credit memos during the POR. Rubberflex claims that its U.S. affiliate identified the omitted credit memos, most of which had no effect on unit price, and thus no effect on dumping margins of any U.S. sales. Rubberflex disputes the Department's determination that the omitted credit memos made it impossible to tie the U.S. sales listing to the U.S. affiliate's financial statements.

DOC Position: We disagree. Rubberflex reported the U.S. price and quantity net of credit notes, despite instructions in the questionnaire to record price and quantity adjustments separately. Therefore, it is not possible to determine which sales have price and quantity adjustments attributed to them by examining the computer tape.

At verification, Rubberflex was unable to reconcile the credit memos to the

computer sales listing. First, Rubberflex failed to have its reconciliation (via the mechanism of credit memos) of the EP sales value from the financial statements to the response prepared at the beginning of the verification. Secondly, Rubberflex initially failed to report all of its credit memos with respect to CEP sales on the reconciliation from the financial statements to the computer sales listing. Further examination revealed that Rubberflex had also failed to revise the computer sales listing to account for these missing credit memos. Finally, Rubberflex company officials in the United States stated that they did not know how to tie the credit memos listed in the verification exhibit 52 to the questionnaire responses since Rubberflex company officials in Malaysia prepared that portion of the response.

Comment 14: Corrected Worksheets Should Be Part of the Record.

Rubberflex contends that given the time constraints, it was unable to present corrected worksheets on the first day of verification, and therefore, those worksheets, which Rubberflex contends were subsequently submitted and verified, should not be disregarded. Rubberflex disputes the Department's finding that it had no worksheets to demonstrate how the original responses were prepared or why they were changed or what the relationship was between the original and revised submissions. Rubberflex contends that corrected worksheets were submitted during verification, are referred to in the Department's verification report and are found in the verification exhibits. Rubberflex states that a side-by-side comparison of the original to the revised worksheets clearly reveals the relationship between the documents.

Rubberflex also contends that on the first day of verification, it suggested to the Department that any corrected worksheets be included as part of the verification exhibits normally submitted after verification and that the Department did not object to its proposal. Rubberflex also states that it repeatedly requested to submit revised computer tapes to reflect corrections it claims to have presented during the beginning of verification. However, Rubberflex claims that the Department never responded to its request.

Petitioner emphasized that Rubberflex did not submit to the Department a listing of reporting errors at the commencement of verification, nor was petitioner served such a list, as required by the Department's regulations. Petitioner contends that Rubberflex's claim that the Department was advised at the commencement of verification of certain errors in its submissions should be of no consequence.

DOC Position: As stated in our preliminary results, we found that the responses provided by Rubberflex could not be verified. The inaccuracies which render the response unusable for purposes of margin calculations include the fact that Rubberflex attempted to provide revised questionnaire responses at verification for home market indirect selling expenses, direct labor and packing labor expense, variable overhead and cost of goods sold; for these same expenses Rubberflex could not demonstrate how the original response was supported by documentation, nor could it document the difference between the original and revised submission for these items.

Rubberflex failed to provide written disclosure of changes made to its questionnaire response on the first day of verification, although it was asked to do so. Rather, it provided verification exhibits which constitute revised questionnaire responses throughout the course of the verification. Rubberflex also failed to explain and/or quantify the effects of these revisions, rending the Department unable to assess the significance or impact of these changes. As we stated in *Elemental Sulphur From Canada: Preliminary Results of Antidumping Duty Administrative Review,* 62 FR 969, 970 (January 7, 1997), the Department can accept new information at verification only when (1) the need for that information was not evident previously, (2) the information makes minor corrections to information already on the record, or (3) the information corroborates, supports, or clarifies information already on the record.

Rubberflex states in its brief that it submitted such revisions at the beginning of the verification. This is directly contradicted by the facts on the record. There were 38 verification exhibits covering the verification in Malaysia. The document concerning packing cost is exhibit number 18, that regarding direct labor is exhibit number 22 and that regarding fixed overhead is exhibit number 33. As such, the record clearly demonstrates that the information was provided piecemeal, and late in the verification exercise.

We also disagree with Rubberflex's contention that the Department engaged in any discussion whatsoever during verification concerning a ''suggestion'' that Rubberflex file any corrected worksheets with the exhibits normally filed after verification. We further disagree that Rubberflex engaged in any discussion what ever concerning the provision of a revised computer tape. Given the pervasive errors and changes made to the questionnaire response and the difficulties verifying those changes, the Department has no reason to believe that a new computer tape, submitted after verification, would accurately represent the changes to the response that were presented during the verification. Under the circumstances of this case, the Department would undermine its purpose in verifying the questionnaire response by accepting such new information after verification.

Comment 15: Corporate Structure.

Rubberflex disputes the Department's finding that Rubberflex failed to identify the owners of its company and the existence of an affiliated European company. Rubberflex claims that it demonstrated the identify of its parent company through its ''annual return'' to the Government of Malaysia which reports information regarding its shareholders and directors. Further, Rubberflex contends that it tied the shareholdings from the ''annual return'' to a corporate structure worksheet provided in its response.

In addition, regarding any European affiliates, Rubberflex contends that it could not provide documentation regarding the sale of these companies, which it explained to the Department at verification. Rubberflex further states that, regardless, the sale of affiliated European resellers have no relevance to Rubberflex's sales verification in the home and U.S. markets.

DOC Position: We disagree with Rubberflex that corporate structure was adequately verified. Rubberflex provided new information at verification by introducing the existence of a previously unreported corporate owner. We asked Rubberflex to provide information regarding whether this company had any affiliation with Rubberflex's customers or suppliers. However, Rubberflex declined to produce such information. Rubberflex merely stated, as it does in its case briefs, that the affiliated European resellers have no relevance to Rubberflex's sales in the home market and the United States. Consequently, the Department was unable to satisfy itself regarding whether any related-party sales, loans, equipment purchases or raw material purchases occurred during the POR. As the U.S. Court of International Trade stated *Krupp Stahl A.G.* v. *United States,* 17 CIT 450; 822 F. Supp. 789, 792 (1993), it is inappropriate for respondents to limit or control which information they present to the Department in a way that it impedes the Department's ability to confirm the accuracy of the questionnaire response or forces the

Department to use information most beneficial to them.

Comment 16: Direct Material Costs.

Rubberflex claims that the Department verified the direct material costs used in its cost of production (COP) and constructed value (CV) submissions. Rubberflex contends that the Department examined the following steps Rubberflex used to calculate the direct material costs: (1) the compound recipes of direct materials latex and chemicals used as the basis for determining product-specific cost of productions for all types of rubber thread; (2) the budgeted costs used to derive the standard per-unit costs; (3) the actual cost of materials used; and (4) the variance between standard and actual material costs. Rubberflex argues that the Department verified the steps by examining batch records (computer listings which aggregate a number of invoices that will appear as a single line item in the general ledger), testing inventory formulas, and determining that Rubberflex accurately captured and reflected all direct material costs incurred during the review period.

Rubberflex notes that the Department questioned the budgeted costs because they were derived in 1991 and differed from the weighted-average costs of materials in inventory. Rubberflex stated that these budgeted costs had not been revised since 1991 because they were still a reasonable estimation of the costs of the various materials used to produce rubber thread and none of the costs had changed significantly. Rubberflex argues that the budgeted costs are a reasonably accurate tool for predicting costs over time.

DOC Position: We disagree with Rubberflex that per-unit direct materials cost was verified. We did verify the total material cost during the POR as well as the actual quantity of materials used. However, neither of these figures alone is sufficient to calculate the per-unit cost reported in the questionnaire response. Rubberflex reported its per-unit material cost by multiplying actual material used per product by standard material prices to arrive at a standard cost. To calculate a variance Rubberflex calculated the total material cost at standard; it then made a factory-wide adjustment for the difference between total actual material cost and the total material cost at standard. This methodology is not, in itself, a problem.

There are two problems which arise from Rubberflex's use of the 1991 standard prices. The first is that Rubberflex was unable to substantiate how those prices were calculated in 1991 and what those figures represent. Therefore, it is not possible to evaluate the accuracy of the per-unit cost calculations. Rubberflex made no attempt to demonstrate that these prices were reasonable, or that the use of 1991 prices to calculate costs for 1995 products was non-distortive.

The second problem is that the 1991 standard prices presumably reflect the relative prices sometime prior to that time. However, these relative prices have changed. As the verification report on page 16 states, we compared the 1991 standard prices with the actual POR prices and found that the prices of individual materials increased or decreased at different rates. Because each product uses a different mix of materials, the cost of producing each different product would change relative to the cost of other products produced in the factory. However, by applying as a factory-wide variance the total actual material cost as compared with the 1991 standard prices, Rubberflex reported per-unit material costs failed to account for the changes in the relative costs. Thus, these costs are inaccurate.

Comment 17: Direct Labor Costs.

Rubberflex contends that the Department verified its labor costs in full. Rubberflex argues that it used the following steps to calculate the direct labor costs reported in its COP/CV submissions: (1) calculate actual direct labor cost per minute of production by dividing total direct labor costs during the review period by the total production time during the review period; (2) allocate the cost per minute to specific products based on the standard number of minutes required to produce particular types of rubber thread; and (3) adjust the product-specific costs calculated using the standard yield for the variance between actual and predicted factory operation.

Rubberflex notes that at the beginning of verification, it disclosed certain minor revisions, and provided a corrected worksheet, to the Department. Rubberflex claims that a side-by-side comparison of the original and corrected worksheets reveals only minor corrections. In order to verify the corrected worksheet, Rubberflex states that it traced all of the reported expenses to its trial balance, and traced from the trial balance to the general ledger and relevant source documentation.

DOC Position: We agree that Rubberflex followed the method it outlined to determine direct labor expenses. However, we disagree with Rubberflex's characterization that these expenses were fully verified. *See DOC Position* to comment 14. Rubberflex failed to clearly demonstrate the impact of these changes on the calculations in the questionnaire response. For example, Rubberflex contends that the revised data was merely a reclassification. Despite the fact that much of Rubberflex's explanation is *post hoc*, their own exhibits belie their assertions. An examination of the exhibits placed side-by-side in exhibit 3 of Rubberflex's brief reveals numerous and significant differences in the exhibits, differences not explained at verification nor in the case brief.

A second problem arose during the verification of labor expenses. As we explain on pages 13 of our February 14, 1997 verification report, Rubberflex failed to provide the original source documentation for managerial labor, despite the Department's request, thus ''placing control . . . in the hands of uncooperative respondents who could force Commerce to use possibly unrepresentative information most beneficial to them.'' *Krupp Stahl*, 822 F. Supp. at 792.

Comment 18: Variable Overhead Costs.

Rubberflex contends that at the beginning of verification, it disclosed to the Department two minor errors concerning its variable overhead costs: (1) Rubberflex reported the salary of the factory supervisor and manager as variable overhead costs, rather than fixed overhead costs; and (2) certain components of variable overhead needed to be corrected to reflect year-end adjustments. Rubberflex stated that a corrected worksheet reflecting this reallocation was submitted to the Department during the cost verification. Rubberflex claims that a side-by-side comparison of the original and corrected worksheets reveal only minor changes. Rubberflex states that the costs were verified by the Department and that final expense figures used were appropriately recorded in monthly accounts, according to the Department's verification report. In addition, Rubberflex states that these minor changes were necessitated by adjustments made by the auditors after performing a physical inventory of materials.

DOC Position: We disagree. *See DOC Position* to comment 14.

Comment 19: Fixed Overhead Costs.

Rubberflex contends that at the beginning of verification, it disclosed to the department several minor errors concerning its fixed overhead costs: (1) Rubberflex reported the salary of the factory supervisor and manager as variable overhead costs, rather than fixed overhead costs; (2) the cost of all benefits for workers in the factor was included in fixed overhead cost, rather than being allocated among direct labor

costs, fixed overhead costs, and packing labor costs; and (3) Rubberflex's auditor made a provision for writing-off finished goods inventory, which did not exists at the time of the original questionnaire response. Rubberflex stated that it provided a corrected worksheet reflecting this reallocation during the cost verification. Rubberflex contends that the magnitude of any corrections made with regard to the original worksheet were minor. Rubberflex contends that the Department verified the corrected worksheet by tracing expense amounts to source documents, the trial balance and the general ledger.

DOC Position: We disagree. *See DOC Position* to comment 14.

Comment 20: Depreciation.

Rubberflex claims that the Department verified the reported depreciation figures by tracing the figures to the trial balance, general ledger, asset schedules, and selected purchase invoices for assets. Rubberflex disputes the Department's finding in the verification report that it could not rely on the accuracy of reported depreciation expense due to the fact that the ''original cost basis'' for certain assets acquired prior to 1990 could not be traced to the appropriate asset schedule in the year of purchase. Rubberflex justifies its inability to produce ''original cost basis'' information on certain assets by claiming that: (1) it is unreasonable for accounting or tax purposes to maintain accounting documents for more than five years, particularly where Malaysian tax authorities do not require the retention of these documents for that period of time; (2) Rubberflex was not notified that such documents may be needed for verification purposes; and (3) the Department traced the annual depreciation for assets purchased before 1990 to trial balances and asset schedules for fiscal years 1993, 1994, and 1995, and could plainly see that the assets were being depreciated in a systematic manner, which was reviewed and approved by its auditors. Therefore, Rubberflex claims that its inability to provide original asset schedules for years prior to 1990 does not provide grounds for the Department to question the accuracy of the reported costs.

DOC Position: We disagree with Rubberflex that its inability to provide original asset ledgers for certain items requested is not a verification problem. The verification report specifies that we became aware that Rubberflex purchased certain major pieces of capital equipment from an affiliated party. Examples of these purchases are recorded on verification exhibit 36. Page 18 of the verification report notes that we attempted to determine whether the transfer price of such equipment, and the associated depreciation expenses, represented arm's-length transactions. Rubberflex failed to provide information responsive to our request. Thus, we were unable to satisfy ourselves in this regard.

We agree that Rubberflex reported the depreciation expenses on its books and records, which were audited and in accordance with Malaysian GAAP. Normally we use the costs and expenses recorded on the company's books and records, provided that we are satisfied that such costs are non-distortive. In this case, we had reason to question whether the depreciation expenses recorded on Rubberflex's books where under- or overstated (*i.e.* distortive) by reason of an affiliated party transaction.

Finally, it is reasonable to request Rubberflex to document the figures that it used to record its depreciation expense on its books and records. Rubberflex depreciates certain machines and buildings for more than 5 years and reflects those figures on its books and records. It is standard verification practice to ask companies to demonstrate the figures, and to keep documentation supporting information submitted in an antidumping proceeding, for the purpose of verification. The U.S. Court of International Trade held in *Krupp Stahl,* 822 F. Supp. at 792, that, despite the fact that the German authorities did not require the company to maintain business records for more than five years, it did not absolve a respondent in an antidumping proceeding of the responsibility of providing source documents to support its questionnaire response.

Comment 21: General and Administrative (G&A) Expenses.

Rubberflex states that at the beginning of verification, it submitted a revised worksheet which properly captured certain G&A expenses. Some of these expenses were misclassified as G&A expenses in the original questionnaire response and, therefore, were not properly included in the worksheet for indirect selling expenses. Rubberflex further explains that it provided worksheets and source documentation which substantiated its allocation methodology with regard to indirect selling expenses and G&A expenses. Rubberflex contends that the Department traced the amounts shown in the revised worksheet to relevant trial balances, source documentation, and the general ledger.

DOC Position: We disagree, *See DOC Position* to comment 14. The G&A expenses in the original questionnaire response were presented in a different format from the G&A expenses in the revisions presented at verification, so direct comparisons are not possible. Rubberflex never presented a systematic explanation of how individual elements of G&A were affected by the revisions, nor how or why the total changed. Rather, as with variable overhead, the Department was left with insufficient time and information to evaluate the magnitude of the change. Again, this was a situation where a company's ''failure to reconcile its submitted costs to its normal books and records prevents us from quantifying the magnitude of the distortions which exist in its submitted data.'' *Certain Cut-to-Length Carbon Steel Plate From Sweden: Preliminary Results of Antidumping Duty/Administrative Review,* 61 FR 51898, 51899 (October 4, 1996) (the Department's position adopted in the final results of review, 62 FR 18396 (April 15, 1997)).

Finally, contrary to Rubberflex's assertion, it was unable to tie the specific line items from its revised worksheets to the audited financial statements. The fact that total profit, sales, and cost of goods sold (COGS) figures were traced is irrelevant. It is precisely the items which could not be traced—the components of G&A—which were under evaluation at verification.

Comment 22: Financing Expense.

Rubberflex states that while preparing for verification it discovered slight errors related to the amounts reported for bank charges and interest on bills refinanced. Rubberflex further states that these corrections were presented to the Department at verification and that it demonstrated the accuracy of the revised worksheet by tying the total financing expenses and interest received to the total expenses stated in the trial balance for financing expenses and interest received, respectively.

DOC Position: We disagree. *See DOC Position* to comment 14.

Comment 23: Conduct of the review.

Rubberflex contends that it fully cooperated under difficult circumstances during this proceeding and that the Department must bear a significant portion of the responsibility for any problems that arose at verification. In addition to the short preparation time given to Rubberflex prior to the verification, Rubberflex enumerates a list of Departmental procedural errors, which Rubberflex contends unfairly prejudiced its interests and resulted in the use of facts available in the preliminary results. According to Rubberflex, these procedural errors were due to the

Department's untimely handling of the case. Rubberflex stated that it did the best it could under these circumstances to cooperate fully and that it submitted its responses and verification exhibits in a timely manner, and prepared for the verification to the extent possible given the time available.

DOC Position: We agree with Rubberflex that there was a great deal of case activity within a relatively short period in 1996. However, we disagree that we unfairly prejudiced Rubberflex by our conduct of the case. The supplemental questionnaires for this and the prior review were relatively short and not overly demanding and Rubberflex was given adequate time to respond. The record reflects that Rubberflex was given several extensions of time to submit its data; in fact, Rubberflex was granted every extension request it made. Finally Rubberflex was given sufficient notice of the timing of verification, and the Department followed the same standard procedures, and issued a standard verification outline which was substantially similar for the verification of information in both the 1993–1994 and 1994–1995 review. These procedures were similar to those followed in the original investigation, when Rubberflex underwent verification. Thus, there is little evidence that the Department's conduct of the case placed an ''unreasonable'' burden on Rubberflex. Rather, in this case, as in virtually every case the Department conducts, the burden on respondents is to provide accurate and timely data which can be verified. To the greatest extent possible, the Department strives to be flexible with deadlines for respondents; ultimately, however it is respondents' responsibility to meet this burden. Nevertheless, we took into account Rubberflex's level of cooperation in this case in our selection of the appropriate facts available for Rubberflex's antidumping margin. *(See Facts Available for Rubberflex* section above.)

Comment 24: Rubberflex's Cooperation.

Rubberflex argues that the evidence on the record disputes the Department's assertion in the preliminary determination that Rubberflex failed to cooperate. Rubberflex contends that it timely filed its April 15, 1996 questionnaire response as well as its September 17, 1996 supplemental response. Further, Rubberflex argues that it prepared for verification to the best of its ability and prepared worksheets requested by the Department to the extent possible given the time constraints. Rubberflex states that in the second administrative review, the Department stated the Rubberflex ''cooperated throughout the administrative review by submitting questionnaire responses and with verification.'' Rubberflex argues that the level and quality of its participation in this review was precisely the same as the second review. Therefore, Rubberflex maintains that the Department cannot logically conclude that it did not cooperate in this review.

DOC Position: Rubberflex points to the Department's application in the preliminary results of the 1993–1994 review in this case of the second-tier ''cooperative'' BIA rate set forth in *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping duty Orders,* 60 FR 10900 (February 28, 1995) to argue that the Department's treatment in this review is inconsistent with that of the prior review. Contrary to Rubberflex's characterization, there is nothing inconsistent about the Department's treatment of Rubberflex in theses two administrative reviews. We explained in our *Notice of Preliminary Results of Antidumping Duty Administrative Review: Extruded Rubber Thread from Malaysia,* 62 FR 6758 (February 13, 1997), concerning the 1993–1994 administrative review, that Rubberflex cooperated throughout the review by submitting questionnaire responses and by participating in verification. However, we found that information could not be verified and thus resorted to BIA pursuant to section 776(b) of the Act. Although the degree of cooperation by Rubberflex in the two reviews is substantially the same, this final results is governed by the new statutory provisions concerning the use of facts otherwise available. As stated in our Preliminary Results, Rubberflex has not cooperated to the best of its ability.

Comment 25: Partial Facts Available.

Because of the arguments presented, Rubberflex claims that the application of a total adverse facts available is not warranted. Rubberflex contends that during verification, it tied all information submitted in its original response to its trial balance, and ultimately, to its audited financial statements. Further, Rubberflex emphasizes that because the Department verified virtually all of the submitted sales and cost data, the fact that a few minor errors disclosed at the commencement of verification should not provide the legal basis for the Department to disregard its entire response and resort to adverse facts available. Rubberflex cites to prior Departmental determinations in which the Department states that it will resort to facts available ''only for those specific items of the response that it was not able to verify.'' *See Notice of Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors from the People's Republic of China,* 62 FR 9160, 9167 (February 28, 1997); and *Certain Internal Combustion Industrial Forklift Trucks from Japan; Final Results of Antidumping Duty Administrative Review,* 62 FR 5592, 5594 (February 6, 1997). Rubberflex concedes that it did not submit an error-free response. However, Rubberflex states that minor errors and corrections were presented to the Department during verification. Rubberflex argues that the fact that some corrections were not presented on the first day of verification does not provide the Department reasonable grounds for disregarding them because Rubberflex was provided only two days for verification preparation. Therefore, in light of the above-mentioned circumstances, Rubberflex's cooperation in this review, and that Rubberflex's claims that the Department was able to verify its responses, Rubberflex argues that the Department does not have legal grounds to use adverse facts available.

Petitioner contends that because the Department determined during verification that Rubberflex's questionnaire responses were wholly deficient and unverifiable, Rubberflex should therefore be assigned a total facts available rate. Petitioner cites to the Department's Analysis Memorandum of December 12, 1996 and verification report, which document Rubberflex's uncooperativeness due to misreportings, inaccuracies and omissions of certain information. Petitioner therefore argues that the Department should assess a margin which corresponds to criteria outlined in the Department's Antidumping Manual; ''* * * when a substantial amount of a response does not verify, the Department will normally assign the highest margin for the relevant class or kind of merchandise among (1) the margins in the petition, (2) the highest calculated margin of any respondent within that country * * *'' See U.S. Department of Commerce, Antidumping Manual, July 1993, Ch. 6, at 3. Further, Petitioner disputes that Rubberflex's claimed errors are minor. Petitioner contends that Rubberflex's purported justification for such errors, which Rubberflex claims were the result of year-end accounting adjustments, are unsubstantiated, and unpersuasive. Petitioner contends that any year-end

adjustments should have been reported long before verification. Petitioner emphasizes that even minor errors would nevertheless generate an inaccurate margin calculation, which would place the U.S. industry at a disadvantage, given that extruded rubber thread is a commodity, price-sensitive product.

Petitioner emphasizes that Rubberflex did not submit to the Department a listing of errors at the commencement of verification, nor was petitioner served such a list, as required by the Department's regulations. Petitioner contends that Rubberflex's claim that the Department was advised at the commencement of verification regarding certain errors in its submission is therefore of no consequence.

DOC Position: We disagree with Rubberflex that the Department was able to verify Rubberflex's questionnaire response and tie all of the information provided in the original response to the trial balance, and ultimately to the audited financial statements. We have addressed this issue in the *Facts Available for Rubberflex* section of this notice.

Comments Concerning Other Respondents

Comment 26: CEP versus EP Sales.

The petitioner alleges that Heveafil's ''back-to-back'' sales are CEP, and not EP sales, as reported in the questionnaire response. The petitioner argues that the name ''back-to-back'' sales indicates that the U.S. subsidiary makes the sale and determines the price of the merchandise in the United States. Petitioner also notes that both Heveafil's and Filati's April 22, 1996 questionnaire responses indicate that the company's per-unit price is not fixed until the U.S. subsidiary issues the invoice to the U.S. customer. (Heveafil's response at page A–10 and Filati's response at page A–13.)

Petitioner further contends that the Department has found that sales made under circumstances like those made by Heveafil and Filati are CEP sales. Petitioner notes that in *Brake Drums and Brake Rotors from the PRC; Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 61 FR 53190, 53194 (October 3, 1996), the Department stated that the ''responsibilities of the U.S. affiliates go well beyond those of a processor of sales related documentation'' or a ''communication link'' and therefore designated the sales in question as CEP sales. Petitioners note that in *Certain Cold-Rolled and Corrosion-Resistant Carbon Steel Flat Products from Korea; Preliminary Results of Antidumping Duty Administrative Review,* 61 FR 51882, 51885 (October 4, 1996), the Department found it more appropriate to determine that sales were CEP sales where: the U.S. subsidiary was the importer of record and took title to the merchandise; the U.S. subsidiary financed the relevant sales transactions; and the U.S. subsidiary assumed the seller's risk. Petitioner argues that Heveafil's and Filati's sales meet these criteria.

Heveafil and Filati contend that the Department has repeatedly treated ''back-to-back sales'' as EP sales in the original investigation and in all prior administrative reviews. They note that Commerce verified that the characterization of the sales is correct in both the original investigation and the first review.

Specifically, respondents argue that back-to-back sales must continue to be treated as export price sales, in accordance with the Department's practice for determining ''indirect'' purchase price/EP sales as set forth in *Certain Corrosion-Resistant Carbon Steel Flat Products from Korea; Final Results of Antidumping Duty Administrative Review,* 61 FR 18547 (April 26, 1996). Heveafil and Filati argue that because petitioner has not submitted any new factual information on the record to alter prior treatment of these sales, respondents contend the Department must not depart from previous determinations. Accordingly, Heveafil and Filati argue that back-to-back sales conform to the Department's practice in the following ways: (1) sales were made prior to importation; (2) subject merchandise was not introduced into the inventory of U.S. affiliates; (3) the subsidiaries selling activities are consistent with the EP classification; and (4) neither subsidiary is engaged in advanced marketing or product development. For the sales made prior to important, Filati and Heveafil further note that date of sale was reported as the bill of lading date, which occurred before importation, a methodology argued to be consistent with the Department's past determinations.

DOC Position: We agree that Heveafil's and Filati's ''back-to-back'' sales are properly treated as EP sales. With respect to EP sales, section 772(a) of the Act states that: ''the term 'export price' means the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States.'' Based on the Department's practice, we examine several criteria for determining whether sales made prior to importation through an affiliated sales agent to an unaffiliated customer in the United States are EP sales, including: (1) Whether the merchandise was shipped directly from the manufacturer to the unaffiliated U.S. customer; (2) whether the sales follow customary commercial channels between the parties involved; and (3) whether the function of the U.S. selling agent is limited to that of a ''processor of sales-related documentation'' and a ''communication link'' with the unrelated U.S. buyer. Where all criteria are met, the Department has regarded the routine selling functions of the exporter as ''merely having been relocated geographically from the country of exportation to the United States,'' and has determined the sales to be EP sales. Where all conditions are not met, the Department has classified the sales in question as CEP sales. *See, e.g., Final Determination of Sales at Less Than Fair Value: Brake Drums and Brake Rotors From the People's Republic of China,* 62 FR 9171 (February 28, 1997). Based on our analysis of the selling activities of Filati's and Heveafil's U.S. affiliates, we determine that EP is appropriate. The customary commercial channels between Heveafil and Filati their respective unaffiliated customers are that Heveafil and Filati ship the EP merchandise directly to the unaffiliated U.S. customer without having the merchandise enter into the inventory of the U.S. subsidiary, and that the U.S. selling agent is limited to that of a ''processor of sales-related documentation'' and a ''communications link'' with the unrelated U.S. buyer. Moreover we disagree with petitioner's characterization that the U.S. affiliate sets the price after importation. There has been no record evidence submitted in this segment of the proceeding that would cause us to alter our treatment of these sales as EP sales.

Comment 27: Indirect Selling Expenses and Inventory Carrying Costs Incurred in the Home market for U.S. Sales.

Heveafil, Filati and Rubfil argue that indirect selling expenses and inventory carrying costs incurred in the home market should not be deducted from CEP under section 772(d) of the Act. They note that the Department articulated a standard whereby it deducts selling expenses incurred in the home market from CEP only if they are specifically related to commercial activities in the United States. (*See Antifriction Bearings (Other Than*

Tapered Roller Bearings) from France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews 62 FR 2081, 2124 (January 15, 1997) and *Preliminary Results of Antidumping Duty Administrative Review: Calcium Aluminate Flux from France,* 61 FR 40396, 40397 (August 2, 1996).

DOC Position: We agree with Heveafil, Filati and Rubfil. In *Antifriction Bearings (Other Than Tapered Roller Bearings) from France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews* 62 FR 2081, 2124 (January 15, 1997) states that the ''statutory definition of 'constructed export price' contained in section 772(d) of the Act indicates clearly that were are to base CEP on the U.S. resale price as adjusted for U.S. selling expenses and profit. As such, the CEP reflects a price exclusive of all selling expenses and profit associated with economic activities occurring in the United States.'' Our analysis of Heveafil's, Filati's and Rubfil's responses indicates that the indirect selling expenses and inventory carrying costs incurred in the home market were not specifically related to the economic operations of the U.S. affiliate. As a result, indirect selling expenses and inventory carrying costs incurred in the home market were no longer included in the CEP deduction. Consequently, we have revised our calculations to include in the CEP deduction only those expenses specifically related to the economic operations of the U.S. affiliate.

Comment 28: U.S. Packing Expenses.

Heveafil, Rubfil and Filati claim that we erroneously deducted U.S. packing expenses from the U.S. price. As stated by these respondents, the Act does not provide for the deduction of U.S. packing expenses from either EP or CEP.

DOC Position: We agree. These calculations were made in error and have been corrected.

Comment 29: Adjustments for Countervailing Duties (CVDs) Paid.

Heveafil, Filati and Rubfil contend that the Department must increase the U.S. price for certain countervailing duties paid on imports of the subject merchandise pursuant to the CVD order. In accordance with section 772(c)(1)(C) of the Act, the Department should increase U.S. price by the ''amount of any countervailing duty imposed on the subject merchandise to offset an export subsidy.'' The Department, however, has not made adjustments nor increased U.S. price for export subsidies if normal value (NV) has been based on constructed value. Respondents note that the Department has declined to make and adjustments when normal value is based on constructed value, on the grounds that any benefit conferred through the export subsidy is reflected in the production costs as well as in U.S. price. (*See Notice of Final Results of Antidumping Duty Administrative Review: Extruded Rubber Thread from Malaysia,* 61 FR 54767 (October 22, 1996).

Respondents also assert that export subsidies, specifically income tax holidays and income tax abatements, are not reflected in a company's production costs and must be included in an adjustment to U.S. price. They note that income taxes are not an element of the cost of production. Respondents note that the following Malaysian export subsidy programs found in the second and third countervailing duty reviews, qualify as income tax holidays or income tax abatements and thus, should be used in an adjustment to U.S. price: (1) Pioneer Status; (2) Abatement of Income Tax based on Ratio of Export Sales to Total Sales; (3) Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports; (4) Industrial Building Allowance; and, (5) Double Deduction for Export Promotion Expenses.

DOC Position: We agree with respondents that the programs: (1) Pioneer Status, (2) Abatement of Income Tax Based on the Ratio of Export Sales to Total Sales, (3) Abatement of Five Percent of the Value of Indigenous Malaysian Materials Used in Exports, (4) Industrial Building Allowance, and (5) Double Deduction for Export Promotion Expenses have been found countervailable and classified as export subsidies in the most recently completed countervailing duty review, *Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review,* 61 FR 55272 (October 25, 1996).

Therefore, in accordance with section 772(c)(1)(C) of the Act, we increase U.S. price by ''the amount of any countervailing duty imposed on the subject merchandise to offset an export subsidy.'' The most recently completed CVD review, *Extruded Rubber Thread from Malaysia; Final Results of Countervailing Duty Administrative Review,* 61 FR 55272 (October 25, 1996), found *ad valorem* net subsidies of 0.23% for Heveafil; 0.19% for Rubberflex; 1.39% for Filati; and, 0.38% Rubfil for 1994. In the context of an administrative review (as opposed to a less-than-fair value investigation), these rates, with the exception of Filati's, are *de minimis* pursuant to the language of the SAA, at page 939, and thus will not be collected, *i.e.*, ''imposed,'' within the meaning of section 772(c)(1)(C) of the Act. As a result, because we are comparing Filati's sales to the United States to home market sales or constructed value in the home market for this review, we will adjust the 1994 U.S. prices of Filati to account for the net export subsidies of 0.15%. We will also make adjustments to assessment and deposit rates for any export subsidies in the final results of the 1995 CVD review, which has not been completed.

Comment 30: Import Duties.

Filati claims that the Department erred in not making an adjustment for TAXH, which represents the impact of a duty imposed on imported inputs used to produce rubber thread which will later be exported, and is collected only on home market sales. Filati notes that TAXH is not collected on export sales. It claims that TAXH is included in the price of its home market sales and is passed on to its Malaysian customers, and, therefore, constitutes an indirect tax imposed directly upon the foreign like product which has not been collected on the subject merchandise. Therefore, Filati argues that TAXH must be deducted from normal value in accordance with section 773(a)(6)(B)(iii) of the Act. Alternatively, Filati proposes that the Department treat TAXH as a difference in circumstances of sale, and make a downward adjustment to normal value, in accordance with section 773(a)(6)(C)(iii) of the Act.

Rubfil maintains that the Department must deduct DUTYH from the home market price in the calculation of normal value since it claims, for the first time in its rebuttal brief, that DUTYH is the same 3 percent indirect tax adjustment reported by Filati, although Rubfil mistakenly referred to it as TAXH in the narrative portion of the response.

Petitioner disputes Filati's and Rubfil's arguments. It claims that Filati did not claim that the home market prices it reported to the Department include these indirect taxes. Petitioner notes that, as a general matter, respondents, including Rubfil, usually report home market prices to the Department already exclusive of indirect taxes. As a result, petitioner argues that TAXH should not be netted from reported home market sales.

DOC Position: We disagree that these expenses represent a tax. Both Filati's and Rubfil's April 22, 1996 questionnaire response identifies the expense reported in the TAXH or DUTYH column as a duty on imported merchandise. It is imposed when the goods are sold in the home market, and remains uncollected when the subject

merchandise is exported. Consequently, contrary to the respondents' characterization of the expense, the expenses recorded in the TAXH or DUTYH columns represent a duty, and not a tax. Filati and Rubfil explain that they include the amount of this duty in their home market price and pass it on to their customers. The duty is neither added to nor included in the price of the export goods. Because this duty is only collected on home market sales, and not on export sales, we have determined it to be an uncollected duty within the meaning of section 772(c)(1)(B) of the Act, rather than an uncollected tax within the meaning of 773(a)(6)(B)(iii) of the Act. Consequently, pursuant to section 772(c)(2)(B) of the Act, we have revised our calculations by adding the amount of the uncollected duty to the U.S. price.

Comment 31: Re-exports of Covered Merchandise.

Filati contends that it is the Department's long-standing policy, which has been upheld by the U.S. Court of Appeals for the Federal Circuit (*The Torrington Company* v. *United States,* 82 F.3d 1039 (Fed. Cir. 1996)), not to calculate or collect antidumping duties on subject merchandise that is re-exported without any sale to unaffiliated parties in the United States. Filati contends that the Department cannot calculate or collect antidumping duties regarding such imports, because in the absence of sales in the United States, there is no basis for calculating United States price. Thus, Filati explains, where a respondent provides evidence that merchandise has been re-exported, the Department has modified its assessment methodology formula to account for the re-exports. Filati argues that it provided evidence of such entries in its September 23, 1996 supplemental response and that there were no computer programming instructions in the preliminary results of review to accommodate such re-exports. Filati further argues that the Department should structure its assessment instructions along the lines outlined in the Department's proposed regulations (by dividing the total duties calculated for the period of review (PUDD) by the entered value of the sales during the POR, and directing Customs to apply the resulting *ad valorem* rule to entries in the POR) as modified by the ''per-unit'' methodology used in the Department's August 31, 1992 memorandum for Richard W. Moreland, *First Administrative Review of 3.5 Inch Microdisks and Coated Media Thereof from Japan (Microdisks) Decisions Made with Respect to Issuing Assessment Instructions for all Five Japanese Companies which had a either PP and ESP Sales Transactions of 3.5-Inch Microdisks and Coated Media.* Filati argues that this new *ad valorem*, assessment rate should be calculated as follows: PUDD/entered value of sales* (value of entries-value of re-exports)/ value of entries.

DOC Position: The Department agrees with Filati that it is inappropriate to calculate or assess antidumping duties on covered merchandise that is re-exported from the United States before the goods are sold to an unaffiliated party in the United States. An examination of the facts of this record indicates that all of the merchandise was entered into the United States commerce for consumption. However, at the time of entry, Filati did not know whether the merchandise would be sold in the United States or Canada. At the end of the review period, Filati was aware of which entries were sold in the United States and which were re-exported without a sale to an unaffiliated party in the United States. It reported U.S. sales to the Department in its questionnaire response, and the re-exports to Canada in its supplemental response.

Section 731 of the Act provides that once merchandise is subject to an antidumping order ''then there shall be imposed upon such merchandise an antidumping duty * * * in an amount equal to the amount by which the normal value exceeds the export price (or the constructed export price) for the merchandise.'' Section 751(a)(2) of the Act provides that, in computing the amount of the antidumping duty, the Department ''shall determine'' (1) the normal value and export price (or constructed export price) of each entry of the subject merchandise, and (2) the dumping margin for each entry. Thus, sections 731 and 751(a)(2) of the Act call for the Department to determine the United States price (either the export price or the constructed export price). In the instant case, because there is no sale to an unaffiliated party in the United States, despite the fact that the goods have entered into the U.S. customs territory, there is no means by which the Department can calculate a United States price with respect to these particular imports. See *The Torrington Company* v. *United States,* 82 F.3d 1039, 1044–1047 (Fed. Cir. 1996) (''*Torrington*'') (held that the re-exported goods do not enter into the calculation of the total antidumping duties owed by the respondent).

Further the U.S. Court of Appeals for the Federal Circuit held in *Torrington* that under these circumstances the Department acts lawfully when it does not assess antidumping duties on the covered merchandise. *See Torrington,* 82 F.3d at 1040. The holding in *Torrington* sanctions the Department's longstanding practice in the regard. *See, e.g., Final Results of Antidumping Duty Administrative Review and Revocation in Part of Antidumping Duty Order: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, et al.,* 58 FR 39729, 39784 (July 26, 1993) (Department's position was that where the bearings that entered the customs territory of the United States were re-exported prior to sale to an unrelated customer in the United States, there is no assessment of antidumping duties on those entries). Finally, the *Torrington* Court held that, in upholding the Department's practice not to calculate a United States price or assess with respect to entries that are later re-exported from the United States without a sale here to an unaffiliated party, this practice does not conflict with the U.S. duty drawback laws. *Torrington,* 82 F.3d at 1045.

Comment 32: Currency Conversion Error.

Filati argues that the Department erroneously failed to convert its inventory carrying costs into U.S. dollars.

DOC Position: We agree and have corrected the error.

Comment 33: The Difference in Physical Characteristics of Merchandise (DIFMER) Calculation.

Heveafil contends that the Department incorrectly subtracted the DIFMER adjustment from home market prices since it calculated the DIFMER adjustment as the U.S. cost of manufacture (VCOMU) minus the home-market variable cost of manufacture (VCOMH). In this situation, the Department should add the DIFMER to the normal value (NV).

DOC Position: We agree that, pursuant to section 773(6)(c)(ii) of the Act, it is appropriate to add the DIFMER to NV when the DIFMER is calculated as VCOMU minus VCOMH. However, our standard program was written to subtract it from normal value. Therefore, to keep Heveafil's program in conformity with the Department's standard computer program, we recalculated DIFMER as VCOMH minus VCOMU, then subtracted it from NV. This equation is identical to the remedy proposed by Heveafil.

Comment 34: The Calculation of the Average Actual Profit for Constructed Value.

Petitioner contends the Department erroneously used Heveafil's, Filati's and Rubfil's average actual profit on both

profitable and unprofitable sales for the profit figure in the constructed value calculation. Petitioner argues that only profit on profitable sales is used in the calculation.

Respondents dispute petitioner's contention, arguing that the Department calculates constructed value profit without excluding below-cost sales. In support of its argument, respondents rely on *Federal-Mogul Corp.* v. *United States,* 918 F. Supp. 386, 403 (CIT 1996) and *Torrington Co.* v. *United States,* 881 F. Supp. 622, 633 (CIT 1995), as well as a number of results of reviews of *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts thereof.*

DOC Position: We agree with petitioner. Section 773(e)(2)(A) of the Act states that the constructed value of the imported merchandise shall be the ''actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review for selling, general, and administrative expenses, and for profits, in connection with the production and sale of a foreign like product, in the ordinary course of trade, for consumption in the foreign country.'' Section 771(15)(A) of the Act specifies that the Department shall consider the sales disregarded under section 773(b)(1) of the Act to be outside the ordinary course of trade. *See also* SAA, at 839. Therefore, we have changed our calculations to include only the profit from sales not disregarded under section 773(b) of the Act.

Respondents cite a number of instances where the Department and the courts have included sales below cost in the calculation of profit for constructed value. We not that all of the cases cited by respondents pertain to the calculation methodology spelled out in the old law, and have been superseded by the new law, which establishes new methods of calculating profit for CV. *See* SAA, at 839

Comment 35: The Use of Color as a Model Match Criterion.

Petitioner argues that color should be excluded as a matching criterion. Petitioner cites *Melamine Institutional Dinnerware from Taiwan: Final Determination of Sales at Less Than Fair Value (Melamine),* 62 FR 1726, at 1773 (January 13, 1997), in which the Department stated that ''[c]olor is not a matching criteria in this investigation; thus, it is inappropriate to treat these products, if otherwise identical, as identical for purposes of model matching.''

According to respondents, color should not be excluded as a matching criteria. Since color was used in the original investigation and subsequent reviews, the Department must apply the same matching criteria in this period of review.

DOC Position: We agree with respondents that color is an appropriate model matching-criterion in this case. The Department has consistently used color as a product matching criteria in the investigation and reviews of the AD order. As we stated in our response to Comment 3 in the *Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia,* 57 FR 38465, 38468 (August 25, 1992) ''because color can materially affect cost and be important to the customer and the use of the product, the Department determined at an early stage of this investigation that color should be included among the several product matching criteria.'' *See, Final Determination of Sales at Less Than Fair Value: Extruded Rubber Thread from Malaysia,* 57 FR 38465 (August 25, 1992). At this time, petitioner supported this decision and has since not offered any substantive reasons for changing the matching criteria. Moreover, color is a characteristic fully in accordance with the matching criteria as outlined in the January 26, 1994 memorandum to the file, entitled *Changing the Department's Questionnaire Order of the Product Concordance.* Petitioner did not comment on this memo which ranked color as third in the level of importance for the product matching criteria. With respect to *Melamine,* this determination covers a product with different physical characteristics, different uses and different expectations by the ultimate purchasers and, therefore, is irrelevant to this instant case.

Comment 36: The Erroneous Deduction of CEP Profit from U.S. Sales.

Heveafil argues that the Department incorrectly deducted CEP profit from certain CEP sales, despite the fact that CEP profit calculated by Commerce was negative. Heveafil suggests that we refer to observations one and two in the hard-copy of the results of the Department's preliminary margin program. Heveafil suggests that the Department revised the calculation of net CEP sales prices in the final results of review to ensure that CEP profit is not subtracted where none exists.

DOC Position: We have examined the hard copy of the results of review for the 1994–1995 margin calculation program. None of the sales include CEP profit of less than zero. Therefore, we have made no change to our calculations.

Comment 37: Heveafil's Reported Cost Figures.

Petitioner notes that Heveafil reported more than one cost figure for a number of products without providing any explanation for the provision of more than one weighted-average cost. In addition, petitioner also notes that in its preliminary results of review, the Department erred in using the average of these cost figures to calculate the cost of production for Heveafil. Petitioner argues that by using this average cost, rather than the highest available cost, Heveafil benefits from the unexplained ambiguity in the response.

DOC Position: We agree. Heveafil reported more than one per-unit cost of production for certain products. However, in this case, there is no evidence on the record to suggest that the highest reported cost is appropriate. Consequently, we determined the simple average value of each of the underlying components of the COP: material, labor, variable overhead, fixed overhead, indirect selling expenses, general and administrative expenses, net interest expense and home market packing. We then added the revised values for these expenses to obtain the average COP of each of the reported models as we did in the preliminary results of review.

Comment 38: Rebates in Calculation of a Home Market Price for comparison to COP.

Petitioner asserts that the Department failed to deduct Heveafil's rebates for home market prices prior to conducting the sales below cost test.

DOC Position: As indicated on line 2821 of the home market sales program issued in the preliminary results of review, we have taken rebates and discounts into account in our determination of the appropriate home market price to be compared with the cost of production in our cost test. Therefore, we have made no change to our calculation.

Comment 39: Marine Insurance.

Petitioner asserts that Rubfil did not explain how it calculated its reported cost of marine insurance. Accordingly, it cannot be determined if marine insurance was correctly calculated. Petitioner therefore contends that the Department should use, as the facts available, the highest unit U.S. marine insurance cost to all U.S. sales by Rubfil.

Rubfil responds that in its April 22, 1996 response, it explained that marine insurance was paid according to the terms of a global insurance policy that covers all risks associated with the shipment of merchandise from Rubfil's factory to its customers throughout the world. Rubfil provided a copy of the insurance agreement in exhibit C–1, which did not explicitly spell out the per-shipment terms of the policy. Rubfil

notes that the Department did not request further information in its supplemental questionnaire. It argues that this policy has been in effect since 1990 and was spelled out in the narrative of the questionnaire response and was in effect during the 1994–1995 review. Therefore, Rubfil argues that the Department should not change its calculations.

DOC Position: In the December 19, 1996, Preliminary Results Analysis Memorandum for Rubfil, the Department noted that Rubfil did not fully explain its calculations for marine insurance. However, we used the information provided in the questionnaire response to calculate our margins. We did not request Rubfil to submit further information, and there is no basis for making adverse inferences as suggested by petitioner. Therefore, we have not changed our calculations in this regard.

Final Results of Review

As a result of comments received we have revised our preliminary results and determine that the following margins exist for the period October 1, 1994, through September 30, 1995:

Manufacturer/exporter	Percent margin
Heveafil Sdn. Bhd	7.88
Rubberflex Sdn. Bhd	20.38
Rubfil Sdn. Bhd	54.31
Filati Lastex Elastofibre (Malaysia)	8.11

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

Further, the following deposit requirements will be effective, upon publication of this notice of final results of review for all shipments of extruded rubber thread from Malaysia entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates for those firms as stated above (except that for Filati the cash deposit rate will be reduced by 0.15 percent, the current cash deposit rate attributable to export subsidies); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 15.16 percent, the all others rate established in the LTFV investigations.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)), section 771(i) of the Act (19 U.S.C. 1677f(i)) and 19 CFR 353.22.

Dated: June 9, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–16046 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review.

SUMMARY: In response to requests by the petitioner, the Fresh Garlic Producers Association and its individual members, and an importer, the Department of Commerce is conducting an administrative review of the antidumping duty order on fresh garlic from the People's Republic of China. The period of review is November 1, 1995, through October 31, 1996. Petitioner requested a review of eight exporters. Haitai America, Inc., a U.S. importer, requested a review of sales of its exporter/producer Rizhao Hanxi Fisheries & Comprehensive Development Co., Ltd. Because we have determined that one named respondent has failed to submit a complete response to our questionnaire and the remaining named respondents failed to respond at all to our questionnaires, we have preliminarily determined to use facts otherwise available for cash deposit and assessment purposes for all producers/exporters of the subject merchandise.

Interested parties are invited to comment on these preliminary results. Parties who submit comments are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: June 20, 1997.

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

SUPPLEMENTARY INFORMATION:

Applicable Statute

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

Background

On November 4, 1996, the Department published in the **Federal Register** (61 FR 56663) a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order (59 FR 59209, November 16, 1994) on fresh garlic from the PRC. On November 27, 1996, petitioner requested an administrative review of eight producers/exporters of this merchandise

to the United States. On December 2, 1996, Haitai America, a U.S. importer of the merchandise, requested a review of its exporter/producer, Rizhao Hanxi Fisheries & Comprehensive Development Co., Ltd. (Rizhao). We published a notice of initiation of this review on December 16, 1996 (61 FR 66017), and on January 17, 1997, we sent questionnaires to the Embassy of the PRC, the Ministry of Foreign Trade and Economic Cooperation (MOFTEC) and the nine respondent firms named in the initiation notice.

Scope of the Review

The products covered by this review are all grades of garlic, whole or separated into constituent cloves, whether or not peeled, fresh, chilled, frozen, provisionally preserved, or packed in water or other neutral substance, but not prepared or preserved by the addition of other ingredients or heat processing. The differences between grades are based on color, size, sheathing and level of decay.

The scope of this order does not include: (a) Garlic that has been mechanically harvested and that is primarily, but not exclusively, destined for non-fresh use; or (b) garlic that has been specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed.

The subject merchandise is used principally as a food product and for seasoning. The subject garlic is currently classifiable under subheadings 0703.20.0000, 0710.80.7060, 0710.80.9750, 0711.90.6000, and 2005.90.9500 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

In order to be excluded from the antidumping duty order, garlic entered under the HTSUS subheadings listed above that is (1) mechanically harvested and primarily, but not exclusively, destined for non-fresh use or (2) specially prepared and cultivated prior to planting and then harvested and otherwise prepared for use as seed must be accompanied by declarations to the Customs Service to that effect.

Use of Facts Otherwise Available

On January 17, 1997, we sent questionnaires to the Embassy of the PRC, MOFTEC and the nine respondent firms named in the initiation notice. We did not receive a response from either the PRC embassy or MOFTEC. Only one respondent, Rizhao, has responded to any part of our antidumping questionnaire. However, Rizhao did not provide factors-of-production data and therefore has not provided a response with sufficient information to enable us to proceed with our dumping analysis. We also do not have any information on the record with regard to the other eight named respondents. Therefore, we must rely on facts otherwise available in accordance with section 776(a) of the Act for these preliminary results of review.

Because necessary information is not available on the record with regard to sales by the named respondent firms, as a result of their withholding the requested information, we are preliminarily determining to apply antidumping duties based on facts otherwise available pursuant to section 776(a) of the Act. In addition, the Department finds that, in not responding completely or at all to our antidumping questionnaire, the firms failed to cooperate by not acting to the best of their ability to comply with requests for information from the Department.

Where the Department must resort to the facts otherwise available, section 776(b) of the Act authorizes the Department to use an inference adverse to the interests of that respondent in choosing facts available. Section 776(b) of the Act also authorizes the Department to use, as adverse facts available, information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. Because information from the petition and prior segments of the proceeding constitutes secondary information, section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Statement of Administrative Action (SAA) provides that ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value.

In this case, we are using as facts available the PRC-wide rate determined for companies involved in the less-than-fair-value investigation (376.67 percent). Although that rate constitutes secondary information, the information has already been corroborated in a prior review. See Final Results of Administrative Review: Fresh Garlic from the People's Republic of China, 61 FR 68229 (December 27, 1996). There is no evidence that would warrant revisiting that issue in this review. Moreover, we have preliminarily determined that the non-responsive companies do not merit separate rates. See, e.g., Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review, 61 FR 57390 (November 6, 1996). Although Rizhao answered the separate-rates and sales portions of the questionnaire, it failed to provide factors of production data and therefore we do not have sufficient data. Accordingly, Rizhao will receive the PRC-wide rate of 376.67 percent.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 376.67 percent exists for all producers/exporters of the subject merchandise for the period November 1, 1995, through October 31, 1996.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will issue a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

The Department will determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of fresh garlic from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: for all PRC exporters and for all non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the PRC-wide rate established in the final results of this review.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties

prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

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

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

Dated: June 16, 1997.

[FR Doc. 97–16247 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–826]

Pure Magnesium From the People's Republic of China: Notice of Extension of Time Limit for New Shipper Antidumping Duty Administrative Review

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

EFFECTIVE DATE: June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Ellen Grebasch, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4194 or (202) 482–3773, respectively.

Summary

The Department of Commerce (the Department) is extending the time limit for the preliminary results of the new shipper review of the antidumping duty order on pure magnesium from the People's Republic of China. The period of review is May 1, 1996, through October 31, 1996. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, ''the Act'').

Postponement

On December 20, 1996, the Department initiated this new shipper review of the antidumping duty order on pure magnesium from the People's Republic of China (61 FR 69067). The current deadline for the preliminary results is June 18, 1997. Under the Act, the Department may extend the deadline for completion of a new shipper review if it determines that the case is extraordinarily complicated. The Department finds that it is not practicable to complete the new shipper review of pure magnesium from the People's Republic of China within this time limit due to the complex nature of certain issues in this review which require further investigation. Among these issues is the ongoing verification of a reportedly canceled sale and a first time separate rates determination.

In accordance with section 751(a)(2)(B)(iv) of the Act, the Department will extend the time for completion for the preliminary results of this new shipper review to October 16, 1997. Accordingly, we will issue the final results within 90 days after notice of the preliminary results is published in the **Federal Register**.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

Dated: June 12, 1997.

[FR Doc. 97–16245 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Arizona; Application for Duty-Free Entry of Scientific Instrument

Pursuant to section 240 of the Trade and Tariff Act of 1984 as amended by Pub. L. 104–295, which pertains solely to the application described below, we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States. Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Applicant: University of Arizona, Steward Observatory, 933 N. Cherry Avenue, Tucson, AZ 85721. *Instrument:* Submillimeter Bolometer, Receivers, Acoustical Optical Spectrometer, Spectrometers and other custom equipment to support a submillimeter telescope. *Manufacturer:* Max Planck Institute, Germany. *Intended Use:* The instrument will be used to investigate planetary atmospheres, comets, protostellar nebulae, planetary nebulae, molecular clouds and cores, galaxies and quasars using a battery of experiments to determine physical, chemical, and kinematic structure and the time revolution of these properties.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–16246 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061197B]

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene public meetings.

DATES: The meetings will be held on July 14–16, 1997.

ADDRESSES: These meetings will be held at the Hawk's Cay Resort and Marina, Mile Marker 61, Marathon (Duck Key), FL; telephone: 305–743–7000.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION:

Council

July 16

8:30 a.m.—Convene.

8:45 a.m. - 9:00 a.m.—Hear presentation on Live Rock Issues.

9:00 a.m. - 11:30 a.m.—Discuss Options Paper for Mackerel Amendment 9.

1:00 p.m. - 4:30 p.m.—Discuss Draft Options Paper for Reef Fish Amendment 16.

4:30 p.m. - 5:00 p.m.—Receive a report of the Personnel Committee.

July 17 8:30 a.m. - 8:45 a.m.—Receive a report of the Habitat Protection Management Committee.

8:45 a.m. - 9:00 a.m.—Receive a report of the Budget Committee.

9:00 a.m. - 9:15 a.m.—Receive a report of the Shrimp Management Committee.

9:15 a.m. - 9:30 a.m.--Receive a report of the Stone Crab Management Committee.

9:30 a.m. - 10:00 a.m.—Receive a report of the Migratory Species Management Committee.

10:00 a.m. - 10:15 a.m.—Receive a report of the Administrative Policy Committee.

10:15 a.m. - 10:30 a.m.—Receive a report of the Law Enforcement Committee.

10:30 a.m. - 10:45 a.m.—Receive a report on the Council Chairmen's Meeting.

10:45 a.m. - 11:00 a.m.—Receive a report of the South Atlantic Fishery Management Council Liaison. *11:00 a.m. - 11:15 a.m.*—Receive Enforcement Reports.

11:15 a.m. - 11:45 a.m.— Receive Director's Reports.

11:45 a.m. - 12:00 noon—Other business to be discussed.

Committees

July 14

9:00 a.m. - 11:00 a.m.—Convene the Law Enforcement Committee to review the U.S. Coast Guard Fisheries Enforcement Study.

11:00 a.m. - 12:00 noon—Convene the Stone Crab Management Committee to review the recommendations of the Stone Crab Advisory Panel (AP) on the structure of a license limitation system.

1:00 p.m. - 2:00 p.m.—Convene the Habitat Protection Committee to review actions necessary to proceed with an amendment on Essential Fish Habitat (EFH).

2:00 p.m. - 5:30 p.m.—Convene the Mackerel Management Committee to review an options paper for a future amendment to the fishery management plan which includes limited access alternatives for the commercial king mackerel fishery.

July 15

8:00 a.m. - 9:00 a.m.—Convene the Budget Committee to review the proposed CY 1998 Council budget and a contractual agreement with the Gulf States Marine Fisheries Commission on EFH.

9:00 a.m. - 10:00 a.m.—Convene the Migratory Species Management Committee to review the consultation process with NMFS on management of the Atlantic highly migratory species and uses of APs and Scientific and Statistical Committees in that process.

10:00 a.m. - 12:00 noon—Convene the Reef Fish Management Committee to review a preliminary listing of management alternatives that will be included in a scoping options paper for the fishery, including limited access for the commercial fishery.

1:00 p.m. - 2:00 p.m.—Convene the Shrimp Management Committee to review reports by NMFS on the status of stocks under the overfishing definitions and on the Tortugas fishery for pink shrimp.

2:00 p.m. - 3:00 p.m.—Convene the Administrative Policy Committee to review lists of fishing gear used in the Gulf fisheries which will be submitted to NMFS in compliance with the Sustainable Fisheries Act.

3:00 p.m. - 5:30 p.m.—Convene the Personnel Committee to review staff policies and employment practices.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by July 7, 1997.

Dated: June 13, 1997.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 97–16205 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061197A]

Marine Mammals; Permit No. 987 (P598)

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. 987 submitted by Dr. Jim Darling, P.O. Box 384, Tofino, British Columbia, Canada VOR 2ZO, has been granted.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Suite 13130, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221); and

Protected Species Program Manager, Pacific Area Office, NMFS, 2570 Dole Street, Room 106, Honolulu, Hi 96822–2396 (808/973–2987).

SUPPLEMENTARY INFORMATION: On April 30, 1997, notice was published in the **Federal Register** (62 FR 23435) that an amendment of permit No. 987, issued March 1, 1996 (61 FR 9438), had been requested by the above-named individual. 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 §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the Regulations Governing the Taking, Importing, and Exporting of Endangered Fish and Wildlife (50 CFR part 222).

Permit No. 987 authorizes the permit holder to take (*i.e.*, harass) up to 200 humpback whales (*Megaptera novaeangliae*) in the course of behavioral and photo-identification studies and biopsy sampling, in the waters around the main Hawaiian Islands over a 2-year period. The permit has been amended to authorize: the observation of up to 200 humpback whales annually in Hawaii and Alaska waters by the use of remote cameras to (1) observe the activities of individual whales, and (2) to determine if images can be obtained that will allow the length measurement of specific whales; and the observation of up to 1000 humpback whales annually in Hawaii and Alaska waters through fixed wing and helicopter flights to measure the length of whales through photogrammetry for the purpose of age estimation and to observe (video/film) behavior patterns.

We believe that this amended Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species, which is the subject of the request; and (3) is consistent with the purposes and policies set forth in Section 2 of the ESA. We do not anticipate any adverse impacts to the affected population or the ecosystem as a result of the activities for which approval would be granted.

Dated: June 13, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–16204 Filed 6–19–97; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, July 28, 1997.

PLACE: 1155 21st St., NW., Washington, DC 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16415 Filed 6–18–97; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, July 21, 1997.

PLACE: 1155 21st St. NW., Washington, DC, 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16416 Filed 6–18–97; 3:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, July 14, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Web, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16417 Filed 6–18–97; 3:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Monday, July 7, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C. 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Adjudicatory Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16418 Filed 6–18–97; 3:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, July 25, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16419 Filed 6–18–97; 3:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, July 18, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16420 Filed 6–18–97; 3:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, July 11, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16421 Filed 6–18–97; 3:58 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11:00 a.m., Friday, July 2, 1997.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Fl. Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–16422 Filed 6–18–97; 3:58 pm]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0002]

Proposed Collection; Comment Request Entitled Solicitation Mailing List Application (SF 129)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0002).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Solicitation Mailing List Application (SF 129). This OMB clearance currently expires on October 31, 1997.

DATES: *Comment Due:* August 19, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0002 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Standard Form 129, Solicitation Mailing List Application, is used by all Federal agencies as an application form for prospective contractors to provide information needed to establish and maintain a list of firms interested in selling to the Government. The information is used to establish lists of firms to be solicited when the products or services they provide are needed by the Government.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average *.58* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, *243,000;* responses per respondent, *4;* total annual responses, *972,000;* preparation hours per response, *.58;* and total response burden hours, *563,760*.

Obtaining Copies of Proposals: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (MVRS), Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0002, Solicitation Mailing List Application (SF 129), in all correspondence.

Dated: June 16, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–16162 Filed 6–19–97; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0011]

Proposed Collection; Comment Request Entitled Preaward Survey Forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408)

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0011).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Preaward Survey forms (Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408). This OMB clearance currently expires October 31, 1997.

DATES: *Comment due date* August 19, 1997.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000–0011 in all correspondence.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Federal Acquisition Policy Division, GSA (202) 501–1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

To protect the Government's interest and to ensure timely delivery of items of the requisite quality, contracting officers, prior to award, must make an affirmative determination that the prospective contractor is responsible, *i.e.*, capable of performing the contract. Before making such a determination, the contracting officer must have in his possession or must obtain information sufficient to satisfy himself that the prospective contractor (i) has adequate financial resources, or the ability to obtain such resources, (ii) is able to comply with required delivery schedule, (iii) has a satisfactory record of performance, (iv) has a satisfactory record of integrity, and (v) is otherwise qualified and eligible to receive an award under appropriate laws and regulations. If such information is not in the contracting officer's possession, it is obtained through a preaward survey conducted by the contract administration office responsible for the plant and/or the geographic area in which the plant is located. The necessary data is collected by contract administration personnel from available data or through plant visits, phone calls, and correspondence and entered on Standard Forms 1403, 1404, 1405, 1406, 1407, and 1408 in detail commensurate with the dollar value and complexity of the procurement. The information is used by Federal contracting officers to determine whether a prospective contractor is responsible.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, 12,000; responses per respondent, .5; total annual responses, 6,000; preparation hours per response, 24; and total response burden hours, 144,000.

Obtaining Copies of Proposals: Requester may obtain copies of OMB applications or justifications from the General Services Administration, FAR Secretariat (MVRS), 1800 F Street, NW, Room 4037, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0011, Preaward Survey Forms, in all correspondence.

Dated: June 16, 1997.

Sharon A. Kiser,

FAR Secretariat.

[FR Doc. 97–16163 Filed 6–19–97; 8:45 am]

BILLING CODE 6820–34–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

The National Action Plan To Implement the Hydrogeomorphic Approach To Assessing Wetland Functions

AGENCIES: Corps of Engineers, Department of the Army, DOD; Natural Resources Conservation Service, Department of Agriculture; Federal Highway Administration, Department of Transportation; Environmental Protection Agency; and Fish and Wildlife Service, Department of the Interior.

ACTION: Notice.

SUMMARY: Through the National Action Plan the Corps of Engineers is announcing the strategy the Corps and other Federal agencies will follow to implement the Hydrogeomorphic Approach for Assessing Wetland Functions (HGM Approach) through the development of regional guidebooks. The National Action Plan was developed by a National Interagency Implementation Team. Agencies listed herein. The HGM Approach was designed to satisfy the need for better information on wetland functions within the programmatic requirements of the Clean Water Act Section 404 regulatory program. This methodology will increase the accuracy of wetland function assessments, allow for replicability, and reduce the amount of time required to conduct a wetland function assessment.

ADDRESS: Information may be obtained by writing to: The Chief of Engineers, Army Corps of Engineers, ATTN: CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Colleen Charles, Corps of Engineers, at (202)761–0199; Ms. Sandra Byrd-Hughes, Natural Resources Conservation Service, at (202)690–3501; Mr. Thomas Kelsch, Environmental Protection Agency, at (202)260–8795; Mr. Paul Garrett, Federal Highways Administration, at (202) 366–2067; Mr. Donald MacLean, Fish and Wildlife Service, at (703)358–2201; and Ms. Susan-Marie Stedman, National Marine Fisheries Service at (301)713–2325 or access the U.S. Army Corps of Engineers Regulatory Home Page at: http://wetland.usace.mil/ or the U.S. Army Engineer Waterways Experiment Station Home Page at: http://www.wes.army.mil/el/wetlands/wetlands/html/.

SUPPLEMENTARY INFORMATION: The HGM Approach is a wetland assessment procedure that is based on three fundamental factors that influence how wetlands function: position in the landscape (geomorphic setting), water source (hydrology), and the flow and fluctuation of the water once in the wetland (hydrodynamics). The HGM Approach first classifies wetlands based on their differences in functioning, second it defines functions that each class of wetland performs, and third it uses reference to establish the range of functioning of the wetland. Regional assessment models are developed based on the functional profile that describes the physical, biological, and chemical characteristics of a regional wetland subclass. The goal of the National Action Plan is to implement, through the development of regional guidebooks, sufficient assessment models to address 80 percent of the section 404 permit workload requiring wetland function assessments. To achieve this goal, approximately 25–30 regional guidebooks will be required to be developed. Given the magnitude of the effort, and the need for interdisciplinary expertise, implementation of the HGM Approach will require participation from several Federal, State, Tribal and local agencies, academia, and the private sector. This involvement will occur at all stages of regional guidebook development.

Discussion of Public Comments and Changes

On August 16, 1996 the draft National Action Plan to Develop the Hydrogeomorphic Approach for Assessing Wetland Functions (Action Plan) was published in the **Federal Register** to which we received approximately 20 comments. In response to these comments, we have made a few revisions to the Action Plan as discussed below. The comments of greatest concern addressed issues regarding public involvement, communication/public outreach, training, potential uses, applicability, and accuracy of models in predicting functions.

Overall, commenters were very supportive of the development of the Hydrogeomorphic Approach for Assessing Wetland Functions (HGM Approach). However, some commenters were concerned that the National Action Plan is policy, not guidance, and that the HGM Approach will preclude and undermine the section 404(b)(1) review. These concerns come from lack of understanding of the HGM Approach. The HGM Approach is a tool for assessing wetland functions and does not replace the need for delineating a wetland boundary nor supersede the Section 404(b)(1) Guidelines analysis or public interest review. Based on these comments this has been explained more clearly in the Action Plan.

The majority of comments indicated the need for more public involvement. A few commenters indicated concern with consultant involvement in developing regional guidebooks, suggesting that their involvement may influence how the models are developed. We have emphasized throughout the Action Plan that regional guidebook development is an iterative process that involves not only Federal, State, Tribal and local agencies but also academia, the private sector and the public. Regional guidebooks, developed by A-teams and having undergone peer reviews, will be published as operational drafts for a two year period. During this time the operational draft models will be subjected to further testing by the Federal agencies and the public with review comments solicited from the public. These review comments will be incorporated into the final models of the regional guidebooks. The final regional guidebooks will undergo review and revision every five years or less if needed. Again, this is explained in further detail in the Action Plan. We believe that the level of review prior to final publication is more than adequate to disway any possible influence by consultant involvement. Also the models in the regional guidebooks are based upon scientific data and this data will be available for review and in the guidebooks themselves.

Several commenters were concerned with HGM policy. As indicated in the Action Plan, the Federal agencies will develop a policy statement and publish it in the **Federal Register** for comment. The National Action Plan or HGM Approach in itself is not policy. The Action Plan is a document that states the strategies the Federal agencies will follow in developing regional HGM Approach guidebooks. The HGM

Approach is a tool to be used in making regulatory decisions, at a Federal, state, or local level. It can also be used in the decision making process for applications such as mitigation banking and watershed planning. We believe that this has been fully addressed in the Action Plan.

Other commenters stated that the HGM Approach does not assess wetland values. The HGM Approach is based on the best available science and thus does not assign value to a wetland. Value represents the significance of wetland functions to society or individuals, and often reflects local priorities or policy issues beyond the scope of the HGM Approach. The functional capacity indices resulting from the HGM Approach cannot be equated to the societal or economic value of that wetland function. However, this information can be used when assigning values to wetland functions in terms of economic or other value units as required by the Corps public interest review process.

A few commenters indicated the need for more Federal funding to help model development. At present there are approximately 15 separate efforts ongoing (see Table 3 of the Action Plan) that were initiated through Federal funding and approximately 15 efforts initiated by various States, mainly through the U.S. EPA State/Tribal Wetland Grant Program. There is a need for more funding. The Corps and other Federal agencies will continue to look for additional funding opportunities. Our efforts will continue to focus on reaching the goal of developing regional guidebooks to address 80 percent of the Corps permit workload for wetlands requiring wetland function assessment.

A few commenters thought the Federal government was moving too quickly in developing regional guidebooks and were concerned with the quality of those being developed. They would rather see an accurate, reliable guidebook rather than one that gave questionable results. We agree with this and have assessed the progress of regional guidebook development. As previously stated there are approximately 15 Federal national/regional guidebook development efforts. We have reassessed our goal of having approximately 20–25 regional guidebooks developed by the end of 1998. To ensure a reliable, accurate, scientifically based product we have decided that regional guidebook development to reach the 80 percent goal will take longer than two years. We have found through early guidebook development efforts that initial development takes longer than anticipated. We have learned a great deal in the pilot phases of guidebook development. The regional guidebook development process is now more efficient, taking less time than the initial efforts while still maintaining scientific reliability. Regional guidebook development is time and resource intensive, generally taking approximately 1–2 years to develop. However, the actual application of these regional guidebooks to a specific project is rapid and will take approximately 1 day or less to assess a wetland. The Action Plan explains in greater detail the regional guidebook development process. Our goal remains the same—to have approximately 20–25 regional guidebooks developed which would address 80 percent of the Corps permit workload for wetlands requiring wetland function assessment. However, we acknowledge that it will take longer than our initial anticipated two year timeframe. As regional guidebooks become available, development of additional regional guidebooks will be expedited more efficiently.

A few commenters addressed the need for training. Two HGM courses, as described in the Action Plan, are under development by WES. In response to one commenters concern regarding the Federal agencies as the sole provider of HGM training there is no intent on the part of the Federal agencies to be the sole training source for the HGM Approach. However, it is the intent of the Corps to hold public meetings as regional guidebooks become available within a geographic area, where the guidebook and it's application will be explained.

Several commenters questioned whether the models can accurately predict functions. This is being addressed in the guidance being developed by Waterway Experiment Station *(Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks)* stating the protocol for regional guidebook development and is further explained in Section III A of the Action Plan.

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National Action Plan To Implement the Hydrogeomorphic Approach for Assessing Wetland Functions

I. Executive Summary

This National Action Plan (Action Plan) identifies the strategy the U.S. Army Corps of Engineers, U.S. Department of Agriculture—Natural Resources Conservation Service, U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Federal Highway Administration, and National Oceanic and Atmospheric Administration—National Marine Fisheries Service will follow to implement the Hydrogeomorphic Approach for Assessing Wetland Functions (HGM Approach) through the development of regional guidebooks. This is a plan to guide Federal agency activities and inform the public on how the federal agencies will be developing regional guidebooks for use with the HGM Approach. The HGM Approach is a procedure for measuring the capacity of a wetland to perform functions. It was designed to satisfy the need for better

information on wetland functions within the programmatic requirements of the Clean Water Act Section 404 regulatory program. Information obtained using the HGM Approach can assist project proponents and regulators in assessing the level of environmental impact of a proposed project, in determining the appropriate level of regulatory review, and in assessing compensatory mitigation required for offsetting environmental impacts. The hierarchical and modular nature of the approach makes it adaptable to a variety of other regulatory, planning, management, and educational situations where information on wetland functions is needed.

The HGM Approach is characterized and differentiated from other wetland assessment procedures in that it first classifies wetlands based on their hydrogeomorphic characteristics (i.e., landscape setting, water source, hydrodynamics), second it uses reference to establish the range of functioning of the wetland, and third it uses a relative index of function, calibrated to *reference wetlands*, to assess wetland functions. This increases the resolution, allows for replicability, and reduces the amount of time needed to conduct the assessment. The HGM Approach utilizes reference wetlands as the means for establishing the scale, or index, against which other wetlands of the same type in a particular geographic area (*reference domain*) can be compared to determine their functional capacity. Reference wetlands are selected to reflect the range of conditions in a particular geographic area that a particular wetland type may exhibit, from relatively undisturbed to highly degraded.

Under the HGM Approach, national guidebooks are being developed for each of the major classes of wetlands: riverine, depressional, slope, flats (mineral soil and organic soil), and fringe (estuarine and lacustrine). The national guidebooks provide a template for developing regional guidebooks for *regional wetland subclasses*. Regional guidebooks include a definition and characterization of the regional wetland subclass, models for assessing selected functions, and methods for applying the *assessment models*. Interdisciplinary teams of wetland specialists from Federal, State, Tribal, and local agencies, as well as the private sector and academia, will coordinate the development of regional guidebooks. To ensure the technical accuracy of the effort, regional guidebooks will be developed following specific protocols and subjected to a rigorous peer review process involving wetland experts from Federal, State, Tribal, and local agencies, academia, and the private sector. Regional guidebooks will be published initially as an operational draft for a two year period to provide agencies, academia, the private sector, and the general public an opportunity to review, apply, and comment on the procedure. Issues raised during this time will be addressed in the final publication. To ensure the best available science is incorporated, the final regional guidebooks will be subject to review and revision for a period not to exceed five years.

Regional guidebooks are being developed in three phases: a pilot phase, an expanded nationwide effort to develop 15 to 20 additional regional guidebooks, and an effort to develop additional models based on priorities established by the Federal agencies. Efforts will be prioritized so that at the end of Phase II there are a sufficient number of regional guidebooks to address 80 percent of the permit workload for wetlands requiring a functional assessment. Given limited agency resources, such an undertaking will require the coordinated participation of Federal, State, Tribal, and local agencies, as well as individuals from academia, and the private sector. State agencies and others who choose to initiate development of regional guidebooks on their own will be encouraged to coordinate with the Federal agencies to ensure consistency, quality, and maximum applicability by Federal, State, Tribal, and local agencies in their wetland programs.

Technical support and coordination for the development of the HGM Approach is being provided by the U.S. Army Engineer Waterways Experiment Station (WES). To facilitate development of the regional guidebooks, WES, in conjunction with other Federal and State agencies and other wetland experts, has developed, and will continue to develop, the necessary support documents, technical information and training materials. Experts from WES will oversee the development of regional guidebooks to ensure consistency and accuracy in these efforts.

To support implementation of the HGM Approach, the Federal agencies will be preparing a policy statement to clarify the application of the HGM Approach within the Section 404 regulatory program and the Food Security Act Swampbuster program. The HGM Approach is a procedure for determining the level at which a proposed project will affect wetland functions. An assessment using the HGM Approach is not a substitute for the Section 404(b)(1) Guidelines or the public interest review; rather the HGM Approach is a tool to be used in the permit review process. It may be used to rapidly and consistently determine the level of environmental impact of a proposed project, to compare project alternatives, to identify measures that would minimize environmental impacts, to determine mitigation requirements, and to establish standards for measuring mitigation success. The policy statement will indicate the manner in which such applications can provide greater certainty and consistency within the decision making process.

II. Overview of the Hydrogeomorphic Approach

The Hydrogeomorphic Approach for Assessing Wetland Functions (HGM Approach), developed by scientists at the U.S. Army Engineer Waterways Experiment Station (WES), is a procedure for measuring the capacity of a wetland to perform functions. The procedure was designed to satisfy the need for better information on wetland functions within the programmatic requirements of the Clean Water Act Section 404 (Section 404) regulatory program. The HGM Approach is a tool that can be used in the alternatives analysis and in assessment of compensatory mitigation within the Section 404 permit review process. The hierarchical and modular nature of the approach make it adaptable to a variety of other regulatory, planning, management, and educational situations requiring the assessment of wetland functions.

The HGM Approach is characterized and differentiated from other wetland assessment procedures in that it first classifies wetlands based on their ecological characteristics (i.e., landscape setting, water source, hydrodynamics), second it uses reference to establish the range of functioning of the wetland, and third it uses a relative index of function, calibrated to *reference wetlands*, to assess wetland functions. HGM uses a hierarchical classification with seven major hydrogeomorphic wetland classes. These classes are : riverine, depressional, slope, flats (organic soil and mineral soil), and fringe (estuarine and lacustrine). The hydrogeomorphic classification is based on three fundamental factors that influence how wetlands function: position of the wetland in the landscape (geomorphic setting), water source (hydrology), and the flow and fluctuation of the water once in the wetland (hydrodynamics). Within a specific geographic area wetland classes can be further divided

into *regional wetland subclasses* (e.g., vernal pools in California, prairie potholes in the northern plains states, and pine flatwoods in the southeastern U.S.). Classifying wetlands based on how they function narrows the focus of attention to a specific type or subclass of wetland, the functions that wetlands within the subclass are most likely to perform, and the landscape and ecosystem factors that are most likely to influence how wetlands in the subclass function. (Table 1.) This increases the accuracy of the assessment, allows for replicability, and reduces the time needed to conduct the assessment.

The HGM Approach includes a development phase and an application phase. The development phase is carried out by an interdisciplinary *Assessment Team* of wetland experts (A-team) and begins with the classification of wetlands into regional subclasses. The A-team then develops a functional profile that describes the physical, chemical, and biological characteristics (wetland functions) of the regional wetland subclass, identifies which functions are most likely to be performed, and discusses different ecosystem and landscape attributes and processes that influence each function. The functional profile is based on the experience and expertise of the A-team and information collected from *reference wetlands*. Reference wetlands are selected from a *reference domain* (a defined geographic area) and represent sites that exhibit a range of variation within a particular wetland type including sites that have been degraded/disturbed as well as those sites which have had little disturbance.

TABLE 1.—HYDROGEOMORPHIC CLASSES OF WETLANDS SHOWING ASSOCIATED DOMINANT WATER SOURCES, HYDRODYNAMICS, AND EXAMPLES OF SUBCLASSES

Hydrogeomorphic class	Dominant water source	Dominant hydrodynamics	Examples of subclass	
			Eastern USA	Western USA
Riverine	Overbank flow from channel.	Unidirectional, horizontal.	Bottomland hardwood forests.	Riparian forested.
Depressional	Return flow from groundwater and interflow.	Vertical	Prairie potholes marshes.	California vernal pools.
Slope	Return flow from groundwater.	Unidirectional, horizontal.	Fens	Montane seeps Avalanche chutes.
Flats (mineral soil)	Precipitation	Vertical	Wet pine flatwoods	Playas.
Flats (organic soil)	Precipitation	Vertical	Peat bogs, portions of Everglades.	Peat bogs
Fringe (Estuarine)	Overbank flow from estuary.	Bidirectional, horizontal	Chesapeake Bay marshes.	San Francisco Bay marshes.
Fringe (Lacustrine)	Overbank flow from lake.	Bidirectional, horizontal	Great Lakes marshes	Flathead Lake marshes.

Source: Smith et al., An approach for assessing wetland functions using hydrogeomorphic classification, reference wetlands, and functional indices. U.S. Army Corps of Engineers Waterways Experiment Station, Technical Report TR WRP–DE–9. Vicksburg, MS. Oct. 1995.

The A-team next develops *assessment models* and calibrates them based on data collected from the reference wetlands. These models define the relationship between attributes and processes of the wetland ecosystem and surrounding landscape and the capacity of a wetland to perform a function. The assessment model results in a *functional capacity index (FCI) (0–1.0)*, which estimates the capacity of a wetland to perform a function relative to other wetlands from the same regional subclass in the reference domain. The standard of comparison used to scale functional indices are *reference standards*, or the conditions under which the highest, sustainable level of function is achieved across the suite of functions performed by *reference standard wetlands* in a regional wetland subclass.

During the application phase of the HGM Approach, the assessment models in the regional guidebook are used to assess wetland functions. The context of the application may be the Section 404 permit review process, or in some other regulatory, planning, or management situation. The HGM Approach does not replace the need for delineating a wetland boundary, preclude the sequencing process, nor supercede the Section 404(b)(1) Guidelines analysis or public interest review. The HGM Approach is a tool that can be used in the alternatives analysis and is expected to be used on those permit actions which warrant a functional assessment for determining wetland impacts. Regulators will be able to use this procedure to rapidly and accurately determine the level of environmental impacts of proposed projects, compare project alternatives, identify measures that would minimize environmental impacts, determine mitigation requirements, and establish criteria for measuring mitigation success. As such, the procedure will be helpful in providing greater certainty and reduced permit review times thus allowing for expedited decision making.

The HGM Approach does not assign a value to wetland functions. Value represents the significance of wetland functions to society or individuals, and often reflects local priorities or policy issues beyond the scope of the HGM Approach. The functional capacity indices resulting from the HGM Approach cannot be equated to the societal or economic value of that wetland function. This information may be used when assigning values to wetland functions in terms of economic or other value units as required by the public interest review process.

III. Implementation Strategies of the HGM Approach

A. Goals and Objectives for Implementation

The primary goal for implementation of the HGM Approach is to provide a standardized tool for consistently assessing wetland functions in a diversity of wetland types throughout the United States. This tool will use the best available technical and scientific information and maintain compatibility with the time and resource framework of the Section 404 regulatory program. The objective is to develop a sufficient number of regional guidebooks to address 80 percent of the permit workload impacting priority wetlands

requiring a functional assessment, as identified by a Corps survey. This includes those individual and general permits requiring either an alternatives analysis and/or compensatory mitigation.

To achieve this goal, the Corps and other Federal agencies have formed a National Interagency Implementation Team (Implementation Team). The purpose of the Implementation Team is to prepare and oversee an implementation plan which identifies the priorities of HGM regional guidebook development and outlines the steps to develop a regional guidebook from model development to the application. This implementation plan prepared by the Implementation Team is the ''National Action Plan to Implement the HGM Approach for Assessing Wetland Functions' (Action Plan). The Action Plan identifies the strategy the Federal agencies will follow in implementing this new assessment methodology to meet the identified objective.

All regional guidebooks will:

(1) Be developed in a consistent and coordinated manner, following protocol identified in the ''Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks''. Technical oversight by scientists at WES will facilitate state and Federal interagency agreement on applications of the HGM approach, and will require the involvement of experts from academia and the private sector, as well as Federal, State, Tribal and local agencies at all stages and levels of review;

(2) Utilize the best scientific information in the development of each model;

(3) Develop regional guidebooks based on national and regional priorities for the Section 404 Regulatory program;

(4) Make the most efficient use of limited agency resources; and

(5) Ensure public involvement at all stages and levels of development.

B. Policy Statement

Concurrent with implementation of the HGM Approach, the Corps and the other Federal agencies will develop a policy statement clarifying how the HGM Approach can be used within the Section 404 and Swampbuster programs to improve regulatory decision making. The policy statement will address various issues, including how information on wetland functions generated by the HGM Approach will be used by regulators to make timely and consistent decisions that are reflective of the relative functional capacity of different wetlands. In addition, the policy statement will identify supplemental procedures to be folowed in applying the HGM Approach which ensure that other important, such as *red flagging* and the relative value of wetland functions, are to be considered in the decision making process.

In order to ensure that application of the HGM Approach meets its objectives of being timely, accurate and cost-effective, the agencies will conduct extensive field testing of regional guidebooks during the two-year operational draft period prior to development of the policy statement. The field testing will be conducted in cooperation with the States and other interested parties, as appropriate. The policy statement will be published in the **Federal Register** for public review and comment.

C. Implementation of the HGM Approach

Implementation of the HGM Approach is a multi-step procedure and will require the participation by several Federal, State, Tribal and local agencies, as well as experts from academia and the private sector. This participation will occur at all stages of the regional guidebook development process starting with identification and prioritization of regional wetland subclasses and initial model development through model calibration, verification, and validation of the revised model.

The first step of this multi-step procedure is to identify the national priorities for regional guidebook development of wetland subclasses through surveys of Corps district offices on what wetland types in their districts were under the greatest development pressure. The next step is to establish regional A-teams from participating agency specialists, academics and the private sector, that are trained in the HGM Approach and classification. The A-teams will identify and prioritize regional wetland subclasses, define the reference domain, and identify reference wetlands.

Once the regional subclasses and reference domain have been identified, conceptual assessment models for *wetland functions* will be drafted based on a review of both the literature and existing models. Model development will include selection of functions for each wetland subclass, selection and definition of variables for each function, and construction of assessment models. The draft models will then go through a peer-review technical workshop to provide individuals with expertise on hydrology, soils, vegetation and wildlife an opportunity to critique the draft assessment models. The workshop participants will include wetland experts from Federal, State, Tribal, and local agencies, and individuals from academia and the private sector who will be an integral part of model development. At the workshop, the model will be critiqued and revised as needed to reflect recommendations from the workshop participants. After model review and revision, the draft model will be calibrated with data collected from reference wetland sites and field tested for accuracy and sensitivity of functional indices by the A-team. Models will be published as draft operational regional wetland subclass guidebooks (operational drafts) for a two year period. The operational draft will include a description and range of the regional wetland subclass, a functional profile, the assessment models, and application instructions with field data sheets. During this time, the operational draft models will be subjected to further extensive field testing by the Federal agencies, and review comments will be solicited from the public. Review comments will be incorporated into a final model. The final model will undergo review and revision as needed on a periodic basis (not to exceed a five-year period) to ensure that new technical data and research are incorporated into the model.

D. Agency Roles and Coordination

Given the magnitude of the effort, and the need for interdisciplinary expertise, implementation of the HGM Approach will require participation from several Federal, State, Tribal and local agencies, academia, private consultants and other wetlands experts. This will be coordinated in the following manner.

1. National Interagency Implementation Team

The Action Plan, outlining the steps the federal agencies will follow in implementing the HGM Approach, will be administered by a National Interagency Implementation Team (Implementation Team) chaired by a representative from the U.S. Army Corps of Engineers. Other agencies represented on the Implementation Team will be the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service (FWS), USDA—Natural Resources Conservation Service (NRCS), the Federal Highway Administration (FHWA), and NOAA-National Marine Fisheries Service (NMFS). Technical assistance will be provided to the Implementation Team by representatives of WES and others involved in the development of the HGM Approach.

The Implementation Team is responsible for ensuring that the Action

Plan is implemented in a consistent and timely fashion, and that the concerns and priorities of each agency are considered. They will meet as needed to assess progress, ensure timely development of products, and address problems and potential inconsistencies.

2. Regional Assessment Teams

Regional assessment teams (A-teams) will include scientists with expertise in wetland hydrology, biochemistry, soils, plants, and wildlife. Representation on the A-Team will be from each agency whenever possible. The USACE representative will serve as the A-team leader. The primary responsibilities of the A-team are as follows:

- Identify regional wetland subclasses and define reference domains.
- Identify reference wetland sites.
- Identify and define functions for each subclass.
- Identify and define variables and construct assessment models.
- Conduct interagency and interdisciplinary workshop to critique models.
- Collect data from reference wetland sites and establish reference standards.
- Calibrate assessment models using reference wetland data.
- Verify and validate the assessment models.

A-teams will meet as needed during implementation of the HGM Approach. A-teams will solicit technical input from other wetland experts from the academic and private sectors as necessary to accomplish their objectives. It is anticipated that development of each regional guidebook will require approximately one year to complete.

3. WES as Technical Support Center

WES will serve as the primary technical support center for coordinating the development of regional guidebooks. WES will publish guidance for developing regional guidebooks (''Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks''), and facilitate publication of the regional guidebooks and other documents related to the HGM Approach. WES will also serve as the center for training and outreach activities related to the HGM Approach.

4. Coordination With State, Tribal and Local Agencies, Academia and the Private Sector

It is the intent of the Federal agencies to involve representatives from appropriate State, Tribal and local agencies, as well as local experts from academia and the private sector in the development of regional guidebooks. Input will be solicited regarding the technical accuracy of the assessment models, as well as its applicability to Federal, State, Tribal and local wetlands programs. The A-team will be responsible for identifying individuals outside of the Federal government with expertise on the hydrology, biogeochemical processes, soils, and habitat functions of the regional wetland subclass to participate in assessment model development and the peer review.

It is anticipated that many State regulatory and/or resource agencies will be interested in taking the lead in developing regional guidebooks using the HGM Approach for their own regulatory programs and other purposes. It is also anticipated that the private sector may take the lead in regional guidebook development for use in Federal programs. Regional guidebooks developed by State agencies and the private sector may be accepted for use within Federal programs if the standard guidance for developing regional guidebooks, ''Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks'', is followed. For this reason, States and others are encouraged to coordinate with WES at the initiation of the project to ensure consistency with Federal efforts. The Federal agencies will work to establish collaborative efforts with States in the development of regional guidebooks to ensure maximum efficiency of both efforts and the broadest possible application.

Many States have on-going research supporting the development of monitoring programs to characterize and assess the condition of their wetland resources. The HGM Approach provides a useful framework for targeting States' data collection and research efforts. Many States have increased their efforts to classify, monitor, and/or document the ecological condition of their wetlands in recent years. Much of the data from these activities can support the development of regional guidebooks for the HGM Approach. Federal and State agencies undertaking the development of regional guidebooks are encouraged to coordinate with these State research and monitoring programs to facilitate an exchange of technical information.

5. Public Involvement

It is the intent of the Federal agencies that the public be aware of the overall development of the HGM Approach and have ample opportunity to review and provide comments on all draft documents. To this end, information will be provided on the Internet at the WES homepage (www.wes.army.mil/el/wetlands/wetlands.hmtl/). The agencies will also provide additional forums (e.g., public workshops) to facilitate public awareness of the implementation of the HGM Approach, development of regional guidebooks, and other related publications.

E. Quality Control for Regional Guidebook Development

The Implementation Team will maintain oversight to ensure that regional guidebook development focuses on priority wetland types and meets agency needs. The agencies recognize that the steps needed to develop each regional guidebook will vary based on the unique circumstances of each effort. However, certain minimum requirements must be met to ensure consistency, technical accuracy, and interagency support for use of the regional guidebooks within the Federal regulatory framework and other programs. Draft guidance from WES for developing regional guidebooks, ''Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks'', is outlined in Table 2.

Table 2.—Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks

Chapter 1. Introduction and Overview
Chapter 2. Identifying and Characterizing Regional Subclasses
—Identify and define functional profile of regional subclass
Chapter 3. Constructing Conceptual Assessment Model
Chapter 4. Reference Wetlands
—Define reference
—Identify reference wetlands
—Explain purpose of reference wetlands
—Importance to HGM
Chapter 5. Collection and Management of Data
—Sampling methods and data collection
—Standardized approach to managing data
Chapter 6. Data Analysis and Model Calibration
—How data is used
—How is data used to calibrate models
Chapter 7. Verification and Validation of HGM Assessment Models
—Model logic
—Testing model application in the field
—Relationship between FCI and an independent measure of function
Chapter 8. Applications of HGM

These chapters contain information necessary for the characterization of regional subclasses, data collection and management from reference wetland

sites, model construction, data analysis, and model calibration, verification, and validation. Figure 1 depicts the HGM regional guidebook development process that follows the information contained within the ''Guidelines for Developing Hydrogeomorphic Regional Guidebooks''.

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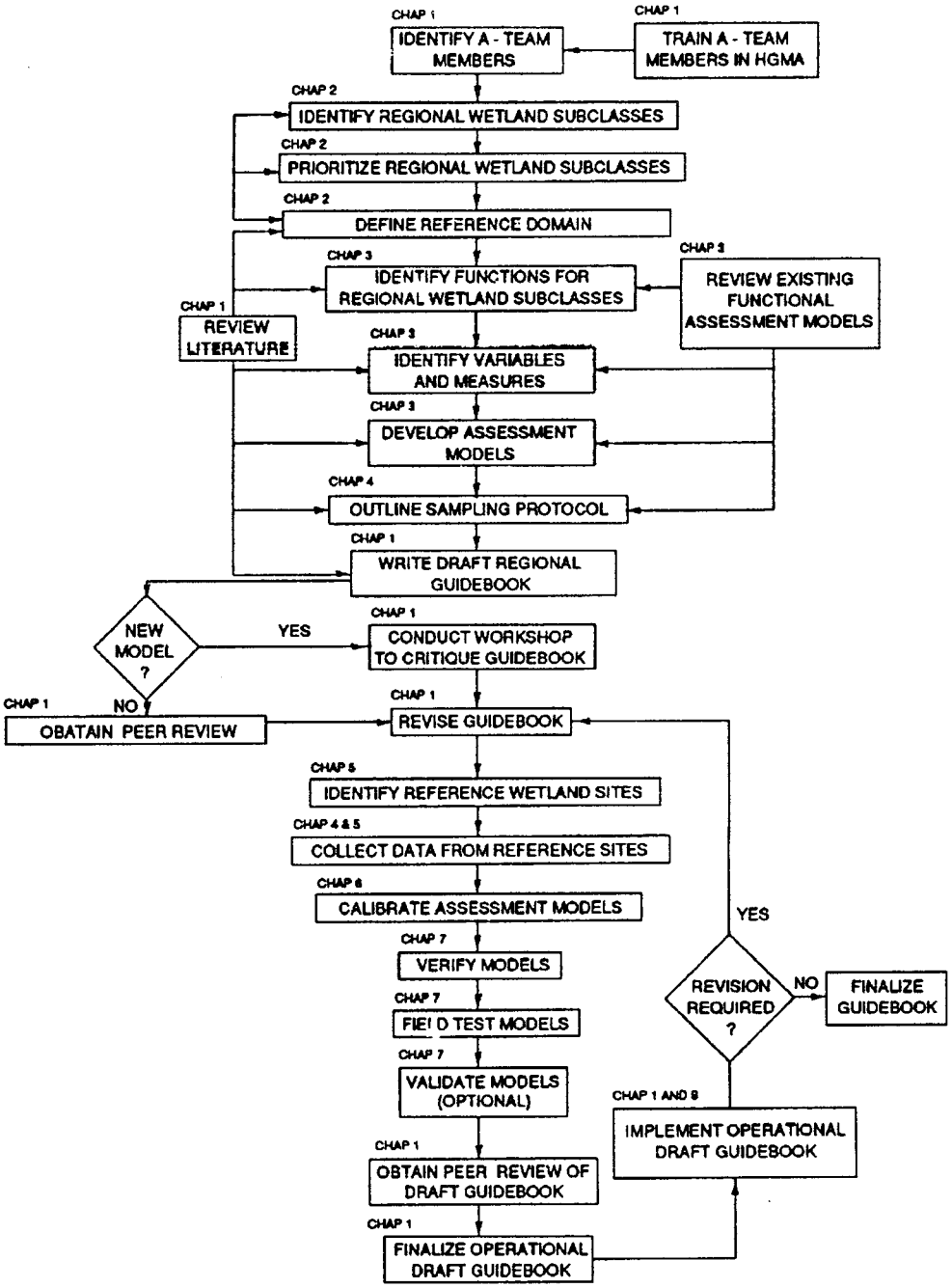

Figure 1. The HGM regional guidebook development process. Chapter numbers reference chapters of the "Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks".

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At a minimum, regional guidebooks must contain the following information to be complete:

- Purpose and format of the regional guidebook
- An introduction to the HGM Approach
- A functional profile of the regional wetland subclass
- Guidance for selecting reference wetland sample locations
- Guidance for selecting and sampling of reference standard wetlands
- Documentation of the functions of the regional wetland subclass
- Guidance on the application of the regional guidebook models in the field including the materials needed to take to the field.
- Any appendices addressing reference data sites and the field sheets used to collect the data, any raw/summarized information needed to support the model or calibration of the model, and any other information that may be specific to the regional guidebook.

Regional guidebooks developed by A-teams other than those formed by the Federal agencies are required to follow the guidance developed by WES for developing regional guidebooks if these regional guidebooks are to be used within Federal programs. Entities undertaking separate efforts to develop HGM functional assessment models are encouraged to inform the Corps promptly of their intent and provide timely opportunities for agency participation and review. Any regional guidebook developed by an entity other than the Federal agencies must be reviewed and approved by the Federal agencies prior to application under Federal programs to ensure consistency with quality assurance steps outlined in this document, including agency and private sector peer review.

F. Training and Outreach

1. Training

Training in the HGM Approach will be necessary to ensure consistent development and application of regional assessment models. Different training courses, ranging from an introductory course to familiarize program administrators and field personnel with the HGM Approach to technical training in regional subclass model development and the application of the HGM Approach are proposed as follows:

A. ''Introductory Course to the HGM Approach to Wetland Assessment''—This course will be designed for executive and management personnel who need to understand the basics of the HGM Approach. The course will be approximately three days in length and provide background on the HGM Approach, including the conceptual basis of HGM regional guidebook development and application.

B. ''HGM Application Course''—A second course will be offered to those individuals directly responsible for assessing wetland functions in the field using a regional guidebook. The course objective will be to ensure students are as proficient as possible in applying regional subclass models and in evaluating their results. The course will focus on the application of models under different scenarios such as project impact assessment, alternative analysis, and mitigation design/monitoring. It will require a full five days to complete with considerable emphasis on field work. This course will be offered through the Corps regulatory training curriculum. (Under development.)

C. ''HGM Regional Guidebook Development''—This course will be designed for personnel responsible for drafting and testing new regional guidebook models. Students will be provided information on the sequence of steps necessary to develop models and the lessons learned from prior development efforts. The course will be approximately three days long and include field exercises on identifying and collecting data from reference wetlands. (Under development.)

D. ''Train the Trainers''—A fourth course will be offered to train those individuals who will be responsible for local training. The course objective will be to enable students who are proficient in the HGM Approach and regional guidebook development to train others in the HGM Approach, regional guidebook development, and application. This course will be two days in length with a prerequisite of having extensive experience in the HGM Approach.

2. Outreach

In addition to this Action Plan and the training courses the Federal agencies are proposing, additional outreach efforts are planned to ensure that State, Tribal, local agencies and the general public are informed on the HGM Approach, including the direction the Federal agencies will follow in developing and implementing the HGM Approach. The following efforts will be made over the next few years to meet that objective.

All technical publications included under the HGM Approach (e.g., national and regional guidebooks, and supporting technical documents) will be published by WES under an interagency logo. Once published, these documents may be obtained by interested parties through an appropriate Federal publications office, including the National Technical Information Service (NTIS). In addition, WES has developed a homepage on the Internet dedicated to the HGM Approach to make pertinent documents available electronically. The homepage will include a quarterly publication to update interested readers on the status of efforts to develop and implement the HGM Approach. Among the information included in this publication will be a current listing of completed national and regional guidebooks (including both operational and final drafts), as well as information concerning the status of other models under development. The homepage can be accessed by the following address: http://www.wes.army.mil/el/wetlands/wetlands.html.

WES will also serve as the Federal lead for keeping the scientific community informed about the HGM Approach through the presentation of information at appropriate professional meetings and through technical publications. Similarly, the Federal agencies will make information available to professional trade organizations and journals to ensure that the regulated community and others are informed on the development of the HGM Approach. EPA's Wetlands Information Hotline (1–800–832–7828) will also serve as a distribution center for HGM materials. In addition to the Federal agency training programs described above, it is anticipated that private wetland training institutes will begin to provide additional training opportunities for both the public and private sectors. In addition to these formal training programs, the agencies anticipate sponsoring short seminars on the HGM Approach to respond to local interests or needs.

IV. HGM Documents

The following documents have been or are expected to be published by WES as part of the development strategy. Published documents are available through the NTIS at (703) 487–4650.

A. ''HGM Classification of Wetlands'' (Brinson 1993)—This document lays out an approach for classifying wetlands into similar functional types (classes and subclasses) based on their hydrogeomorphic characteristics. Wetlands are initially classified based on three major characteristics: (1) geomorphic setting, (2) water source, and (3) hydrodynamics. The seven major wetland classes are depression, slope, flats, fringe, and riverine. The classification is not intended to supersede or replace other wetland

classification methods designed for purposes other than functional assessment.

B. ''Procedural Document'' (Smith et al 1995)—This document establishes the guiding rules for model development and application of the HGM Approach. Included is standard guidance for wetland bounding, characterization and assessment using a regional assessment model, as well as guidance for development of A-teams and assessment models.

C. ''Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks'' (Clairain ed. In Prep)—This document, currently under development, establishes guidelines for developing regional guidebooks and addresses the information necessary for the characterization of regional wetland subclasses, data collection and management from reference wetland sites, model construction, data analysis, and model calibration, verification, and validation. These guidelines must be followed if the regional guidebook is to be used within the Section 404 regulatory program and other Federal programs.

D. ''National Guidebooks''—These documents will provide the basis for applying the HGM Approach for wetland functional assessment to one of the seven major classes of wetlands:

- Riverine Wetlands (Brinson et al 1995)
- Depressional Wetlands (In Prep)
- Estuarine Fringe Wetlands (In Prep)
- Lacustrine Fringe Wetlands
- Slope Wetlands (In Prep)
- Mineral Soil Flats
- Organic Soil Flats

Each national guidebook will serve as a template from which regional guidebooks can be developed. Each document will identify and describe the wetland class, description of selected functions, variables, and rationale, including supporting literature. The document will lack field calibration and specifics on reference standards. National guidebooks will be published initially as operational drafts for a two-year period, to allow the public to provide comments on the information contained within. Revisions will be made in response to field review and public comment and a final guidebook will be published.

E. ''Regional Guidebooks''—Regional Guidebooks represent a regionalization for wetland subclasses, of the National Guidebooks, through modification, calibration, and testing to determine effectiveness under local and regional conditions. Regional guidebooks will contain an introduction to the HGM Approach, a functional profile of the regional wetland subclass, guidance for selecting reference wetland sample locations, guidance for selecting and sampling of reference standards, purpose and format of the regional guidebook, documentation of the functions of the regional wetland subclass, guidance on the application of the regional guidebook models in the field including the materials needed to take to the field. This document will also contain appendices addressing reference data sites and the field sheets used to collect the data, any raw/summarized information needed to support the model or calibration of the model, and any other information that may be specific to the regional guidebook.

The regional guidebook, having been reviewed by an interagency panel and an interdisciplinary team of experts familiar with the region and wetland subclass, will be published by WES as an Operational Draft of the regional guidebook for that wetland subclass, for a two-year period. The preface in each operational draft will contain a statement and address for soliciting review comments. Each operational draft will be made available for public use for a two year period, during which time comments and recommendations for revisions will be accepted. The operational draft will be revised to reflect recommended changes in the models and the revised models will then be published as a Final Regional Guidebook.

Each final regional guidebook will remain in use for a period not to exceed five years before any revisions are made. During this five year period, it will be reviewed by an interdisciplinary team and an interagency panel to assess changes in the state of wetland science, including the applicability of new data and research on the particular wetland subclass. It will then be determined if the regional models need revising. If revisions are required, the final regional guidebooks will be revised and republished.

V. Application of HGM Approach

One of the primary benefits of the HGM Approach is that it provides a method to rapidly and consistently assess the level of environmental impact of a proposed project. This information is particularly valuable within the review of Section 404 permit applications where the HGM Approach can assess the ability of a wetland to perform a specific function before and after the proposed discharge of dredged or fill material. As such, the evaluation can be useful in identifying the least damaging project alternative as required by the Section 404 program. Moreover, the method provides regulators with a more predictable tool to gauge the level of environmental impact and, therefore, to more consistently determine the appropriate regulatory response, i.e., ensure that the level of review is commensurate with the degree of environmental impact and based upon the best available scientific information.

NRCS, in its administration of the Food Security Act of 1985, as amended, is tasked with determining impacts to wetland functions due to conversions or proposed conversions on agricultural lands. Such determinations must be made in order to implement the ''minimal effects'' and mitigation exemptions which are provided in the Food Security Act. Under the minimal effects exemption, NRCS will identify thresholds to determine whether a conversion activity is minimal. The information provided from an HGM assessment can be compared to the thresholds and provide the basis for making a minimal effect determination. HGM assessment information will also provide the needed data to determine mitigation requirements when granting a mitigation exemption.

The HGM Approach also provides important information to determine the nature and level of compensatory mitigation that is needed to effectively offset impacts to wetlands. Identifying the degree to which a project may adversely affect the hydrologic, biogeochemical, and habitat functions of a particular wetland enables regulators to more accurately determine the amount and type of compensatory mitigation required to offset the adverse impacts. In addition, the indicators and variables used to establish the assessment model may provide performance standards with which mitigation projects can be monitored to determine compliance.

In addition, the HGM Approach may also be applied to mitigation banking (the creation, restoration, or enhancement of wetlands expressly for the purpose of providing compensatory mitigation for multiple projects.) The HGM approach can be used to determine the appropriate number of credits available at a mitigation bank and also to establish performance standards to measure the success of the project in meeting stated goals.

The HGM Approach can be applied to determine the relative functional capacity index of wetlands in a particular geographic area within a watershed planning or wetland restoration effort, which typically involves the collection and distribution of data on the functions of wetlands in

the area. The information gathered can be used to make management decisions on the location of future development within the watershed and the protection of its aquatic resources. Where existing regional subclass models are not available, a watershed planning effort may provide the basis from which a regional assessment model can be developed. In such cases, the model can be tailored to meet the specific application of the planning effort.

The HGM Approach may also be used in the context of a State's wetland water quality standards program. The HGM Approach provides a useful framework for targeting States' data collection and research efforts. Many States have increased their efforts to monitor and document the ecological condition of their wetlands. This information is then used to define more appropriate and specific wetland water quality standards, to report on the health of States' aquatic systems, and to set performance standards for wetland restoration and mitigation projects. The indicators and variables identified in a regional guidebook can serve as the basis for establishing narrative or numeric criteria used to assess whether an established standard has been met.

The above list of potential applications of the HGM Approach will be more fully addressed in the ''Guidelines for Developing Hydrogeomorphic Approach Regional Guidebooks'.

VI. Schedule

The HGM Approach is being implemented in three phases. Phase I, initiated in 1995, focused on developing functional assessment models and regional guidebooks for priority regional wetland subclasses including: (a) South-Central Florida flats and depressions and flats of the Everglades; (b) Western Kentucky and Tennessee riverine (low gradient, low order); (c) Vernal pools in California; (d) Prairie potholes of the northern plains states; (e) Southeast Pine Flatwoods, and (f) Coastal Fringe of the Texas Gulf Coast. Phase II, initiated in 1996, consists of an expanded nationwide effort to develop functional assessment models and regional guidebooks in approximately 15–20 additional regional wetland subclasses in order to achieve the goal of having a sufficient number of assessment models to address 80 percent of the priority Section 404 permit workload requiring functional assessments. (See Table 3) Under Phase III, functional assessment models and regional guidebooks will be developed for all remaining regional wetland subclasses identified.

A. Phase I—Pilot Projects—1995

Phase I of the Action Plan was initiated in 1995 and is focused on developing regional guidebooks for regional wetland subclasses of national priority as identified by a survey sent to Corps Districts. National priorities were determined and pilot Corps Districts selected by surveying field offices and identifying those types of wetlands which are experiencing the most development pressure, are threatened due to scarcity, and/or are complex and difficult to assess. A-teams were established to identify reference wetlands and develop functional indices for these priority regional wetland subclasses. The number of A-teams formed was dependent upon the availability of personnel, time, and financial resources, consistent with established national priorities. A training workshop was held for A-team members to ensure consistency in the efforts to develop regional subclass models. The A-teams initiated technical meetings to accomplish tasks such as: the identification of functions relevant to the particular wetland subclass, the review of existing assessment models, the selection of reference wetlands, the identification of variables, and the development and testing of functional indices. The objective of Phase I was to develop functional indices for priority regional wetland subclasses, and establish protocol for identifying reference wetlands and developing assessment models for additional regional subclasses during Phase II and Phase III in a consistent, systematic, and accurate manner.

TABLE 3.—STATUS OF DEVELOPMENT OF REGIONAL GUIDEBOOKS

Component	Contributing agency(ies) *	Product	Projected completion	Current status
National Documents:				
National Action Plan	COE/WES	Technical Report	Apr. 97	Draft Complete.
Procedural Document	COE/WES	Technical Report	Apr. 96	Published.
Guidelines for Developing Hydro-geomorphic Approach Regional Guidebooks.	COE/WES	Technical Report	Dec. 97	Initiated Jan. 97.
Classification Report	COE/WES	Technical Report	Jun. 93	Published.
National Guidebooks:				
Riverine Wetlands	COE/WES	Operational Draft	May 96	Completed.
Depressional Wetlands	COE/WES/FWS	Operational Draft	Dec. 97	Initiated Oct. 96.
Slope Wetlands	COE/WES	Operational Draft	Dec. 97	Workshop held Oct. 96.
Fringe: Estuarine	COE/WES	Operational Draft	Oct. 97	Workshop held Sep. 96, Draft complete.
Fringe: Lacustrine	COE/WES	Operational Draft		Pending Funding.
Flats	COE/WES	Operational Draft		Pending Funding.
Regional Slope Guidebooks:				
Forested Slope Wetlands of New England—Massachusetts, New Hampshire, Vermont.	COE/WES	Operational Draft	May 98	Workshop Jul. 96.
Regional Riverine Guidebooks:				
Low gradient 2nd or 3rd order streams in Western Kentucky and Tennessee.	COE/WES/TN DEC	Operational Draft	Jul. 97	Workshop May 96, Draft Complete.
Low gradient 2nd or 3rd order streams in the Northern Rockies—Montana.	COE/WES/EPA/ States/Private/ FHWA.	Operational Draft	Dec. 97	Workshop held in Apr. 96.

TABLE 3.—STATUS OF DEVELOPMENT OF REGIONAL GUIDEBOOKS—Continued

Component	Contributing agency(ies) *	Product	Projected completion	Current status
Regional Depressional Guidebooks:				
Prairie Potholes—North Dakota	NRCS/COE/WES	Operational Draft	Dec. 97	Workshop Jun. 95, Draft completed.
Depressions in South and Central Florida	COE/WES	Operational Draft	Oct. 97	Workshop held Feb. 96.
Vernal Pools of the Central Valley of California.	COE/WES	Operational Draft	Sep. 98	Workshop held May 96.
Herbaceous Depressions of the Northern Rockies—Montana.	COE/WES/EPA/ States/Private/ FHWA.	Operational Draft	Oct. 97	Workshop held Apr. 96.
Regional Fringe: Coastal Guidebooks:				
Coastal Wetlands of the Texas Coast	COE/WES/EPA	Operational Draft	Oct. 98	Initiated Jan. 97, Workshop scheduled for Nov. 97.
Regional Fringe: Lacustrine Guidebooks:				
Tulsa	COE/WES/EPA	Operational Draft	Oct. 98	Initiated Jan. 97.
Regional Flats Guidebooks:				
Herbaceous Flats in South and Central Florida.	COE/WES	Operational Draft	Oct. 97	Workshop held Feb. 96.
Flats in the East Everglades of Florida	COE/WES	Operational Draft	Oct. 97	Workshop held Apr. 96.
Pine Flatwoods of the Southeastern US	FHWA/EPA	Operational Draft	Dec. 97	Initiated May 96.

Note: *=Agency abbreviations are listed below.
COE—U.S. Army Corps of Engineers Headquarters and Districts.
WES—U.S. Army Engineer Waterways Experiment Station.
EPA—U.S. Environmental Protection Agency Headquarters and/or regional offices.
NRCS—U.S.D.A. Natural Resources Conservation Service.
FHWA—Federal Highway Administration.
FWS—U.S. Fish and Wildlife Service.
TN DEC—Tennessee Department of Environmental Conservation,

Five regional guidebooks are currently under development representing depressional wetlands (prairie potholes in the northern plains states and vernal pools in the Central Valley of California), riverine wetlands (low gradient streams in western Kentucky/Tennessee), flats (flats in the East Everglades of Florida), and flat/depressional mosaics in Florida. Table 3 identifies the current status of these regional guidebooks and their anticipated completion dates.

B. Phase II—Expanded Nationwide Effort

Phase II, initiated during 1996, consists of an expanded nationwide effort to develop regional guidelines in approximately 15–20 additional regional wetland subclasses. Regional guidebooks developed in Phase II will use the same protocol as described for Phase I. As identified in Table 3, efforts currently underway as part of Phase II include the development of assessment models for riparian systems, herbaceous depressional and slope wetlands in the northern Rocky Mountains, forested slope wetlands in New England, and coastal fringe wetlands of the Gulf of Mexico. In addition to the efforts being led by the Federal agencies, there are also efforts in regional guidebook development being led by various states under EPA's State Grant Program. These efforts to date are listed in Table 4. However, it should be recognized that expanded efforts in this Phase will not address all regional wetland subclasses. The number of efforts initiated is dependent upon the availability of personnel, time, and financial resources.

TABLE 4.—STATUS OF OTHER HGM EFFORTS, FUNDED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY (INCLUDING EPA STATE/TRIBAL WETLAND GRANT PROGRAM)

Component	Contributing agency(ies)	Product	Projected completion	Current status
Regional Riverine Guidebooks:				
Low gradient riverine wetlands in the lower Mississippi River Valley.	EPA/COE–WES	Operational Draft	Sep. 98	Initiated Apr 97.
Riverine Wetlands of the Santa Margarita Watershed in Southern California.	EPA	Operational Draft	Oct. 98	Draft complete, undergoing peer review prior to workshop review.
Riverine/slope wetlands of southeast Alaska.	Alaska DEC/SGP	Operational Draft	Oct. 97	Draft undergoing peer review.
Riverine wetlands in 1st—2nd order headwater reaches in Pennsylvania and Maryland.	EPA	Operational Draft	Mar. 99	Initiated May 94.
Riverine wetlands along broad floodplains associated with streams greater than 2nd order in Pennsylvania and Maryland.	EPA	Operational Draft	Mar. 99	Initiated May 94.

TABLE 4.—STATUS OF OTHER HGM EFFORTS, FUNDED BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY (INCLUDING EPA STATE/TRIBAL WETLAND GRANT PROGRAM)—Continued

Component	Contributing agency(ies)	Product	Projected completion	Current status
Flow through and impounded riverine wetlands in Washington.	Washington Dept of Ecology/SGP.	Operational Draft	Jan. 98	Workshop held May 97.
Low gradient riverine wetlands of the Great Colorado Plateau and Rocky Mt. region.	Utah Governor's Office of Planning/ SGP.	Operational Draft	Mar. 98	Data collection.
Riverine wetlands of Kenai watershed Alaska.	AK DEC/FWS/ Kenai Peninsula Borough/ SGP.	Operational Draft	Sep. 98	Fieldwork Jul 97.
Regional Slope Guidebooks:				
Slope wetlands in Pennsylvania	EPA	Operational Draft	Dec. 98	Initiated May 94.
Regional Depression Guidebooks:				
Flowthrough and closed depression wetlands in Washington.	Washington Dept of Ecology/SGP.	Operational Draft	Jan. 98	Workshop held May 97.
Depression wetlands in Pennsylvania	EPA	Operational Draft	Dec. 98	Initiated May 94.
Depression wetlands in Guam	EPA	Operational Draft	Dec. 99	Initiate in Aug 97.
Regional Flats Guidebooks:				
Flats wetlands on discontinuous permafrost in interior Alaska.	AK DEC/NRCS/DOA/ SGP.	Operational Draft	Jul. 97	Workshop held Apr 97.
Regional Fringe Guidebooks:				
Tidal freshwater marshes of the Hudson River, New York.	NY DEC/COE/Hudson River Improvement Fund/SGP.	Operational Draft	Dec. 98	Pre-draft guidebook completed.
Other:				
Characterization and functional assessment of reference wetlands of the southern and central Rocky Mountains.	Colorado Geological Survey/SGP.	Grant Report	Jun. 98	Initiated Aug 96.

Note: * =Agency abbreviations are listed below:
COE–WES—U.S. Army Corps of Engineers.
EPA—U.S. Environmental Protection Agency.
SGP—EPA's State/Tribal Wetland Grant Program.
NRCS—U.S.D.A. Natural Resources Conservation Service.
AK DEC—Alaska Department of Environmental Conservation.
NY DEC—New York Department of Environmental Conservation.
DOA—Department of the Army.

In addition to the development of regional guidebooks, the Corps and the other Federal agencies, will work together during Phase II, to develop necessary guidance on how the HGM Approach may be applied in the review of Section 404 permit applications. The intent of the guidance is to clarify how information from an assessment can be used to determine the level of environmental impacts a proposed project may cause and the appropriate regulatory response.

C. Phase III

Based on the needs of the Federal agencies and work conducted to date by others, the agencies will establish a priority listing of additional models to be developed.

VII. Funding

Primary funding for the Federal effort to develop the HGM Approach has been and will continue to be provided through the Corps, with additional support being provided by other federal agencies, including EPA, NRCS, FWS, NMFS, and FHWA. As development of the approach continues, limited Federal funds will be available for the development of each regional guidebook to support tasks such as the collection of data, training, and technical workshops. The cost for developing regional guidebooks is expected to vary depending on the scope of the effort and the level and nature of participation by Federal, State, Tribal and local agencies and the private sector. For State, Tribal and certain local efforts, EPA's State Wetlands Grant Program has made funding available for those agencies wishing to pursue an HGM Approach within their wetlands program. Interested State, Tribal and local agencies should contact the local EPA office for further information.

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Appendix A

Definition of Terms

Assessment Model: A simple model that defines the relationship between ecosystem and landscape scale attributes and processes and functional capacity of a wetland. The model is developed and calibrated using reference wetlands from a reference domain.

Assessment Objective: The reason why an assessment of wetland functions is being conducted. Assessment objectives normally fall into one of three categories. These include: documenting existing conditions, comparing different wetlands at the same point in time (e.g., alternatives analysis, and comparing the same wetland at different points in time (e.g., impact analysis or mitigation success).

Assessment Team (A-Team): An interdisciplinary group of regional and local scientists responsible for identifying regional wetland subclasses, identification of reference wetlands, construction of assessment models, definition of reference standards, and calibration of assessment models.

Functional Assessment: The process by which the capacity of a wetland to perform a function is measured or estimated. The Hydrogeomorphic Approach measures capacity using an assessment model to determine a functional capacity index.

Functional Capacity: The rate or magnitude at which a wetland ecosystem performs a function. Functional capacity is dictated by characteristics of the wetland ecosystem and the surrounding landscape, and interaction between the two.

Functional Capacity Index (FCI): An index of the capacity of a wetland to perform a function relative to other wetlands within a regional wetland subclass in a reference domain. Functional capacity indices are by definition scaled from 0.0 to 1.0. An index of 1.0 indicates the wetland performs a function at the highest sustainable functional capacity, the level equivalent to a wetland under reference standard conditions in a reference domain. An index of 0.0 indicates the wetland does not perform the function at a measurable level, and will not recover the capacity to perform the function through natural processes.

Highest Sustainable Functional Capacity: The level of functional capacity achieved across the suite of functions by a wetland under reference standard conditions in a reference domain. This approach assumes that the highest sustainable functional capacity is achieved when a wetland ecosystem and the surrounding landscape are undisturbed.

Hydrogeomorphic Wetland Class: The highest level in the hydrogeomorphic wetland classification. There are seven basic hydrogeomorphic wetland classes including depressional, fringe—lacustrine and coastal, slope, riverine, and flat—mineral and organic.

Project Target: The level of functioning identified for a restoration or creation project. Conditions specified for the functioning are used to judge whether a project reaches the target and is developing toward site capacity.

Project Standards: Performance criteria and/or specifications used to guide the restoration or creation activities toward the project target. Project standards should include and specify reasonable contingency measures if the project target is not being achieved.

Red Flag Features: Features of a wetland or the surrounding landscape to which special recognition or protection is assigned on the basis of objective criteria. The recognition or protection may occur at a federal, state, regional, or local level, and may be official or unofficial.

Reference: Standard for measuring, reckoning, or constructing.

Reference Domain: The geographic area from which reference wetlands are selected. A reference domain may or may not include the entire geographic area in which a regional wetland subclass occurs.

Reference Standard Wetlands: The sites within a reference wetland data set from which reference standards are developed. Among all reference wetlands, reference standard sites are judged by an interdisciplinary team to have the highest level of functioning.

Reference Standards: Conditions exhibited by a group of reference wetlands that correspond to the highest level of functioning (highest, sustainable level of functioning) across the suite of functions performed by the regional wetland subclass. The highest level of functional capacity is assigned an index score of 1.0 by definition.

Reference Wetlands: Wetland sites that encompass the variability of a regional wetland subclass in a reference domain. Reference wetlands are used to establish the range of conditions for construction and calibration of functional indices and establish reference standards.

Regional Wetland Subclass: Wetlands within a region that are similar based on hydrogeomorphic classification factors. There may be more than one regional wetland subclass identified within each hydrogeomorphic wetland class depending on the diversity of wetlands in a region, and assessment objectives.

Site Potential: The highest level of functioning possible, given local constraints of disturbance history, land use, or other factors. Site capacity may be equal to or less than levels of functioning established by reference standards for the reference domain, and it may be equal to or less than the functional capacity of a wetland ecosystem.

Wetland Functions: The normal activities or actions that occur in wetland ecosystems, or simply, the things that wetlands do. Wetland functions result directly from the characteristics of a wetland ecosystem and the surrounding landscape, and their interaction.

[FR Doc. 97–15959 Filed 6–19–97; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF ENERGY

[Docket No. EA–48–L]

Issuance of Temporary Order; El Paso Electric Company

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of Issuance of Temporary Order and Request for Comments.

SUMMARY: Notice is hereby given that of DOE has issued El Paso Electric Company (EPE) a Temporary Order in FE Docket EA–48-L that authorizes EPE to increase the level of electricity exports to Mexico from 200 MW to 210 MW for the summer months of 1997.

DATES: Comments, protests or requests to intervene must be submitted on or before July 7, 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 June 9, 1997, EPE filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) to temporarily exceed the authorized transmission rate of 200 megawatts (MW) for electricity exports to Mexico over two international transmission lines owned and operated by EPE in the vicinity of El Paso, Texas. This request, to export up to 210 MW of electric power through August, 1997, is to accommodate hourly fluctuations in CFE's summer load requirement.

DOE has determined that the immediate nature of CFE's need for electric energy this summer justifies an abbreviated public comment period and the issuance of a temporary order prior to completion of the comment period.

PROCEDURAL MATTERS: DOE is publishing this notice concurrent with issuance of the Order in Docket EA–48–L attached as Appendix A to this Notice. Any persons desiring to become a party to this proceeding or to be heard by filing comments or protests regarding this Order 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. Additional copies are to be filed directly with: Pedro Serrano, Jr., Assistant Vice President, El Paso Electric Company, P.O. Box 982, El Paso, Texas 79960.

Copies of the EPE application and Order EA–48–L will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, D.C., June 13, 1997.

Anthony J. Como

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

Appendix A

El Paso Electric Company, Order No. EA–48–L

I. Background

Exports of electric energy 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 June 9, 1997, El Paso Electric Company (EPE) filed a letter application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) requesting that EPE's electricity export authorization be amended to increase the allowable level of exports to Mexico from 200 megawatts (MW) to 210 MW through August 1997. EPE's request was occasioned by a recent request from the Comision Federal de Electricidad (CFE), the national electric utility of Mexico, for additional purchases of capacity to accommodate hourly fluctuations in the CFE load requirements during the summer. The increased exports would be delivered to CFE over EPE's two existing 115–kV international transmission lines previously authorized by Presidential Permits PP–48 and PP–92.

The EPE and CFE normally are operated asynchronously. During periods when EPE is either exporting electric energy to, or importing from CFE, synchronism between the two systems can only be maintained when either a portion of CFE's Ciudad Juarez system is not connected to CFE's national interconnected electrical system or El Paso's system is not interconnected with the rest of the Western System Coordinating Council (WSCC) system. When CFE receives electric energy from EPE, it must isolate a portion of its system from the remainder of the CFE system and rely on EPE to supply the full electrical requirements of that isolated portion. When supplying electrical service to that isolated portion of the CFE system, EPE must be able to accommodate the hourly fluctuation in load. EPE has estimated that these hourly fluctuations could require EPE to supply up to 210 MW of electric power to the isolated portion of the CFE system. Since EPE's existing export authorization (EA–48–I) limits exports to CFE to 200 MW, EPE has requested a 10-MW increase in the authorized level of exports for the summer months.

DOE is issuing this Order concurrent with the public notice in the **Federal Register**. DOE's intent in so doing is to accommodate an immediate need for power in Mexico that can only be satisfied by this accelerated process.

II. Discussion and Analysis

On October 29, 1996, the Secretary of Energy signed Delegation Order No. 0204–163, which delegated and assigned to the Federal Energy Regulatory Commission (FERC) authority to carry out such functions vested in the Secretary to regulate access to, and the rates, terms and conditions for, transmission services over EPE's international transmission facilities. This authority was delegated to FERC for the sole purpose of carrying out the Department's policy of comparable open-access, non-discriminatory transmission service over international transmission lines and, thus, authorized FERC to take any further actions that may be necessary to effectuate open access transmission over the United States portion of EPE's international lines. Notice and a copy of the Delegation Order were published in the **Federal Register** on November 1, 1996, at 61 FR 56525.

The Delegation Order did not preclude the Secretary from exercising or further delegating any of the authority therein delegated. Accordingly, the instant application by EPE is being processed by DOE. In addition, because of the immediate nature of the CFE request, the limited notice provided to EPE of the added energy requirement, and the technical inability of CFE to obtain the required relief from other domestic or U.S. sources, DOE is expediting its normal process to provide CFE maximum relief.

DOE calls EPE's attention to the repetitive nature of summer emergency and short term requests to export at increased power levels to Mexico. Because of these historic trends in the operation of the EPE/CFE interconnection, DOE encourages EPE to prepare, prior to the 1998 peak load season, studies to support an application to permanently increase the authorized rate of transmission to CFE above the current 200 MW limit to handle future emergency needs of CFE during the summer months.

III. Finding and Decision

The circumstances described in the letter application in FE Docket EA–48–L to amend Order EA–48–I by temporarily increasing the authorized rate of transmission to 210 MW for the summer months of 1997 are similar to other temporary emergency authorizations issued EPE in the past. DOE has determined that the electric reliability review prepared on March 19, 1992, in FE Docket FE–48–I, and its review of EPE's June 9, 1997 Study of System Impacts that modeled the proposed increase in transmission to CFE, fulfills the statutory requirements of the FPA. Specifically, this review determined that operating these facilities in compliance with the system criteria of EPE and WSCC, combined with the EPE/CFE interconnection agreement that permits EPE to reduce or terminate exports to CFE (even emergency sales) during any system operating conditions on the EPE system which would create a potential reliability problem, would not adversely impact on the reliability of the U.S. electric power supply system.

Similarly, DOE finds that it has adequately satisfied its responsibility under the National Environmental

Policy Act of 1969 through adoption of the Finding of No Significant Impact dated April 15, 1992, and contained in FE Docket EA–48–I.

IV. Order

Based on the above discussion and findings, paragraph (A) of Order EA–48–I is amended by adding the following sentence: From the date of this Order until August 31, 1997, EPE is authorized to export electric energy to Mexico at a maximum allowable rate of transmission of 210 MW.

Issued in Washington, D.C., on June 13, 1997.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 97–16187 Filed 6–19–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–568–000]

ANR Pipeline Company; Notice of Request under Blanket Authorization

June 16, 1997

Take notice that on June 10, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97–568–000, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to operate under the provisions of Section 7(c) of the Natural Gas Act (NGA) existing facilities that have been constructed pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA).

ANR states that it constructed an interconnection between ANR and Arkla, a division of NorAm Energy Corporation, (Arkla) in Woodward County, Oklahoma, under Section 311 of the NGPA. ANR states that this interconnection was placed in service on April 12, 1997. ANR indicates that the facilities consist of a two-inch positive displacement meter, an electronic measurement system, an insulating flange, and approximately 400 feet of four-inch pipeline. ANR further indicates that the total cost of the facilities was approximately $73,500, for which ANR are fully reimbursed by Arkla. By this application, ANR seeks authorization, under Section 157.211 of the Commission's prior notice regulations, to operate its intercommection with Arkla under the provisions of Section 7(c) of the NGA.

Any person or the Commission Staff may, within 45 days of the issuance if the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16141 Filed 6–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–570–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

June 16, 1997.

Take notice that on June 11, 1997, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP97–570–000 a request pursuant to sections 157.205, 157.216 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216, 157.212) for authorization to upgrade the Rosemount #1 TBS, an existing delivery point located in Dakota County, Minnesota, to accommodate increased natural gas deliveries to Koch Hydrocarbon Company (Koch) under Northern's blanket certificate issued in Docket No. CP82–401–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northern proposes to replace the meter module on the existing 8-inch meter and install an additional 8-inch meter at the existing station. Northern states that Koch has requested the proposed upgrade of the Rosemount #1 TBS to accommodate increased deliveries for use at their plant. The increased deliveries would be from 35,000 MMBtu/day to 100,000 MMBtu/day, peak day and from 11,400,000 MMBtu to 25,500,000 MMBtu, annual under Northern's currently effective service agreements. Northern estimates the cost to upgrade this delivery point to be $117,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16140 Filed 6–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–559–000]

Williston Basin Interstate Pipeline Company; Notice of Application

June 16, 1997.

Take notice that on June 3, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP97–559–000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon 7.5 miles of Warren-Elk Basin natural gas transmission pipeline, 6.9 miles in Carbon County, Montana and .6 miles in Park County, Wyoming, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williston Basin states that the 7.5 miles of 6-inch pipeline is old and deteriorated and has not been used in several years. Williston Basin states further that there would be no effect on existing customers, as service would continue through an existing 12-inch loop line.

Any person desiring to be heard or any person desiring to make any protest

with reference to said application should on or before July 7, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 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 parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Williston Basin to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16180 Filed 6–19–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL95–31–002, et al.]

Duke Power Company, et al., Electric Rate and Corporate Regulation Filings

June 13, 1997.

Take notice that the following filings have been made with the Commission:

1. Duke Power Company

[Docket No. EL95–31–002]

Take notice that on April 25, 1997, Duke Power Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: June 26, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Northern States Power Company (Minnesota)

[Docket No. ER96–2820–000]

Take notice that on May 16, 1997, Northern States Power Company (NSP) tendered for filing its amendment to the Interconnection and Interchange Agreement between NSP and North Central Power Company (NCP) in the above-referenced docket.

Comment date: June 26, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Entergy Services, Inc.

[Docket No. ER97–3081–000]

Take notice that on May 28, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and William Energy Services Company.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Entergy Services, Inc.

[Docket No. ER97–3082–000]

Take notice that on May 28, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Central and South West Services, Inc. (CSW), acting as agent for Southwestern Electric Power Company and Public Service Company of Oklahoma.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. South Carolina Electric & Gas Company

[Docket No. ER97–3085–000]

Take notice that on May 27, 1997, South Carolina Electric & Gas Company (SCE&G) submitted service agreements establishing Municipal Electric Authority of Georgia (MEAG) and Cinergy Services, Inc. (CINERGY) as customers under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon MEAG, CINERGY, and the South Carolina Public Service Commission.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Wisconsin Electric Power Company

[Docket No. ER97–3086–000]

Take notice that on May 27, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing an Electric Service Agreement between itself and Consumers Energy Company and Detroit Edison Company (the Michigan Companies). The Electric Service Agreement provides for service under Wisconsin Electric's Coordination Sales Tariff, FERC Electric Tariff, Original Volume No. 2. Also included in the submittal is a non-firm transmission service agreement between the parties, for service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 7.

Wisconsin Electric requests an effective date sixty days after filing. Copies of the filing have been served on the Michigan Companies, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER97–3087–000]

Take notice that on May 27, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing; 1) an agreement dated April 30, 1997, by and between PG&E and the San Francisco Bay Area Rapid Transit District (BART) entitled ''Service Agreement for Firm Point-to-Point Transmission Service'' (Service Agreement); and 2) a request for termination of this Service Agreement.

The Service Agreement was entered into for the purpose of firm point-to-point transmission service for 4.8 MW of power delivered to BART at PG&E's Bayshore Substation. The effective date of termination is either the requested date shown below or such other date the Commission deems appropriate for termination.

Service agreement date	Term	Requested effective date for termination
April 30, 1997—Service Agreement No. ____ under FERC Electric Tariff, Original Volume No. 3.	May 1, 1997 through July 31, 1997	July 31, 1997.

Copies of this filing have been served upon the California Public Utilities Commission and BART.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Additional Signatories to PJM Interconnection, L.L.C. Operating Agreement

[Docket No. ER97–3088–000]

Take notice that on May 27, 1997, the PJM Interconnection, L.L.C. (PJM) filed, on behalf of the Members of the LLC, membership applications of Plum Street Energy Marketing, Inc., Western Power Services, Inc., and Schuylkill Energy Resources, Inc. PJM requests an effective date of March 31, 1997.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Energy Dynamics, Inc.

[Docket No. ER97–3089–000]

Take notice that on May 28, 1997, Energy Dynamics, Inc. (EDI), tendered for filing 1) accept and approve EDI's FERC Electric Rate Schedule No. 1; 2) grant blanket authorization for EDI to make wholesale sales of electric power in interstate commerce at negotiated market rates; 3) disclaim jurisdiction over EDI's brokering activities; 4) waive certain filing requirements under 18 CFR 35.12; and 5) grant such other waivers and authorizations as are consistent with the Commission's prior actions with respect to similar applications.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Soyland Power Cooperative, Inc.

[Docket No. ER97–3090–000]

Take notice that on May 28, 1997, Soyland Power Cooperative, Inc. (Soyland), tendered for filing a rate schedule change pursuant to § 205 of the Federal Power Act and § 35.13 of the Regulations of the Federal Energy Regulatory Commission (Commission). The filing consists of an amendment to the Amended and Restated Power Coordination Agreement, Amendment No. 6 to the Power Coordination Agreement between Illinois Power Company and Soyland, dated October 5, 1984 (Soyland Rate Schedule FERC No. 28, Docket No. ER96–2973). Soyland seeks an effective date of September 13, 1996, and waiver of the Commission's sixty-day prior notice requirement.

Copies of the filing were served upon Illinois Power Company and the Illinois Commerce Commission.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Consumers Energy Company

[Docket No. ER97–3091–000]

Take notice that on May 28, 1997, Consumers Energy Company (Consumers) tendered for filing a revision to the annual charge rate for charges due Consumers from Northern Indiana Public Service Company (Northern), under the terms of the Barton Lake-Batavia Interconnection Facilities Agreement (designated Consumers Electric Rate Schedule FERC No. 44).

The revised charge is provided for in Subsection 1.043 of the Agreement, which provides that the annual charge rate may be redetermined effective May 1, 1997 using year-end 1996 data with a new annual charge rate. As a result of the redetermination, the monthly charges to be paid by Northern were decreased from $17,693.00 to $15,700.00. Consumers requests an effective date of May 1, 1997, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Northern, the Michigan Public Service Commission and the Indiana Utility Regulatory Commission.

Comment date: June 27, 1997, in accordance with standard Paragraph E at the end of this notice.

12. Central Vermont Public Service Corporation

[Docket No. ER97–3092–000]

Take notice that on May 28, 1997, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1996 Cost report in accordance with Article IV, Section A (2) of the North Hartland Transmission Service Corporation (Agreement) between Central Vermont Public Service Corporation (CVPS or Company) and the Vermont Electric Generation and Transmission Cooperative, Inc. (VG&T) under which CVPS transmits the output of the VG&T's 4.0 Mw hydroelectric generating facility located in North Hartland, Vermont via a 12.5 kV circuit owned and maintained by CVPS to CVPS's substation in Quechee, Vermont. The North Hartland Transmission Service Contract was filed with the Commission on September 6, 1984 in Docket No. ER84–674–000 and was designated as Rate Schedule FERC No. 121.

Under Article IV, Section A (2) of the Agreement, the annual charges to VG&T are based on estimated data which are subject to a reconciliation or ''true-up'', after the year is over, using actual data as reported in the Company's FERC Form No. 1.

Comment date: June 27, 1997, in accordance with Standard Paragraph at the end of this notice.

13. Central Vermont Public Service Cooperation

[Docket No. ER97–3093–000]

Take notice that on May 28, 1997, Central Vermont Public Service Corporation (CVPS), tendered for filing a letter stating that based on the anticipation of approval of the uncontested Settlement Agreement in Docket No. ER95–680–000, the Company does not plan to submit the true-up filing based on actual cost and loads for calendar year 1996 because such a true-up filing will not be required or useful under the Settlement Agreement and administrative efficiencies can be gained by not filing. The sole customer, New Hampshire Electric Cooperative, Inc., will not be harmed by the Company's plan since, upon approval of such Settlement Agreement, the Company will be required to refund, with interest computed in accordance with 18 CFR 35.19a, any overcharges in billing that may have occurred.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Central Vermont Public Service Corporation

[Docket No. ER97–3094–000]

Take notice that on May 28, 1997, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1996 Cost Report required under Article 2.4 on Second Revised Sheet No. 18 of FERC Electric Tariff, Original Volume No. 3, of Central Vermont under which Central Vermont

provides transmission and distribution service to the following Customers:

Vermont Electric Cooperative, Inc.
Lyndonville Electric Department
Village of Ludlow Electric Light Department
Village of Johnson Water and Light Department
Village of Hyde park Water and Light Department
Rochester Electric Light and Power Company
Woodsville Fire District Water and Light Department

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Central Vermont Public Service Corporation

[Docket No. ER97–3095–000]

Take notice that on May 28, 1997, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1996 Cost Report required under Paragraph Q–1 on Original Sheet No. 18 of the Rate Schedule FERC No. 135 (RS–2 rate schedule) under which Central Vermont Pubic Service Corporation (Company) sells electric power to Connecticut Valley Electric Company Inc. (Customer). The company states that the Cost Report reflects changes to the RS–2 rate schedule which were approved by the Commission's June 6, 1989 order in Docket No. ER88–456–000.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Idaho Power Company

[Docket No. ER97–3096–000]

Take notice that on May 28, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission Service Agreements under Idaho Power Company FERC Electric Tariff No. 5, Open Access Transmission Tariff, between Idaho Power Company and each of the following: Equitable Power Services Co; Valero Power Services Company; Coral Power, L.L.C.; NorAm Energy Services, Inc.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Union Electric Company

[Docket No. ER97–3097–000]

Take notice that on May 29, 1997, Union Electric Company (UE), tendered for filing the Eighth Amendment to the Interchange Agreement dated June 28, 1978, between Associated Electric Cooperative, Incorporated and UE. UE asserts that the Amendment primarily provides for new and revised delivery points, amends an intertie and amends an interconnection point.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas and Electric Company

[Docket No. ER97–3098–000]

Take notice that on May 29, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc. under Rate GSS.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company

[Docket No. ER97–3099–000]

Take notice that on May 29, 1997, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Citizens Lehman Power Sales under Rate GSS.

Comment date: June 27, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Florida Keys Electric Cooperative Association, Inc.

[Docket No. ER97–3190–000]

Take notice that on May 22, 1997, Florida Keys Electric Cooperative Association, Inc. tendered for filing worksheets that support the refund calculation to the City Electric System for Non-Firm Peak Transmission Usage during the time period August 28, 1996 through March 31, 1997.

Comment date: June 26, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–16142 Filed 6–19–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. A–97–05; FRL–5843–6]

Clean Air Act, Section 112(c)(6), Specific Pollutants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of draft source category listing for section 112(d)(2) rulemaking pursuant section 112(c)(6) requirements.

SUMMARY: This action provides, for public review and comment, a draft list of source categories to be added to EPA's list of source categories for regulation under section 112(d). This action is being taken pursuant to section 112(c)(6) of the Clean Air Act (Act), as amended in 1990, and a consent decree entered in *Sierra Club* v. *Browner,* Civ. No. 95–1747 (consolidated with *Sierra Club* v. *Browner,* Civ. No. 96–436). Draft and final lists are required under the consent decree to be completed and made available by EPA by June 11, 1997 and December 19, 1997, respectively.

A listing under section 112(c)(6) is necessary before standards under sections 112(d)(2) or (d)(4) can be developed, but by itself does not automatically result in regulation or control of emissions from sources within these source categories. Once the list is finalized, EPA will perform further analyses on emissions and control methods for the listed source categories. This regulatory development analysis will determine any ultimate regulatory requirements.

DATES: Written comments must be received on or before July 21, 1997. Requests for extensions to this comment period are not anticipated to be granted due to the limited time available for publication of the final list.

ADDRESSES: *Docket.* Docket No. A–97–05, containing information considered by EPA in developing this notice, is available for public inspection and copying between 8:00 a.m. and 5:30 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (MC–6102), 401 M Street, SW, Washington, DC 20460; telephone (202) 260–7548. The docket is located at the above address in Room

M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

Comments. Comments should be submitted (in duplicate, if possible) to Air Docket (6102), Attn: Docket Number A–97–05, Environmental Protection Agency, 401 M Street SW, Washington, DC 20460. Refer to **SUPPLEMENTARY INFORMATION** for information regarding electronic submittal of comments.

FOR FURTHER INFORMATION CONTACT: Laurel Driver, Office of Air Quality Planning and Standards (MD–15), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541–2859. Electronic Mail address: DRIVER.LAUREL@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION:

Docket. The docket for this regulatory action is A–97–05. The docket is an organized and complete file of all the information submitted to or otherwise considered by the Agency in the development of this list of categories for sources for section 112(c)(6). The principal purpose of this docket is to allow interested parties to identify and locate documents that serve as a record of the process engaged in by the Agency to publish today's notice. The docket is available for public inspection at the EPA's Air and Radiation Docket and Information Center, which is listed in the addresses section of this notice.

Electronic Submittal of Comments. Comments and data may also be submitted electronically to A-and-R-Docket@epamail.epa.gov. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Comments and data will also be accepted on disks in WordPerfect 5.1 or 6.1 file format or ASCII file format. All comments and data for this notice, whether in paper form or in electronic forms such as through e-mail or on disk, must be identified by the docket number A–97–05.

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I. Introduction

A. Statutory Requirements

Section 112(c)(6) of the Act prescribes the following program for seven specific pollutants:

> With respect to alkylated lead compounds, polycyclic organic matter, hexachlorobenzene, mercury, polychlorinated biphenyls, 2, 3, 7, 8-tetrachlorodibenzo-furans and 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin, the Administrator shall, not later than 5 years after the date of enactment of the Clean Air Act Amendments of 1990, list categories and subcategories of sources assuring that sources accounting for not less than 90 percentum of the aggregate emissions of each such pollutant are subject to standards under subsections (d)(2) or (d)(4). Such standards shall be promulgated not later than 10 years after such date of enactment. This paragraph shall not be construed to require the Administrator to promulgate standards for such pollutants emitted by electric utility steam generating units.

B. Schedule

The EPA has entered into a consent decree with the Sierra Club Legal Defense Fund, Inc., in response to *Sierra Club* v. *Browner,* Civ. No. 95–1747 (consolidated with *Sierra Club* v. *Browner,* Civ. No. 96–436). These actions concern performance of certain duties under Act sections 112(c)(3), (c)(6), (k), and 202(l), and require, among other actions, that EPA publish a draft of the list described in section 112(c)(6) no later than June 11, 1997, making a final list available no later than December 19, 1997.

II. Background

A. Overview of Regulatory Authority

Section 112 of the Act, as amended in 1990, contains the EPA's authorities for reducing emissions of hazardous air pollutants (HAP). Subsection 112(b)(1) contains an initial list of 189 HAP (recently revised to contain 188 HAP, 61 FR 30816, June 18, 1996). Subsection 112(c)(1) requires the Administrator to publish a list of all categories and subcategories of major sources and area sources of the air pollutants listed pursuant to subsection 112(b). Subsection 112(d) requires the Administrator to promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of HAP listed. Subsection 112(d)(2) specifies that emission standards promulgated under the subsection shall require the maximum degree of reductions in emissions of the HAP subject to section 112 that are deemed achievable, i.e., the maximum achievable control technology (MACT). These regulations are termed ''technology-based'' standards because they are based on technologies that the best performing sources are using. These technologies may include equipment or process design, chemical substitution, collection and treatment of emissions, work practices, and other measures.

Subsection 112(d)(4) provides for consideration of health thresholds with an ample margin of safety. Certain other subsections of section 112 require EPA, in addition to technology-based standards, to evaluate risk to public health and the environment in determining whether other control measures are appropriate.

Section 112(c)(6) names seven specific HAP that EPA must evaluate to be certain the sources of these HAP have been identified and subjected to standards. These specific pollutants are alkylated lead compounds, polycyclic organic matter (POM), hexachlorobenzene (HCB), mercury, polychlorinated biphenyls (PCB's), 2, 3, 7, 8-tetrachlorodibenzofuran, and 2, 3, 7, 8-tetrachlorodibenzo-p-dioxin.

B. General Procedure

In order to determine the sources of the seven HAP named in section 112(c)(6), EPA developed an emissions inventory of known sources of each HAP. The EPA used the emission inventory to determine the sources that account for the emissions of each section 112(c)(6) pollutant. Once these sources of the total emissions were identified, only the stationary, anthropogenic source categories which fall within the scope of section 112 were evaluated to determine whether they were currently regulated or scheduled for regulation under section 112(d)(2) or (d)(4).

In several cases, source categories identified as contributors to the estimates of the emissions of section 112(c)(6) pollutants are not currently listed for regulation under section 112, but are subject to other standards required by the Act. In some cases, EPA is planning to credit regulations for sources of these emissions as meeting the substantive purposes of section 112(c)(6) even though they are not actually section 112(d)(2) or (d)(4) standards. The EPA believes other regulatory authorities address these source categories' emissions in a manner comparable to section 112(d)(2) and, thus, additional regulation under section 112(c)(6) may not contribute additional environmental benefits. The EPA invites comment on this approach. More details on the specific source categories evaluated and the applicable regulatory authorities are given in section IV.

III. Section 112(c)(6) Emissions Inventory

A. General Methodology

In order to implement the section 112(c)(6) requirements, EPA developed a national inventory of sources and emissions for the designated pollutants for the base year 1990. The base year inventory report can be obtained from the EPA's Internet World Wide Web site (www.epa.gov/oar/oaqps/airtox/112c6fac.html). It should be noted that current emissions may be lower or higher than emissions calculated for the 1990 base year.

The base year inventory document includes estimates for all sources of the section 112(c)(6) pollutants for which the Agency could establish estimation techniques. Therefore, this inventory includes estimates for sources that EPA believes would not be subject to section 112 regulations, i.e., mobile sources, wild and prescribed fires, residential fuel combustion, and pesticides application. More detail on the sources and emissions considered in meeting the requirements of section 112(c)(6) appears in section IV.A. The EPA believes this base year inventory report will be a useful reference to readers who wish to understand the relative relationship of stationary source emissions (and in particular those that have been evaluated for section 112(c)(6) purposes) to emissions from other types of sources. In addition, where EPA did not have data to support an emissions estimate but did have information to suggest a source category was a potential emitter of a section 112(c)(6) pollutant, it is so noted in the inventory document.

For the purposes of section 112(c)(6), only stationary source emissions are relevant. The inventory not only quantifies emissions from individual stationary source categories, but also provides information concerning ''major'' and ''area'' sources for each source category as defined in section 112(a) of the Act.

1. Top Down Versus Bottom Up

To address the requirements of section 112(c)(6), EPA developed a national inventory of sources and emissions of the designated pollutants based on data collected from extensive searches of published technical literature, the EPA's MACT standards programs, EPA Locating and Estimating (L&E) documents, EPA's Urban Area Toxics Program, the Toxics Release Inventory (TRI), the Great Waters Study, and the Clean Air Act-mandated Reports to Congress on mercury and utility boilers.

With the exception of TRI data, the inventory primarily represents the product of a ''top-down'' calculational methodology. This means emissions were estimated by using some measure of source category activity (on the national level) and associated emission factors or speciation profiles for the category and its processes. With a few exceptions (e.g., dioxin emissions from municipal waste combustors), section 112(c)(6) national emissions are not the sum of individual facility estimates (i.e., a ''bottom-up'' process). The initial phase of the section 112(c)(6) emissions inventory effort constituted a screening analysis since EPA was attempting to preliminarily quantify atmospheric releases of all sources of the section 112(c)(6) pollutants. A top-down approach is generally considered an appropriate and cost-effective use of resources for screening efforts such as those needed to assess section 112(c)(6) pollutants. The level of effort required to estimate emissions using a bottom-up approach for all source categories that emit these pollutants would be extremely costly. Should it be dictated as a result of this analysis and draft listing, such detailed, facility-specific emissions information may be collected during the technical analysis phase of MACT program development for the source categories listed for future section 112(d)(2) rulemaking consideration.

2. Sources of Data

The national emissions estimates developed for the purposes of the section 112(c)(6) process were determined from various data sources. The primary sources of existing national emissions estimates were EPA regulatory programs (i.e., MACT studies) and industry-provided estimates (provided either through the TRI program or directly to the section 112(c)(6) process as a part of the public review). Where national estimates did not exist, efforts were made to develop data using a top-down methodology. In these cases, emission factor data and national category activity information were collected. Emission factors were obtained from EPA's Compilation of Air Pollutant Emission Factors, Volume I: Stationary, Point and Area Sources (AP–42) document, EPA's Factor Information Retrieval System (FIRE) emission factor database, EPA's MACT programs, published literature, and industry studies. Activity data were obtained from published government reports (e.g., vehicle miles traveled (VMT) data from the Department of Transportation's annual highway statistics, energy consumption data from Department of Energy publications), industry trade publications, industrial economic reports, industry trade groups, and EPA's MACT development programs.

3. Base Year

The EPA chose the base year 1990 for the emissions inventory. It is EPA's presumption that the concerns that led Congress to adopt provisions such as section 112(c)(6) were based on facts and circumstances that existed at the time the Act was amended. Because section 112(c)(6) requires a comparative accounting of the sources of these specific pollutants, EPA considered it important that, to the greatest extent possible, all emissions be estimated from the same base year. In several cases, other and perhaps better emissions estimates were available that represent more current emissions levels. In these instances, the more current estimate was noted, but the 1990 emissions estimate was used for the section 112(c)(6) accounting of the sources of the specific pollutants.

Examples of source categories that have significantly reduced emissions since 1990 include:

Medical Waste Incinerator Units—For 1990, dioxin emissions (in tons per year toxic equivalency or TEQ factors) were estimated at 0.0007 tons. In 1995, emissions were 0.00016 tons (a reduction of 77 percent).

Hazardous Waste Incineration Units—For 1990, dioxin emissions were estimated at 0.000032 tons. In 1996, dioxin emissions were 0.00002 tons (a reduction of 27 percent).

Municipal Waste Combustion Units—For 1990, mercury emissions were estimated to be 55 tons. For 1995, mercury emissions were 29 tons (a reduction of 47 percent).

Portland Cement: Hazardous Waste Kilns—For 1990, mercury emissions were estimated to be 3.5 tons and dioxin emissions were 432 grams. For 1996, emissions were 2.9 tons for mercury (a reduction of 17 percent) and 57 grams for dioxin (a reduction of 87 percent).

Alkylated lead emissions from gasoline distribution from the refinery to the storage tanks at service stations (commonly referred to as Stage I) for onroad mobile sources were estimated to be 0.086 tons in 1990. By 1996, there were no alkylated lead emissions from this source (a reduction of 100 percent). In 1990, 1 percent of the onroad motor vehicle fuel distributed was classified as leaded fuel. The EPA had initiated a program at that time to phase out all lead in fuels used for onroad vehicles. On December 31, 1995, the phaseout of leaded onroad motor vehicle fuel was completed, and there are currently no alkylated lead emissions from the distribution and use of onroad vehicle fuels.

It should be noted that the lead phaseout does not include fuels used for aviation, nonroad engines, marine vessels, and automotive racing purposes. Evaporative emissions of alkylated lead occur during the distribution of fuel and the refueling of the above sources. Aviation fuel distribution and refueling operations were included in the section 112(c)(6) emission inventory document and are discussed further in section V. Data were insufficient to estimate emissions from fuel usage from nonroad engines, marine vessels, and automotive racing. Alkylated lead emissions due to fuel combustion in any of these leaded fuel sources are expected to be minimal or nonexistent because the alkylated lead species are converted to lead oxides upon combustion. The EPA solicits additional information to help quantify alkylated lead emissions from these sources.

4. Pollutant Definitions

a. *Polycyclic Organic Matter (POM).* Various conventions were adopted for inventorying some of the pollutants where no standardized methods currently exist. This is most notably the case for POM, which is defined in section 112(b) of the Act as organic compounds with more than one benzene ring and a boiling point greater than or equal to 100°C, which would include a complex mixture of thousands of polynuclear aromatic hydrocarbons (PAH).

Because inventorying all POM compounds individually is currently impossible, surrogate approaches have been used. For instance, some of the available POM data are in terms of the solvent-extractable fraction of particulate matter (referred to as extractable organic matter or EOM). The EOM is believed to contain the PAH and substitute-PAH compounds that predict cancer risk better than any individual PAH or any sum of PAH (Lewtas, J., ''Complex Mixtures of Air Pollutants: Characterizing the Cancer Risk of Polycyclic Organic Matter.'' In: ''Environmental Health Perspectives,'' Volume 100, pp 4–6, June 1993). Currently, EOM emission factors are available for only a limited number of the sources categories suspected of emitting POM.

Other POM data are defined as being included in either the group of 7 or group of 16 individual PAH species referred to as 7–PAH and 16–PAH, respectively. The species that make up 7–PAH are probable human carcinogens, and the 16–PAH are those species that are measured by EPA Method 610. The 16–PAH include the 7–PAH group.

The EPA and others are engaged in further efforts to better characterize the constituents of POM that are most significant in evaluating health and environmental effects. For a more complete discussion of POM surrogates, refer to the section 112(c)(6) emissions inventory document. Rather than attempt to resolve the issue of defining POM in this discussion by adopting one specific surrogate POM approach, data for all three approaches discussed above were evaluated in the section 112(c)(6) inventory and in turn used in this regulatory assessment. Because the available emissions estimate data vary for each of the three approaches, different source categories are listed under each of the three approaches. These differences in identified source categories are summarized in table 1 (located at the end of this notice).

A decision by the Agency to select a particular definition of POM as most relevant to health and environmental effects can affect the list of sources for which standards are required. Consequently, EPA solicits comment, supporting technical information and legal rationale on the following questions concerning its definition of POM: (1) What surrogate measurement of POM would provide the best combination of emissions estimates and health benchmarks that can be used to identify specific source categories or subcategories for regulation under the Clean Air Act? (2) In the absence of information which clearly establishes the basis for selection of one particular surrogate for POM, should EPA rely in the interim on that surrogate which results in the least inclusive, or the most inclusive list of sources subject to standards under section 112(c)(6)?

b. *Dioxins and Furans.* Section 112(c)(6) specifies that of all the dioxin and furan congeners, only 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD) and 2,3,7,8-tetrachlorodibenzofuran (2,3,7,8-TCDF) are to be considered in this assessment. In developing the emissions inventory to support this action, EPA initially attempted to inventory the specific 2,3,7,8-TCDD and 2,3,7,8-TCDF congeners but soon found a significant shortage of available emissions data for these pollutants for all pertinent source categories. During the data collection phase of the process, EPA found that more emission estimates and emission factors were available for dioxins and furans on the basis of 2,3,7,8-TCDD toxic equivalent quantities (TEQ, 1989 international-NATO). Both EPA's MACT program and the ongoing Office of Research and Development Dioxin Reassessment Study predominantly report emission estimates on a 2,3,7,8-TCDD TEQ basis. Therefore, to maximize the number of source categories for which national estimates could be determined on a common basis and best carry out the objectives of section 112(c)(6), EPA chose to use the TEQ method for inventorying 2,3,7,8-TCDD and 2,3,7,8-TCDF as specified under section 112(c)(6). It should be understood that TEQs aggregate all of the dioxin and furan species into one factor weighted by toxicity, so that the dioxin and furan emissions estimates included in this inventory include 2,3,7,8-TCDD and 2,3,7,8-TCDF as well as other congeners. More information on the use of the TEQ method can be obtained from the section 112(c)(6) inventory report (www.epa.gov/oar/oaqps/airtox/112c6fac.html).

5. Major Versus Area Sources

In most cases, section 112(d)(2) standards regulate only ''major'' sources. To better understand what portion of the emissions in a category are subject to standards, the inventory distinguishes between major and ''area'' sources for each of the source categories studied. According to section 112(a) of the Act, a major source is

> any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

An area source is any ''stationary source of hazardous air pollutants that is not a major source.''

The distinction between major and area sources is relevant here because of the way these sources are listed and regulated. The majority of source categories listed for section 112(d) regulations to date are listed as major sources. The level of control applied to these major sources may be MACT under subsection 112(d)(2) or for pollutants for which a health threshold has been established, a standard under subsection 112(d)(4). In addition to MACT for major sources, the Administrator must list under subsection 112(c)(3) ''each category or subcategory of area sources which the Administrator finds presents a threat of adverse effects to human health or the environment * * * warranting regulation under this section.'' The level of control applied to these area sources may be MACT under subsection 112(d)(2), an alternative standard for area sources under subsection 112(d)(5), or, for pollutants for which a health threshold has been established, a standard under subsection 112(d)(4). Regulation under some of these subsections may result in a level of control that may be equal or less stringent than that for major sources.

For the purposes of section 112(c)(6), determining the percentage of a source category's emissions that come from major sources generally establishes the percentage subject to a given section 112(d)(2) standard unless area sources for the category have been listed and regulated.

The major/area source split used in this analysis is a rough approximation based on EPA's understanding of the industries concerned. Where specific data pertaining to major/area splits are available, it is typically derived from definitions of facilities, not necessarily emissions. The fact that emissions were not specifically defined as originating from major or area sources is not a significant problem for this section 112(c)(6) evaluation. The majority of section 112(c)(6) sources within a source category are either all major or all area, so that it could be assumed that the emissions from most source categories were solely from major or area sources, respectively.

B. Assumptions

The emissions inventory developed to support section 112(c)(6) activities contains data of highly varying specificity and reliability. In some cases, emissions estimates were prepared by EPA or industry in response to other regulatory initiatives. These data are, in several cases, based on individual facility data or representative, category-wide data developed from extensive testing. Other more source-specific estimate data are based on industry-submitted estimates to TRI, which have been based on testing or intimate process-specific knowledge. Other estimates were based on a top-down approach utilizing limited emission factors. Generally, activity data even for these categories were of reasonably good quality. The emission factor data, however, varied considerably in terms of number, quality, and representativeness.

This is particularly true for some of the source categories that contribute lesser amounts to total emissions of a pollutant. For these categories that may have been perceived in the past as being of lesser importance, fewer and less representative emissions characterization studies have been performed. This fact necessitated that the limited data that were available had to be used and extrapolated to the fullest to develop a national estimate for a given category. As an example, for several of the combustion categories, emission factors had to be based on the only available test data, which were about 15 years old. In some cases, the data age issue was complicated by the fact that current measurement methodologies for a given pollutant may have changed from those used to determine the original factors. In other cases, one or two data points had to be used to develop factors that were applied to an area source category with sources nationwide.

There is also an issue of completeness for pollutants that are defined by different surrogates (e.g., POM, dioxins and furans). For instance, several sources have been identified as being POM sources because there are 16–PAH emission estimates, but the same categories do not have any EOM emission estimates. This does not necessarily mean that these sources do not emit EOM; emission factors have just not been developed for these source categories at this time.

Where possible, sources were identified that are suspected to emit section 112(c)(6) pollutants, but data were not available to allow for quantification of emissions. As a part of this draft listing, EPA seeks additional and better-quality 1990 emissions data that may be available for section 112(c)(6) sources. Any new data received will be evaluated and, if determined to constitute an improvement to the current inventory, will be used to revise the inventory. If the inventory is revised, the contributions and ranking of source categories may change so that section 112(c)(6) listing decisions could be altered.

C. Review Process

A draft of the section 112(c)(6) emissions inventory was made available on EPA's Internet World Wide Web site for review by individuals within and external to the EPA (i.e., trade organizations, environmental advocacy groups). In addition, EPA identified a list of contacts in trade organizations, industry, and environmental advocacy groups and contacted them individually by letter to announce the availability of the inventory and to request their reviews. The EPA requested that any comments on the draft section 112(c)(6) inventory be submitted between October 16, 1996 to November 30, 1996. The 59 comments submitted are summarized in the revised emissions inventory document, which can be obtained from the EPA's Internet Web site (www.epa.gov/oar/oaqps/airtox/112c6fac.html). Changes were made to the inventory to reflect new data or data specific to section 112 standards. Although EPA has endeavored to make the most accurate estimates possible and to use the most reliable information available, other information may demonstrate the need for further revisions to this inventory. Consequently, EPA again requests information that may improve 1990 estimates of sources and emissions of the section 112(c)(6) HAP.

D. Inventory Results

Table 1 summarizes the results of the 1990 emissions inventory for each of the section 112(c)(6) pollutants in tons per year. This summary includes emissions from all sources for which estimation data were available. Figure 1 provides a graphic illustration of stationary, mobile, and biogenic source

contributions. These inventory data form the basis for the listing analysis.

IV. Listing Determination Process

During the listing determination process, source categories that are not considered appropriate for section 112 regulation were identified and excluded from further evaluation for potential listing. Source categories that currently are subject to section 112(d)(2) and (d)(4) standards were identified, along with sources that are subject to other standards required by the Act that substantively meet the requirements of section 112(c)(6). The emission contributions from these source categories were tallied for each pollutant to determine whether the sources of 90 percent of emissions are subject to standards (as required by section 112(c)(6)). Those pollutants that did not have 90 percent coverage required listing of additional source categories to attain the 90 percent level.

A. Sources Excluded From Section 112(c)(6) Analysis

As stated previously, certain sources of section 112(c)(6) pollutants, although included in the emissions inventory documentation, are not included in the analysis of source categories subject to section 112(c)(6). For example, section 112 applies to stationary sources; therefore mobile source emissions were excluded.

1. Wild and Prescribed Fires

Wild and prescribed fires may be a significant source of certain toxic air pollutants; however, they are not ''stationary sources,'' as that term is defined in section 112(a)(3) or section 111(a)(2), in that they are not ''buildings, structures, facilities, or installations.'' Moreover, they represent types of emissions that are either nonanthropogenic and uncontrollable, or for which no technological control techniques are known to exist. Thus, while programs have been employed at the State and local level to regulate when, where, and how certain burning activities may be conducted, e.g., in order to reduce particulate matter (PM) emissions, EPA believes that these activities represent sources that are not amenable to further regulation under section 112.

2. Residential Fuel Combustion

Additionally, EPA believes that emissions from residential fuel combustion have been identified and the public informed of their potential significance, and EPA is engaged in other efforts to reduce their emissions. However, the Agency does not believe that such sources are appropriately regulated under section 112 standards and believes instead that they should be addressed through other means. This view is based on an analysis of the practical limitations in establishing the basis for the control requirements of section 112(d) for existing sources.

The EPA believes that it is both reasonable and practical to establish effective levels of performance for certain new residential fuel combustion sources and has done so under section 111 in the case of residential wood stoves. In this case, there was a relatively small number of known manufacturers and the availability of control technology and its effectiveness were reasonably ascertainable. Thus, in February 1988, as the result of a negotiated rulemaking that included a substantial number of interested industry and environmental stakeholders, EPA promulgated a standard to decrease emissions of PM from residential wood stoves (53 FR 5860, February 26, 1988). This rule required that wood stoves sold after July 1, 1990 be equipped to meet emission limits specified within the rule. Catalytic and noncatalytic wood stoves complying with the 1990 standards were estimated to emit at least 86 and 75 percent less PM, respectively, than existing conventional wood stoves. Although no emission estimates were made for pollutants other than PM, the rulemaking notice for that standard noted that the control techniques used to reduce PM emissions are expected to reduce POM (the section 112(c)(6) pollutant emitted from this source category) emissions as well.

Of the emissions estimated for the 1990 baseline inventory for residential wood combustion, 21 percent was estimated to have come from fireplaces and 79 percent from wood stoves. An increasing proportion of wood stoves would become subject to the wood stove emission standard as the source population is replaced with new units. When the standard had just become effective in 1990, only about 5 percent of wood stoves were in compliance with the new rule. In the analyses for the regulation, EPA estimated a useful life for wood stoves was approximately 15 years (''Regulatory Impact Analysis for Residential Wood Heaters New Source Performance Standard,'' EPA Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, December 1, 1988, page 8–14). Therefore, EPA believes that the number of wood stoves in compliance with the standard has increased and will continue to increase substantially over time as more new, complying wood stoves are purchased to replace older ones.

As noted above, the new source performance standard established for residential wood stoves is expected to achieve a substantial reduction in wood combustion-related emissions as the replacement stoves are phased in over time. In contrast with wood stoves, developing enforceable national regulations for residential fireplaces is much more difficult. Fireplaces are individually designed, often at the residential construction site. Individual useage patterns are highly variable; and compliance and enforcement issues for a national regulation pose difficult problems. The EPA notes that many State and local agencies have programs in place to reduce the use of residential wood burning at times when atmospheric conditions are conducive to a localized buildup of contaminants in the air. The EPA has supported these efforts through the provision of control techniques guidance (e.g., ''Technical Information Document for Residential Wood Combustion Best Available Control Measures,'' EPA 450/2–92–002, EPA Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, September 1992) and through grant assistance to State air pollution control agencies and expects to continue these efforts in the future. The EPA has identified emissions from this category but does not regard these sources as comprising that portion of the emissions inventory that are potentially subject to section 112(d) standards.

3. Pesticide Manufacturing

The EPA believes that although pesticide manufacturing is appropriately regulated under the Act, specifically section 112, pesticide application is governed by provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Regulations under FIFRA include restricting the content of HAP in pesticides and specifying pesticide distribution, sale, and application practices. Thus, EPA believes that it would be redundant and inappropriate to include this category of activity within that portion of the inventory of emission sources that are potentially subject to section 112(d) standards.

B. Defining ''Subject to Standards'

Section 112(c)(6) specifically states that sources that account for 90 percent of emissions of section 112(c)(6) specific pollutants be subject to standards under section 112(d)(2) or section 112(d)(4). It is important to recognize that in making sources ''subject to standards,'' the

language of section 112(c)(6) does not specify either a particular degree of emissions control or a reduction in these specific pollutants' emissions to be achieved by such regulations. Rather, specific control requirements are set forth in other subsections in the course of developing and evaluating appropriate regulations.

1. Section 112(d)(2)

Section 112(d)(2) provides for measures that (a) reduce the volume or eliminate emission of HAP through process changes, substitution of materials or modifications; (b) enclose systems or processes to eliminate HAP emissions; (c) collect, capture, or treat HAP when released from a process, stack, storage, or fugitive emissions point; (d) are design, equipment, work practice, or operational standards (including requirements for operator training or certification); or (e) are a combination of the above. Section 112(d)(2) standards are based on the maximum level of control, defined in section 112(d)(3) as the ''maximum degree of reduction in emissions that is deemed achievable'' (e.g., MACT), as determined by the best-performing 12 percent of sources within the source category.

Several source categories, which have been identified as ones that account for the emissions of the various section 112(c)(6) pollutants, have previously been listed for section 112(d)(2) regulation and appear on the source category list promulgated for section 112(c)(1) (57 FR 31576, July 16, 1992; 61 FR 28197, June 4, 1996). These standards are at varying phases of completion, and where the regulatory development has proceeded to a point that data are sufficient to estimate the portion of the emissions from a given source category that will be subject to the regulation, such an estimate was made. For instance, if a section 112(d)(2) standard will apply only to sources determined to be major as defined in section 112(a), then only the fraction of the total source category emissions that are estimated from major sources would be counted as subject to standards. For example, 50 percent of chloralkali plants' mercury emissions were estimated to be subject to the section 112(d)(2) standard under development, 11 percent of the ferroalloy manufacturing emissions, and 10 percent of the Stage I gasoline distribution emissions (refer to table 2).

For other source categories listed for section 112(d)(2) regulation, it is too early in the regulatory development phase to estimate how much of the total emissions will actually be regulated. In these cases, the total emissions from the source category were counted toward meeting the requirements of section 112(c)(6). This may initially lead to overcounting emissions subject to standards, particularly if a standard applies only to major sources and EPA determines, at a later date, that no major sources exist for a given category, and also EPA does not find that the categories or subcategories of area sources present a threat of adverse effects to human health or environment. The majority of the source categories currently listed are for regulation of major sources only. In the absence of other information that would enable EPA to determine the subset of sources that will actually be subject to future standards, EPA believes all emissions from these source categories will be subject to standards.

2. Section 112(d)(4)

Congress provided in section 112(d)(4) that EPA could, at its discretion, develop risk-based standards for HAP ''for which a health threshold has been established,'' provided that the standard achieves an ''ample margin of safety.'' The full text of the provision reads:

> With respect to pollutants for which a health threshold has been established, the Administrator may consider such threshold level, with an ample margin of safety, when establishing emission standards under this subsection.

The legislative history further indicates that if EPA invokes this provision, it must assure that any emission standards would not only result in ambient concentrations that would protect the public health with an ample margin of safety, but that the standards would also be sufficient to protect against the threat of significant or widespread adverse environmental effects.

A threshold pollutant is one considered to have a concentration below which adverse effects are not expected to occur over a lifetime of exposure. For section 112(d)(4) to apply, the determination of a reference concentration (RfC) or reference dose (RfD) for a pollutant is sufficient to show that a threshold exists and may be sufficient to be considered the ample margin of safety level. (An RfC or RfD is defined as an estimate, with uncertainty spanning perhaps an order of magnitude, of a daily inhalation or noninhalation exposure, respectively, that, over a lifetime, would not likely result in the occurrence of noncancer health effects in humans.) When an RfC/RfD does not exist, a determination that a threshold exists would have to be made based upon the availability of specific data on a pollutant's mechanism of action.

A determination that a threshold exists has not been made for alkylated lead, POM, HCB, PCB's, 2,3,7,8-TCDF, or 2,3,7,8-TCDD. Therefore, section 112(d)(4) authority has not been used to regulate the emissions of any of these pollutants.

The EPA has established an RfD for methylmercury and an RfC for inorganic mercury, but section 112(d)(4) has not been used in regulating the emissions of this group of mercury compounds.

The focus of the earliest regulations under section 112 has been to initially control emissions of air toxics using the maximum achievable control technologies available for each industry source category emitting HAP. In the next phase of section 112 programs, reductions of emissions will be health-based and be required to protect the public and environmental health to levels deemed ''safe.'' These latter determinations will rely on information required by the 1990 Amendments to the Act or gathered since they were passed. For example, the Dioxin Reassessment Study, the Great Waters Report to Congress, and the Mercury Report to Congress represent extensive assessments of the health effects and the potential exposure of humans and the environment to the pollutants identified in section 112(c)(6). This information will be used in future decisions regarding the imposition of health-based emission reductions.

3. Other Regulatory Actions

In several cases, source categories identified as contributors to the estimates of emissions of section 112(c)(6) pollutants are not currently listed for regulation under section 112(d)(2), but are subject to other standards required by the Act. In some cases, EPA is planning to consider these regulations as meeting its substantive obligations under section 112(c)(6), even though these standards do not constitute section 112(d)(2) or (d)(4) standards. The EPA believes this approach is reasonable where other regulatory authorities address these source categories' emissions in a comparable fashion. In such cases, additional regulations under section 112(c)(6) may not impose substantially different control requirements, may not contribute significant additional environmental benefits, and thus would not justify the significant additional administrative burden associated with developing new section 112(d) regulations. A discussion of these source categories regulated under other authorities follows.

a. *Utility Study, Section 112(n)(1).* The language in section 112(c)(6) states that the ''paragraph shall not be construed to require the Administrator to promulgate standards for such pollutants emitted by electric utility steam generating units.'' The EPA believes this statement gives the Agency discretion in determining the subsection of section 112 under which to regulate utility emissions and in particular whether EPA is required to include utility emissions in the section 112(c)(6) analysis. In section 112(n)(1)(A), EPA is required to assess the HAP emissions from electric utility steam generating units and to regulate if ''appropriate and necessary.'' More information about the utility study can be obtained from the Clean Air Act Amendments bulletin board of the EPA's electronic Technology Transfer Network (TTN) under ''Recently Signed Rules,'' (http://ttnwww.rtpnc.epa.gov).

The EPA believes that section 112(n)(1)(A) is the appropriate authority for evaluating utility emissions and determining the necessity of regulation for this source category. The EPA plans to credit the emissions of section 112(c)(6) pollutants from utilities as subject to standards through section 112(n)(1)(A).

b. *Section 129 Standards.* Section 129 regulates emissions from existing and new solid waste incinerators (e.g., municipal and medical waste incineration). Section 129(h)(2) prohibits subjecting solid waste incinerators to both section 129 and section 112(d) standards. Section 129 standards provide a similar level of control as section 112(d)(2) in that for existing sources, control can be no less stringent than the average emission limitation achieved by the best-performing 12 percent of sources. Under section 129(a)(4), controls are to be specified for PM (total and fine), opacity, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, dioxins, and dibenzofurans. The PCBs and HCB are not section 129 pollutants. Even though PCBs and HCB are not included in section 129, the Agency anticipates that they would be controlled coincidentally with the control of other section 129 pollutants. Though data on co-control of specific chlorinated compounds are limited, properly operated combustion systems equipped with post combustion control effectively control chlorinated compound(s) in a two step process. First, the combustion system destroys the primary chlorinated compounds and converts them into less toxic secondary compounds. Next, the post combustion air pollution control system removes the secondary compounds. For instance, the section 129 standards for municipal and medical waste incinerators require both good combustion practices and post combustion control and typically achieve more than 95 percent control of chlorinated compounds.

There is no major or area source distinction in section 129, though there may be a threshold that triggers applicability of a standard to specific sources. For instance, municipal waste combustors capable of combusting more than 250 tons per day (tpd) of municipal solid waste are subject to section 129 standards under subparts Ea, Eb, or Cb, depending on when the MWC was constructed. Regulations are also being developed under section 129 to regulate medical waste combustors in the 40 to 250 tpd size range. Facilities that burn less than 40 tons municipal solid waste per day would be subject to the industrial combustion coordinated rulemaking (described below).

Because section 129 provides for a similar level of control as section 112(d)(2) and because section 129(h)(2) prohibits subjecting solid waste incinerators to both section 129 and section 112(d) standards, the Agency believes that it is appropriate to include section 129 as a regulatory instrument equivalent to section 112(d)(2). The EPA further believes that listing source categories for section 112(c)(6) that are already covered under section 129 would lead to a redundant regulatory effort and would produce no additional environmental benefit. The EPA plans, therefore, to credit the emissions of section 112(c)(6) pollutants from section 129 source categories as subject to standards under section 112(c)(6).

c. *Industrial Combustion Coordinated Rulemaking (ICCR).* The ICCR was designed to reduce emissions from the many various combustion sources by consolidating authorities under sections 129, 112, and 111 of the Act for the following combustion source categories: industrial-commercial-institutional boilers (i.e., all boilers except residential or utility), process heaters (which could include dryers and industrial furnaces), stationary internal combustion engines, stationary gas turbines, industrial-commercial solid waste incinerators, and all other solid waste incinerators (except municipal waste combustors burning more than 40 tpd of waste and medical waste incinerators, which are covered under specific regulations developed in accordance with section 129). It is important to note that the ICCR is based on the authority of sections 112 and 129 which satisfy the goals of section 112(c)(6). It should also be noted that the ICCR is being conducted under the Federal Advisory Committee Act (FACA). The stakeholders (environmental advocates, State agencies, and industry) will recommend what source categories will ultimately be subject to the ICCR regulation. Under the FACA, stakeholders make their recommendations directly to the EPA Administrator who is ultimately responsible for the regulation.

The EPA believes that listing these sources categories for additional regulation under section 112(c)(6) would produce a redundant regulatory effort and would substantially frustrate the purposes for which the ICCR was initiated. Therefore, EPA is planning to credit the emissions from source categories included in the ICCR for the purposes of meeting the section 112(c)(6) requirements. More information about the ICCR is available on the EPA TTN or at the ICCR Main Menu on the Internet (http://ttnwww.rtpnc.epa.gov). When accessing the World Wide Web site, select ''TTN BBS Web'' from the first menu, then select ''Gateway to Technical Areas'' from the second menu, and, finally, select ''ICCR-Industrial Combustion Coordinated Rulemaking'' from the third menu.

d. *Gasoline Distribution Stage II, Sections 182(b)(3) and 202(a)(6).* The emissions of POM (primarily naphthalene) from this source category come from the displaced evaporative losses that occur while refueling motor vehicles at service stations. Gasoline pumped into a vehicle's fuel tank displaces the air-vapor mixture in the vehicle tank out through the fuel tank fill neck and into the air. This displaced gasoline vapor contains both HAP and VOC, including naphthalene.

The EPA does not expect to list this category for section 112(d)(2) or (d)(4) standards, but believes that emissions from this activity have already been sufficiently addressed through rules adopted pursuant to sections 182(b)(3)and 202(a)(6). Section 202(a)(6) requires a nationwide onboard vapor recovery program, and section 182(b)(3) requires Stage II vapor recovery in most ozone nonattainment areas (the most heavily populated areas of the country). Vehicle refueling emission control equipment can be either installed at the service station (Stage II controls) or on the vehicle (onboard controls). Both control systems capture and recover the displaced vehicle refueling emissions.

The 1990 Amendments required the installation of Stage II controls in most ozone nonattainment areas in the early 1990's to achieve VOC and HAP reductions, while onboard controls are

being placed on new vehicles sold in the late 1990's to be the national and long-term solution. Once onboard controls are widespread, by the year 2010, Stage II controls could be removed after review by EPA.

Naphthalene, the POM of concern in this emission category, is a HAP and a VOC and will be subject to both control measures. The EPA was presented with both regulatory programs, provided under different sections of the Act, to address a single problem, namely the evaporative loss of volatile organics from gasoline refueling activities. In implementing these control programs under both sections 182 and 202, EPA believes that it has also effectively discharged its obligations for this category of emissions under section 112(c)(6) as well.

C. Regulatory Coverage for Section 112(c)(6) Pollutants

Table 2 provides a summary of the source categories that emit section 112(c)(6) HAP and the percentage of emissions attributable to each category. Note that as described in section IV.A., only the sources that EPA believes are suitable for regulation under section 112 are included in this analysis. Table 2 summarizes both the categories EPA has determined meet the requirements of section 112(c)(6) and the categories that are not subject to such regulation.

In table 2, the percent contributions of source categories that are subject to standards are summed for each pollutant in order to identify those section 112(c)(6) pollutants that do not have at least 90 percent of emissions subject to standards. Those section 112(c)(6) pollutants at or above the 90 percent level are: POM (as defined by EOM), 2,3,7,8–TCDD, mercury, PCB's, and HCB. These pollutants do not require the listing of any additional source categories for future rulemaking.

Based on the 1990 baseline emissions inventory, the 90 percent subject to standards requirement is not met for the following pollutants: POM (as defined by 7–PAH), POM (as defined by 16–PAH), and alkylated lead. For these pollutants, additional source categories will have to be identified to attain the 90 percent level. These additional source categories will require listing under section 112(c)(6) for section 112 standards development.

V. Source Categories That Require Listing as a Result of the Section 112(c)(6) Analysis

A review of the available data indicates that a substantial majority of source categories emitting section 112(c)(6) pollutants have already been listed for regulations under section 112(d)(2) or are subject to regulation under other authorities. Based on EPA's current information, in order to meet the section 112(c)(6) requirement to assure that the sources of 90 percent of the aggregate emissions of each specific HAP is subject to regulation, the following source categories would require such regulation: open burning of scrap tires, gasoline distribution aviation fuel, and wood treatment/wood preservation. A listing under section 112(c)(6) is necessary before standards under section 112(d)(2) or (d)(4) can be developed, but by itself does not automatically result in regulation or control of emissions from sources within these source categories. Once the list is finalized, EPA will perform further analyses on emissions and control methods for the listed source categories. This regulatory development analysis will determine any ultimate regulatory requirements.

A summary of the reasons for each of the above source category's inclusion follows.

—Open burning of scrap tires: This source category accounts for the largest portion of POM emissions from sources not subject to regulation (53.32 percent defined as 7–PAH, and 26.83 percent defined as 16–PAH). The crediting of emissions from this source will bring 7–PAH emissions up to the level of 99.87 percent, and 16–PAH emissions up to the level of 87.78 percent.

—Wood treatment/wood preservation: This source category emits 7.13 percent of the 1990 estimated emissions of POM (defined as 16–PAH), primarily due to the emissions of naphthalene. After open burning of scrap tires, this is the next largest source of 16–PAH. It should be noted that major sources in this source category had originally appeared on the section 112(c)(1) list for regulation. Later, the source category was removed from the list when EPA determined that no major sources exist for the category (61 FR 28201, June 4, 1996).

The listing of the wood treatment/wood preservation source category and open burning of scrap tires will bring POM (as defined by 16–PAH) source categories subject to standards to the level of 94.92 percent.

—Gasoline distribution, aviation fuel: This category, which consists of evaporative losses from the transfer and storage of aviation fuel, and aircraft refueling and associated spillage, emitted 78 percent of the estimated 1990 emissions of alkylated lead. Because leaded gasoline has been banned for use in motor vehicles, this source category accounts for the only known remaining emissions of alkylated lead. Based on the 1990 baseline emissions inventory and knowledge of the lead phaseout, listing this source will subject 100 percent of current alkylated lead emissions to standards.

VI. Regulatory Requirements

A. General

Today's notice is not a rule; it is essentially a housekeeping or maintenance activity which does not impose regulatory requirements or costs on any sources including small businesses. Therefore, the EPA has not prepared an assessment of the potential costs and benefits pursuant to Executive Order 12866, nor an economic impact analysis pursuant to section 317 of the CAA, nor a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980), nor a budgetary impact statement pursuant to the Unfunded Mandates Act of 1995. Also, this notice does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

B. Executive Order 12866 and Office of Management and Budget (OMB) Review

Under Executive Order 12866 (58 FR 51735; October 4, 1993), the Agency must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may either (1) have an annual effect on this economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, this is a not a ''significant regulatory action'' within the meaning of the Executive Order. This notice was

submitted to OMB for review. Any written comments from OMB and written EPA responses are available in the docket.

Dated: June 11, 1997.

Mary D. Nichols,

Assistant Administrator.

TABLE 1.—SUMMARY OF 1990 EMISSION INVENTORY DATA FOR SECTION 112(C)(6) POLLUTANTS (TONS/YR)

Source category	POM			2,3,7,8-TCDD TEQ	Mercury	PCB	HCB	Alkylated lead
	7–PAH	16–PAH	EOM					
Asphalt Hot-Mix Production	0.094	43.7						
Asphalt Roofing Production	1.68	43.6						
Battery Production					0.020			
Carbamate Insecticides Production		4.08						
Carbon Reactivation Furnaces				1.25E–07				
Carbon Black Production	0.45	4.33			0.25			
Chloralkali Production					6.40			
Chlorinated Solvents Production							0.581	
Cigarette Smoke	0.52	3.45						
Coke Ovens: Charging, Topside & Door Leaks	21.2	158	679					
Coke Ovens: Pushing, Quenching & Battery Stacks	30.1	517						
Commercial Coal Combustion	36.0	172.7	2744.0		([a])			
Commercial Natural Gas Combustion		0.030	1,921					
Commercial Oil Combustion	0.032	53.300	1,315.000		([a])			
Commercial Wood/Wood Residue Combustion	1.01	35.8	1,946					
Crematories	1.42E–08	8.33E–06			4.10E–04			
Dental Preparation and Use					0.80			
Drum and Barrel Reclamation	1.27E–06	8.19E–05		2.51E–07				
Electrical Apparatus Manufacturing					0.46			
Ferroalloy Manufacture	0.26	0.56						
Fluorescent Lamp Recycling					0.006			
Gasoline Distribution (Aviation)								0.375
Gasoline Distribution (Stage I)		353						0.086
Gasoline Distribution (Stage II)		374						0.019
General Laboratory Activities					0.80			
Geothermal Power					1.30			
Hazardous Waste Incineration	0.020	0.17		3.30E–05	3.19	0.0278		
Industrial Coal Combustion	3.09	157.00	2412.00		22.80			
Industrial Natural Gas Combustion		0.020	928					
Industrial Oil Combustion	0.03	50.85	494.00		6.00	4.97E–05		
Industrial Stationary IC Engines—Diesel	0.089	5.02	1,929					
Industrial Stationary IC Engines—Natural Gas	1.03	47.6						
Industrial Waste Oil Combustion	1.34	7.82						
Industrial Wood/Wood Residue Combustion	2.67	152	97,848	1.13E–04				
Instrument Manufacturing					0.50			
Iron and Steel Foundries	0.11	29.7		1.90E–05				
Lamp Breakage					1.50			
Landfill (Gas) Flares	0.001	0.45						
Lightweight Aggregate Kilns (burning hazardous waste)				3.60E–06	0.31			
Lime Manufacturing					0.70			
Medical Waste Incineration		0.80	15	0.0007	50.0	0.0403		
Municipal Waste Combustion		0.099	182	0.0037	55.0	0.0801		
Naphthalene—Miscellaneous Uses		1.22						
Naphthalene Production		64.60						

TABLE 1.—SUMMARY OF 1990 EMISSION INVENTORY DATA FOR SECTION 112(C)(6) POLLUTANTS (TONS/YR)—Continued

Source category	POM			2,3,7,8-TCDD TEQ	Mercury	PCB	HCB	Alkylated lead
	7–PAH	16–PAH	EOM					
Naphthalene Sulfonates Production	.....	6.53						
Non-Residential Wood Combustion	.....	.....	.....	.....	0.30			
Non-Road Vehicles and Equipment (NRVE)—Aircraft	0.070	1.87						
NRVE—Other	.....	.....	25,116	.....	.....	.....	.....	0.166
On-Road Vehicles	18.8	46.6	56,157	9.50E–05				
Open Burning of Scrap Tires	307	1,720						
Other Biological Incineration	.....	.....	1	1.60E–04	.....	0.0025		
Pesticides Application	.....	.....	.....	.....	.....	.....	0.146	
Pesticides Manufacture	.....	.....	.....	.....	.....	.....	0.458	
Petroleum Refining-Catalytic Cracking Units	16.4	313						
Phthalic Anhydride Production	.....	26.2						
Portland Cement Manufacture: Hazardous Waste Kilns	4.61	28.0	.....	0.0005	3.5			
Portland Cement Manufacture: Non-Hazardous Waste Kilns	2.78	51.0	.....	6.00E–05	5.00			
Primary Aluminum Production	141	662	3,876					
Primary Copper Production	.....	.....	.....	.....	1.90			
Primary Lead Smelting	.....	.....	.....	.....	1.30			
Pulp and Paper—Kraft Recovery Furnaces	3.74	649	.....	3.42E–07				
Pulp and Paper—Lime Kilns	0.25	183						
Pulp and Paper—Sulfite Recovery Furnaces	.....	6.17						
Residential Coal Combustion	31.85	102.80	.....	2.34E–04	0.60			
Residential Natural Gas Combustion	0.080	5.10	4,142					
Residential Oil Combustion	1.700	21.00	1,465	3.78E–06	3.00			
Residential Wood Combustion	572	8,855	235,881	3.40E–05				
Scrap or Waste Tire Incineration	2.17E–05	0.005	.....	3.00E–07	.....	0.0010		
Secondary Aluminum Smelting	.....	.....	.....	1.92E–04				
Secondary Copper Smelting	.....	.....	.....	6.80E–06				
Secondary Lead Smelting	0.019	3.03	.....	4.25E–06				
Secondary Mercury Production	.....	.....	.....	.....	7.40			
Sewage Sludge Incineration	0.009	1.64	.....	2.65E–05	1.80	0.0051		
Stationary Gas Turbines—Diesel	.....	0.016	1,731					
Stationary Turbines—Natural Gas	.....	13.8	739					
Utility Coal Combustion	0.21	7.54	38,627	1.50E–04	51.0			
Utility Natural Gas Combustion	.....	0.69	1,004	.....	0.002			
Utility Oil Combustion	0.050	0.57	531	1.10E–05	0.25	0.0001		
Wildfires and Prescribed Burning	964	2,540	.....	9.50E–05				
Wood Treatment/Wood Preserving	.....	457	.....	3.81E–05				
Total Emissions (tons/yr)	2,164.30	17,982.08	481,683.00	0.01	226.09	0.16	1.19	0.65

[a] In the draft mercury report to Congress, mercury estimates for commercial and industrial coal combustion, and commercial and industrial oil combustion were combined-these values are provided in this table as industrial coal and oil combustion.

TABLE 2.—1990 ANTHROPOGENIC STATIONARY SOURCE CATEGORY PERCENTAGE CONTRIBUTIONS AND ASSOCIATED REGULATIONS [a]

Source category	POM			2,3,7,8–TCDD TEQ	Mercury	PCB	HCB	Alkylated lead	Applicable Regulation [b]
	7–PAH	16–PAH	EOM						
SOURCE CATEGORIES SUBJECT TO REGULATION	Percent Contribution								
Asphalt Hot-Mix Production	0.020	0.68	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Asphalt Roofing Production	0.290	0.68	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Carbon Black Production	0.078	0.07	.....	.....	0.11	.....	.....	.....	Sec. (d)(2)
Chloralkali Production (Subject to Regulation is 50 % of the total value).	.....	.....	.....	.....	1.44	.....	.....	.....	Sec. (d)(2)
Chlorinated Solvents Production.	.....	.....	.....	.....	.....	.....	55.92	.....	Sec. (d)(2)
Coke Ovens: Charging, etc	3.682	2.47	0.43	.....	.....	.....	.....	.....	Sec. (d)(2)
Coke Ovens: Pushing, etc ...	5.228	8.06	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Ferroalloy Manufacturing {Subject to Regulation is 11 % of the total value}.	<0.01	<0.01	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Gasoline Distribution (Stage I) {Subject to Regulation is 10% of total value}.	.....	0.55	.....	.....	.....	.....	.....	1.80 [c]	Sec. (d)(2)
Hazardous Waste Incineration.	<0.01	<0.01	.....	0.59	1.44	17.70	.....	.....	Sec. (d)(2)
Iron & Steel Foundries	0.020	0.46	.....	0.34	.....	.....	.....	.....	Sec. (d)(2)
Landfill (Gas) Flares	<0.01	0.01	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Lightweight Aggregate Kilns (burning hazardous waste).	.....	.....	.....	0.06	0.14	.....	.....	.....	Sec. (d)(2)
Lime Manufacturing	.....	.....	.....	.....	0.31	.....	.....	.....	Sec. (d)(2)
Naphthalene Production	.....	1.01	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Naphthalene Sulfonates Production.	.....	0.10	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Naphthalene: Miscellaneous Uses.	.....	0.02	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Pesticides Manufacturing	.....	.....	.....	.....	.....	.....	44.08	.....	Sec. (d)(2)
Petroleum Refining—Catalytic Cracking.	2.850	4.88	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Phthalic Anhydride Production.	.....	0.41	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Portland Cement Manufacturing: Hazardous Waste Kilns.	0.800	0.44	.....	8.49	1.57	.....	.....	.....	Sec. (d)(2)
Portland Cement Manufacturing: Non-hazardous Waste Kilns.	0.480	0.80	.....	1.07	2.25	.....	.....	.....	Sec. (d)(2)
Primary Aluminum Production.	24.490	10.33	2.44	.....	.....	.....	.....	.....	Sec. (d)(2)
Primary Copper Production	.....	.....	.....	.....	0.85	.....	.....	.....	Sec. (d)(2)
Primary Lead Smelting	.....	.....	.....	.....	0.58	.....	.....	.....	Sec. (d)(2)
Pulp & Paper: Kraft Recovery Furnaces.	0.650	10.13	.....	0.01	.....	.....	.....	.....	Sec. (d)(2)
Pulp & Paper: Lime Kilns	0.040	2.86	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Pulp & Paper: Sulfite Recovery Furnace.	.....	0.10	.....	.....	.....	.....	.....	.....	Sec. (d)(2)
Secondary Aluminum Smelting.	.....	.....	.....	3.42	.....	.....	.....	.....	Sec. (d)(2)
Secondary Lead Smelting ...	<0.01	0.05	.....	0.08	.....	.....	.....	.....	Sec. (d)(2)
Sewage Sludge Incineration	<0.01	0.03	.....	0.47	0.81	3.26	.....	.....	Sec. (d)(2)
Utility Coal Combustion	0.040	0.12	24.31	2.68	22.96	.....	.....	.....	Sec. 112(n)(1)
Utility Natural Gas Combustion.	.....	0.01	0.63	.....	<0.01	.....	.....	.....	Sec. 112(n)(1)
Utility Oil Combustion	0.010	0.01	0.33	0.20	0.11	0.10	.....	.....	Sec. 112(n)(1)
Medical Waste Incineration	.....	0.01	0.01	11.78	22.47	25.66	.....	.....	Sec. 129

TABLE 2.—1990 ANTHROPOGENIC STATIONARY SOURCE CATEGORY PERCENTAGE CONTRIBUTIONS AND ASSOCIATED REGULATIONS [a]—Continued

Source category	POM			2,3,7,8–TCDD TEQ	Mercury	PCB	HCB	Alkylated lead	Applicable Regulation [b]
	7–PAH	16–PAH	EOM						
Municipal Waste Combustion.	.....	<0.01	0.11	65.14	24.72	50.99	.....	.....	Sec. 129
Commercial Coal Combustion.	6.252	2.69	1.73	.....	d	.....	.....	.....	ICCR
Commercial Natural Gas Combustion.	.....	<0.01	1.21	.....	.....	.....	.....	.....	ICCR
Commercial Oil Combustion	0.010	0.83	0.83	.....	d	.....	.....	.....	ICCR
Commercial Wood/Wood Residue Combustion.	0.180	0.56	1.22	.....	.....	.....	.....	.....	ICCR
Crematories	<0.01	<0.01	.....	.....	<0.01	.....	.....	.....	ICCR
Industrial Coal Combustion	0.540	2.45	1.52	.....	10.25	.....	.....	.....	ICCR
Industrial Natural Gas Combustion.	.....	<0.01	0.58	.....	.....	.....	.....	.....	ICCR
Industrial Oil Combustion	0.010	0.79	0.31	.....	2.70	0.03	.....	.....	ICCR
Industrial Stationary IC Engines—Diesel.	0.020	0.08	1.21	.....	.....	.....	.....	.....	ICCR
Industrial Stationary IC Engines—Natural Gas.	0.180	0.74	.....	.....	.....	.....	.....	.....	ICCR
Industrial Waste Oil Combustion.	0.230	0.12	.....	.....	.....	.....	.....	.....	ICCR
Industrial Wood/Wood Residue Combustion.	0.460	2.37	61.57	2.01	.....	.....	.....	.....	ICCR
Non-residential Wood Combustion.	.....	.....	.....	.....	0.13	.....	.....	.....	ICCR
Other Biological Incineration	.....	<	0.01	2.86	.....	1.58	.....	.....	ICCR
Scrap or Waste Tire Incineration.	<0.01	<0.01	.....	0.01	.....	0.67	.....	.....	ICCR
Stationary Turbines—Diesel	.....	<0.01	1.09	.....	.....	.....	.....	.....	ICCR
Stationary Turbines—Natural Gas.	.....	0.22	0.47	.....	.....	.....	.....	.....	ICCR
Gasoline Distribution (Stage II).	.....	5.83	.....	.....	.....	.....	.....	3.99 [c]	Sec. 202/182
Total % Contribution for Sources Subject to Regulation.	46.550	60.95	100.00	99.19	92.81	100.00	100.00	5.79	
SOURCE CATEGORIES IN DRAFT LISTING	Percent Contribution								
Gasoline Distribution (Aviation).	.....	.....	.....	.....	.....	.....	.....	.....	78.02
Open Burning of Scrap Tires	53.320	26.83	.....	.....	.....	.....	.....	.....	
Wood Treatment/Wood Preserving.	.....	7.13	.....	0.68	.....	.....	.....	.....	
Cumulative % Contribution Total.	99.870	94.92	100.00	99.87	92.81	100.00	100.00	83.81	
OTHER SOURCE CATEGORIES THAT ARE CANDIDATES FOR LISTING	Percent Contribution								
Battery Production	.....	.....	.....	.....	0.01	.....	.....	.....	
Carbamate Insecticides Production.	.....	0.06	.....	.....	.....	.....	.....	.....	
Carbon Reactivation Furnaces.	.....	.....	.....	<0.01	.....	.....	.....	.....	

TABLE 2.—1990 ANTHROPOGENIC STATIONARY SOURCE CATEGORY PERCENTAGE CONTRIBUTIONS AND ASSOCIATED REGULATIONS [a]—Continued

Source category	POM			2,3,7,8–TCDD TEQ	Mercury	PCB	HCB	Alkylated lead	Applicable Regulation [b]
	7–PAH	16–PAH	EOM						
Chloralkali Production {Not Subject to Regulation is 50 % of the total value}.	.....	.....	.....	.....	1.44	.....	.....	.....	
Cigarette Smoke	0.090	0.05	.....	.....	.....	.....	.....	.....	
Dental Preparation and Use	.....	.....	.....	.....	0.36	.....	.....	.....	
Drum and Barrel Reclamation.	<0.01	<0.01	.....	<0.01	.....	.....	.....	.....	
Electrical Apparatus Manufacturing.	.....	.....	.....	.....	0.21	.....	.....	.....	
Ferroalloy Manufacturing {Not Subject to Regulation is 89 % of the total value}.	0.040	0.01	.....	.....	.....	.....	.....	.....	
Fluorescent Lamp Recycling	.....	.....	.....	.....	<0.01	.....	.....	.....	
Gasoline Distribution (Stage I) {Not Subject to Regulation is 90% of total value}.	.....	4.96	.....	.....	.....	.....	.....	.....	16.19 [c]
General Laboratory Activities	.....	.....	.....	.....	0.36	.....	.....	.....	
Geothermal Power	.....	.....	.....	.....	0.59	.....	.....	.....	
Instrument Manufacturing	.....	.....	.....	.....	0.23	.....	.....	.....	
Lamp Breakage	.....	.....	.....	.....	0.68	.....	.....	.....	
Secondary Copper Smelting	.....	.....	.....	0.12	.....	.....	.....	.....	
Secondary Mercury Production.	.....	.....	.....	.....	3.33	.....	.....	.....	

[a] Source categories do not include non-stationary, non-anthropogenic sources or sources not appropriate for section 112(d)(2) Rulemaking.

[b] Sec. 112(d)(2) = Emission Standards; Sec.122(n)(1) = Electric Utility Steam Generating Units; Sec. 129 = Solid Waste Combustion; ICCR = Industrial Combustion Coordinated Rulemaking, Section 202/182 Gasoline Distribution (Stage II).

[c] Lead phaseout completed on December 31, 1995. Contributions from these sources are currently 0% which means that emissions from Gasoline Distribution (Aviation) represent 100% of total Alkylated Lead emissions.

[d] In the draft mercury report to Congress, mercury estimates for commercial and industrial coal combustion, and commercial and industrial oil combustion were combined-these values are provided in this table as industrial coal and oil combustion.

BILLING CODE 6560–50–P

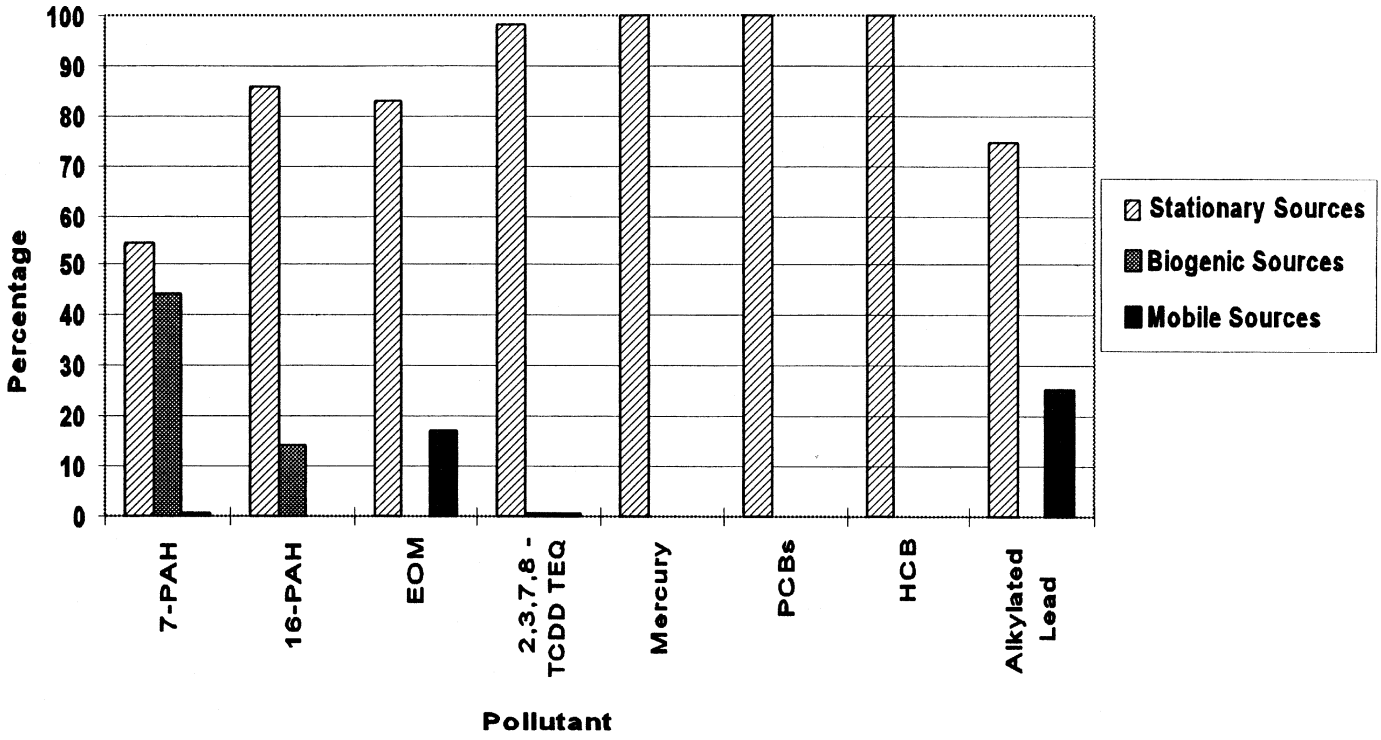

Figure 1. Percent Contributions by Source Categories

[FR Doc. 97–15985 Filed 6–19–97; 8:45 am]
BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5481–6]

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 June 9, 1997 Through June 13, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970216, Final EIS, FHW, MT, US 93 Highway Transportation Improvements, between Hamilton (Milepost 49.0) to Lolo (Milepost 83.2), Funding and COE Section 404 Permit, Ravalli and Missoula Counties, MT, Due: July 21, 1997, Contact: Dale Paulson (406) 441–1230.

EIS No. 970217, Draft EIS, FHW, CA, CA–4 ''GAP'' Closure Project, Improvements between I–80 and Cunninings Skyway, Funding, NPDES Permit and COE Section 404 Permit, City of Hercules, Contra Costa County, CA, Due: August 4, 1997, Contact: John Schultz (916) 498–5041.

EIS No. 970218, Draft EIS, AFS, CA, Chico Genetic Resource Center for Pest Management Program, Implementation, Mendocino National Forest, Willow, Butte County, CA, Due: August 4, 1997, Contact: Dennis Weber (503) 326–7171.

EIS No. 970219, Draft EIS, AFS, AZ, Grand Canyon/Tusayan Growth Area Improvements, General Management Plan (GMP), Special-Use-Permit, Approvals and Licenses Issuance, Coconino County, AZ, Due: August 18, 1997, Contact: R. Dennis Lund (520) 635–8200.

EIS No. 970220, Final EIS, FHW, TX, Grand Parkway Segment (TX–99) Improvements Project, from TX–225 to I–10, Funding, COE Section 404 Permit and Right-of-Way Grant, Harris and Chambers Counties, TX, Due: July 21, 1997, Contact: G.E. Olvera, P.E. (512) 482–5516.

EIS No. 970221, Final EIS, AFS, OR, Metolius Wild and Scenic River Management Plan, Implementation, Deschutes National Forest, Sisters Ranger District, Jefferson County, OR, Due: July 21, 1997, Contact: Rod Bonacker (541) 549–7729.

EIS No. 970222, Final EIS, BLM, WY, Cave Gulch-Bullfrog-Waltman Natural Gas Development Project, Implementation, Platte River Resource Area, Natrona County, WY, Due: July 21, 1997, Contact: Kate Padilla (307) 261–7603.

EIS No. 970223, Draft EIS, BLM, TN, Stones River National Battlefield General Management Plan and Development Concept Plan, Implementation, Ruthford County, TN, Due: April 8, 1997, Contact: Mary Ann Peckham (615) 893–9501.

EIS No. 970224, Draft EIS, UAF, NM, Holloman Air Force Base, Proposed Expansion of German Air Force Operations, for the Beddown of 30 Aircrafts and Construction of Facilities for 640 Personnel, NM, Due: August 4, 1997, Contact: Sheryl Parker (757) 764–3328.

EIS No. 970225, Final EIS, UAF, CA, NM, Airborne Laser (ABL) Phase Program Definition and Risk Reduction Phase, Proposed Locations: Home Base Edwards Air Force Base; Diagnostic Test Range-White Sands Missile Range, NM; and Expanded Area Test Range-Western Range (Vandenberg Air Force Base and Point Mugu Naval Air Warfare Center Weapons Division), CA and NM, Due: July 21, 1997, Contact: Karl L. Freerks (703) 695–8942.

EIS No. 970226, Draft Supplement, EPA, TX, South Hallsville Surface Lignite No. 1 Mine Expansion, Referred to Herein as South Marshall Project Area, (Previously Known as Henry W. Pirkey Power Plant and South Hallsville No. 1 Mine Project), NPDES and COE Section 404 Permits, Sabine River, Harrison County, TX, Due: August 4, 1997, Contact: Joe Swick (214) 665–7456.

EIS No. 970227, Draft EIS, BLM, NV, Florida Canyon Mine Expansion Project and Comprehensive Reclamation Plan, Construction and Operation of New Facilities and Expansion of Existing Gold Mining Operations in Imlay Mining District, Plan-of-Operation and Approval Right-of-Way Permit Issuance, Pershing County, NV, Due: August 18, 1997, Contact: Ken Loda (702) 623–1500.

EIS No. 970228, Final EIS, FHW, CA, A–58—Mojave Freeway Project, Construction from 0.1 mile east of the Cache Creek Bridge to 5.0 miles east of the town of Mojave, Funding, COE Section 404 Permit and Right-of-Way Acquisition, Kern County, CA, Due: July 21, 1997, Contact: John R. Schultz (916) 551–1307.

EIS No. 970229, Final EIS, DOA, KY, City of Albany's Cagle Water Expansion Project, to expand its Potable Water Treatment Plant, Funding and COE Section 404 Permit, Clinton and Wayne Counties, KY, Due: July 21, 1997, Contact: Mark Plank (202) 720–1649.

EIS No. 970230, Final EIS, FHW, WI, WI–16 Oconomowoc West Bypass (Rock River to WI–67) Project, Improvement, Funding and COE Section 404 Permit, City of Oconomowoc, Jefferson and Waukesha Counties, WI, Due: July 21, 1997, Contact: Richard C. Madrzak (608) 829–7510.

Dated: June 17, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–16225 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–5481–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 2, 1997 through June 6, 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 4, 1997 (62 FR 16154).

Draft EISs

ERP No. D–AFS–J65262–MT Rating EC2, asin Creek Drainage, Salvage Timber and Watershed Rehabilitation, Kootenai National Forest, Three Rivers Ranger District, Lincoln County, MT.

Summary: EPA expressed environmental concerns about potential adverse impacts to water quality, fisheries (redband trout), and wildlife. The Final EIS should fully assess and mitigate all potential environmental impacts of the management actions.

ERP No. D–AFS–J65263–SD Rating EC2, Anchor Hill Mine Expansion Project in Gilt Edge Mine, Plan-of-Operations Approval, Black Hill National Forest, SD.

Summary: EPA expressed environmental concerns about existing mine acid mine drainage problems affecting surface and ground water. EPA's main concerns regard successfully reclaiming the mine, and operating and maintaining the acid mine drainage controls after the mine closes.

ERP No. D–AFS–J65266–MT Rating EC2, Tansy Ragwort Control Project, Implementation, Little Wolf Fire Area, Flathead National Forest, Tally Lake Ranger District, Flathead County, MT.

Summary: EPA expressed environmental concerns regarding potential herbicide contamination of ground waters, and surface waters, including wetlands and indicated that there was insufficient information in the DEIS regarding ground water depths, soil types, wetlands, and the water quality/aquatics monitoring program. The Final EIS should fully assess and mitigate all potential impacts of the management actions.

ERP No. D–BLM–J65267–WY Rating EO2, Gillette South Coal Bed Methane Project, Approval of an Application for a Permit to Drill (APD), Powder River Basin, Buffalo Resource Area, Campbell County, WY.

Summary: EPA expressed environmental objections to the proposed action due to potential air quality, water quality (surface discharge and ground water depletion) and wildlife adverse impacts. EPA requested the above issues be addressed in the Final EIS.

ERP No. D–UAF–G11031–TX Rating EC2, Programmatic EIS—Kelly Air Force Base (AFB), Disposal and Reuse, Implementation, San Antonio County, TX.

Summary: EPA had expressed environmental concerns and has requested additional information including noise impact mitigation.

ERP No. DS–BLM–J65191–00 Rating EC2, Standards for Rangeland Health and Guidelines for Livestock Grazing Management on Bureau of Land Management Administered Lands, Implementation, MT, ND and SD.

Summary: EPA expressed environmental concerns regarding protection of surface water quality and the ability to achieve water quality standards. The Final EIS should fully assess and mitigate all potential impacts of the management actions.

FINAL EISs

ERP No. F–COE–L36104–WA, Howard A. Hanson Dam Continued Operation and Maintenance Plan, Implementation, Green River, King 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–DOE–L09811–00, Wildlife Mitigation Program Standards and Guidelines, Implementation, Columbia River Basin, WA, OR, ID, MT, WY and NV.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–L40198–WA, North Spokane Freeway Project, Improvements Transportation through the City of Spokane and Spokane County between I–90, Spokane 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–K65187–CA, Santa Rosa Island Resources Management Plan, Improvements of Water Quality and Conservation of Rare Species and their Habitats, Channel Islands National Park, Santa Barbara County, CA.

Summary: Review of the Final EIS was not deemed necessary. No formal comment letter was sent to the preparing agency.

ERP No. F–USA–H11004–MO, U.S. Army Chemical School and U.S. Army Military Police School Relocation to Fort Leonard Wood (FLW) from Fort McClellan, Alabama, Implementation, Cities of St. Robert, Waynesville, Richland, Dixon, Crocker, Rolla, Houston and Lebanon; Pulaski, Texas, Phelps and Laclede Counties, MO.

Summary: EPA expressed environmental objections to unknown human health risks and ecological risks resulting from generated oil fog used during obscurant training. Also EPA objected to initiating any new activities at the installation during the air quality permit renewal process which were not specifically evaluated with the preferred alternative within the EIS. EPA suggested that there be continuing public involvement during implementation of the preferred alternative.

Dated: June 17, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–16234 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5844–9]

Clean Air Act Advisory Committee; Mobile Source Technical Advisory Subcommittee Notification of Public Advisory Subcommittee Open Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Mobile Source Technical Advisory Subcommittee of the Clean Air Act Advisory Committee will meet on July 16, 1997 at 9:30 am to 4 pm (Eastern Standard Time) at Dupont Plaza Hotel—Embassy Hall, 1500 New Hampshire Avenue, N.W., Washington, DC 20036, Ph: 800/841–0003. This is an open meeting and seating will be on a first-come basis. During this meeting, the subcommittee will hear progress reports from its workgroups, approve its report to the Clean Air Act Advisory Committee, and be briefed on and discuss other current issues in the mobile source program.

Members of the public requesting further technical information should contact Philip A. Lorang, Designated Federal Officer of the Mobile Sources Technical Review Subcommittee of FACA, at the U.S. EPA, 2565 Plymouth Road, Ann Arbor, MI 48105 at 313/668–4374, fax 313/741–7821, or email lorang.phil@epamail.epa.gov. Members requesting further administrative information should contact Jennifer Criss, Mobile Sources Technical Advisory Subcommittee Management Officer at the U.S. EPA, 2565 Plymouth Road, Ann Arbor, MI 48105 313/668–4518 FACA Helpline, fax 313/741–7821, or email criss.jennifer@epamail.epa.gov. Written comments of any length (with at least 20 copies provided) should be sent to the subcommittee no later than July 4, 1997.

The Mobile Source Technical Advisory Subcommittee expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Margo T. Oge,

Director, Office of Mobile Sources.

[FR Doc. 97–16211 Filed 6–19–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–743; FRL–5723–7]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–743, must be received on or before July 21, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch (7506C), Information Resources and Services Division, Office of Pesticides Programs, Environmental Protection Agency, 401

M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The Product Manager/Regulatory Leader listed in the table below:

Product Manager/Regulatory Leader	Office location/telephone number	Address
Marion Johnson (PM 10)	Rm. 210, CM #2, 703–305–6788, e-mail:johnson.marion@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Indira Gairola (Reg. Leader).	4th floor, CS #1, 703–308–8371, e-mail: gairola.indira@epamail.epa.gov.	2800 Crystal Drive, Arlington, VA

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–743] (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 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 [PF–743] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 12,1997

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Rhone-Poulenc Ag Company

PP-7F4832

EPA has received pesticide petition PP-7F4832 from Rhone-Poulenc Ag Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. This petition proposes, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C.346a, to amend 40 CFR part 180 by establishing a tolerance for the combined residues of the insecticide fipronil (5-amino-1-[2,6-dichloro-4-(trifluoro-methyl)phenyl]-4-[1*R*, *S*)-(trifluoromethyl)sulfinyl]-1*H*-pyrazole-3-carbonitrile) and its metabolites 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl) sulfonyl]-1*H*-pyrazole-3-carbonitrile; and 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl)thio]-1*H*-pyrazole-3-carbonitrile; and 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(1*RS*)-(trifluoromethyl)]-1*H*-pyrazole-3-carbonitrile on or in the following raw agricultural commodities: potatoes at 0.02 parts per million (ppm), sweet potatoes at 0.02 ppm, rice grain at 0.02 ppm, rice straw at 0.10 ppm, cottonseed at 0.05 ppm, and cotton gin trash at 3.0 ppm. The proposed analytical method is by gas chromatography using a Ni63 electron capture or mass selective detector. EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of this petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Metabolism*. The metabolism of fipronil is adequately understood. Adequate data on the nature of the residues in both plant and animals, including identification of major metabolites and degradates of fipronil, are available. In plants and animal the metabolism of fipronil proceeds via oxidation of the sulfoxide to yield sulfone MB 46136 and hydrolysis of nitrile to yield amide RPA 200766. A limited amount of reduction of sulfoxide to yield sulfide MB 45950 occurs in some cases. In cases where

fipronil is exposed to light for extended periods of time (i.e., foliar applications), photo products MB 46513 and RAP 104615 are often observed. Further transformation of the primary metabolites affords minor amounts of carboxylic acid RPA 200761, amide RPA 105320 and 4-protiopyrazole MB 45897.

2. *Practical analytical method*. Validated analytical methods are available for detecting and measuring levels of fipronil and its metabolites in field corn, cotton, potato and rice raw agricultural commodities and their respective processing fractions and animal tissues. Residues are extracted from corn grain, fodder and forage with 75:25 acetonitrile: water and from the remaining corn substrates with acetonitrile. Acetonitrile: water is also used to extract residues from cottonseed, cotton gin by-products (gin trash), hulls and meal and rice grain and straw. An aliquot of the extract is partioned against hexane to remove lipids. After the addition of water and the removal of acetonitrile, fipronil and its metabolites are then partitioned into dichloromethane. Column chromatography is utilized for clean up / removal of coextractive unknowns. For potato tubers, wet peel, dry peel, flakes and chips and animal tissues, the extraction solvent is a mixture of acetonitrile:acetone (70:30). Samples clean up is effected by column chromatography. Quantification of fipronil and its metabolites is accomplished by gas chromatography using a Ni63 electron capture or mass selective detector.

B. Toxicology Profile

1. *Acute toxicity*. The acute oral LD_{50} in rats is 97 mg/kg. The dermal LD_{50} values in rats and rabbits are greater than 2,000 mg/kg and 354 mg/kg, respectively. The inhalation LC_{50} for a 4-hour exposure (nose only) is 0.39 mg/L. Slight skin and moderate eye irritation are observed in rabbits with complete clearing within 7 days for skin and 14 days for eye. Fipronil is not a dermal sensitizer in guinea pigs (Buehler method).

2. *Genotoxicity*. Fipronil was negative in both *in vitro* and *in vivo* assays conducted to investigate gene mutations, DNA damage, and chromosomal aberrations.

3. *Developmental/reproductive effects*. Rat and rabbit developmental toxicity studies were negative at doses up to 20 mg/kg/day and 1 mg/kg/day, respectively. In a two-generation rat study, the NOEL for reproductive toxicity was 30 ppm (2.64 mg/kg/day for both sexes combined).

4. *Subchronic effects*. The NOELs in rats and dogs were 5 ppm (0.35 mg/kg/day for both sexes combined) and 2 mg/kg/day, respectively.

5. *Chronic effects*. The NOELs in 1-year dietary dog and 2-year dietary rat studies were 0.3 mg/kg/day and 0.5 ppm, respectively, based on clinical signs. The chronic Reference Dose (RfD) of 0.0002 mg/kg/day established by EPA is based on the NOEL from the chronic rat study (equivalent to 0.02 mg/kg/day in male rats and 0.03 mg/kg/day in female rats) divided by an uncertainty factor of 100 to account for inter- and intra-species variation.

6. *Carcinogenicity*. Fipronil was not carcinogenic when administered to mice at any dose level tested. In rats, thyroid tumors were observed only at 300 ppm (highest dose tested) (HDT). Mechanistic data indicate that these tumors are related to an imbalance of thyroid hormones and are specific to the rat. EPA's Health Effects Division Carcinogenicity Peer Review Committee classified fipronil in Group C and recommended that RfD methodology, i.e. non-linear or threshold, be used for the estimation of human risk.

7. *Endocrine effects*. No evidence of estrogenic or androgenic effects were noted in any study with fipronil. No adverse effects on mating or fertility indices and gestation, live birth, or weaning indices were noted in a two-generation rat reproduction study. In a developmental neurotoxicity study, devlopment of pups was delayed only at a dose producing maternal toxicity which resulted in smaller, less developed pups. However, even in the presence of maternal toxicity, the pups developed fully and were comparable to controls by study termination.

C. Aggregate exposure/cumulative effects

1. *Dietary exposure*. A chronic dietary assessment for fipronil use in/on corn demonstrates that the most realistic scenario, i.e. anticipated residues with estimated market share, results in exposures of less than 32% of the RfD for all subgroups including the most sensitive subgroup, children 1 to 6 years of age. Therefore, chronic dietary exposure to fipronil residues from both primary and secondary sources, as a result of its use on field corn, potatoes, rice, and cotton does not represent a significant risk to any segment of the population.

An acute dietary analysis using tolerances, 100% market share, and a NOAEL of 5.0 mg/kg from the acute neurotoxicity study results in Margins of Exposure (MOEs) for all segments of the population of over 2,000 for the 95th percentile and over 1,000 for both the 99th and 99.9th percentile. A more realistic assessment using anticipated residues would result in considerably higher MOEs. However, even with extremely conservative assumptions, sufficient MOEs exist for acute dietary exposure to fipronil residues from both primary and secondary sources. Therefore, fipronil use on field corn, potatoes, rice, and cotton does not represent a significant acute dietary risk to any segment of the population.

2. *Drinking water exposure*. The combined factors of low mobility, moderate persistence, and low application rates result in fipronil and its metabolites having little potential to reach groundwater as a result of movement through the soil profile or of surface run-off. Thus, the potential for ground water and/or surface water contamination by fipronil and its degradates is expected to be very low.

3. *Non-occupational exposure* . Fipronil is currently registered for use on golf and commercial turfgrass under the brand name CHIPCO CHOICETM and for treatment of cats and dogs for fleas and ticks under the brand name FRONTLINE. These uses are not expected to contribute significantly to overall exposure. Fipronil has an extremely low vapor pressure and low dermal penetration. These properties minimize the amount of actual exposure that might occur. The application of fipronil on golf and commercial turf using a slit applicator which places the granule well into or below the thatch reduces the likelihood of post application exposure. Further, as these areas have only limited human activity involving minimal dermal contact with treated turf, potential exposure is expected to be negligible. Exposure due to the application of FRONTLINE is also expected to be low. The particle size characteristics of the spray product result in negligible inhalation exposure while the use of gloves, as required on the label in conjunction with the low dermal penetration rate of fipronil, result in minimal exposure via the dermal route. The affinity of fipronil for the sebum and hair of animals and its one to three month efficacy indicate that the material remains on the pet and is not bioavailable to those coming in contact with the pet. Pending uses which include use of fipronil as a termiticide and use in ant/roach baits are also anticipated to present negligible exposure.

4. *Cumulative risk*. Fipronil belongs to a novel chemical class of insecticides known as phenylpyrazoles. It is the only compound from this class of chemistry registered for use as an insecticide.

Fipronil exhibits a mode of action different from traditional organophosphate, carbamate, or pyrethroid insecticides. Fipronil acts by binding within the chloride channel of the GABA receptor. There is no indication that effects from fipronil would be cumulative with any other pesticide.

D. Safety Determinations

1. *U.S General population*. Both aggregate and dietary exposure assessments demonstrate that all current and pending uses of fipronil do not pose any significant risk to the general population. Therefore, based on a very complete database, there is reasonable certainty that no harm will result from aggregate exposure to the chemical residue including all anticipated dietary exposures and all other exposures for which there is reliable information.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of fipronil, the available developmental and reproductive toxicity studies were considered. Developmental toxicity studies in two species indicate that fipronil has no teratogenic potential at any dose level. Further, no adverse effects on fetal development were observed in rats or rabbits even in the presence of maternal toxicity. In a two-generation rat reproduction study, effects on pups were seen only at the highest dose tested in the presence of parental toxicity. In a developmental neurotoxicity study, development of pups was delayed only at a dose producing maternal toxicity which resulted in smaller, less developed pups. However, even in the presence of maternal toxicity, the pups developed fully and were comparable to controls by study termination. Thus, maternal and developmental NOELs and LELs were comparable in all studies indicating no increase susceptibility of developing organisms. Further, the NOEL of 0.02 mg/kg/day from the 2-year rat study, which was used to calculate the RfD for fipronil, is already lower than the NOELs from developmental studies by a factor of 45 to 1,000 times. As a hundredfold uncertainty factor is already used to calculate the RfD which is based on a NOEL significantly lower than NOELs from all developmental and reproductive studies, an additional uncertainty factor is not warranted and the RfD of 0.0002 mg/kg/day is appropriate for assessing risk to infants and children.

E. International Tolerances

There are no Codex maximum residue levels established for fipronil. (Marion Johnson)

2. Rhone-Poulenc Ag Company

PP-5F4426

EPA has received pesticide petition (PP) 5F4426 from Rhone-Poulenc Ag Company, P.O. Box 12014, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709. This petition proposes, pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a, to amend 40 CFR part 180 by establishing a tolerance for the combined residues of the insecticide fipronil (5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[1*R*, *S*)-(trifluoromethyl)sulfinyl]-1*H*-pyrazole-3-carbonitrile) and its metabolites 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluor omethyl) sulfonyl]-1*H*-pyrazole-3-carbonitrile; and 5-amino-1-[2,6-dichloro-4-(trifluoromethyl)phenyl]-4-[(trifluoromethyl)thio]-1*H*-pyrazole-3-carbonitrile on or in the following raw agricultural commodities: corn grain at 0.02 parts per million (ppm), corn forage at 0.15 ppm and corn stover at 0.15 ppm; in the animal product commodities of cattle, goats, horses and sheep: fat at 0.40 ppm, liver at 0.10 ppm, meat at 0.04 ppm, meat by-products (except liver) at 0.04 ppm, beef kidney at 0.03 ppm, and milk fat at 0.70 ppm; in the animal product commodities of hogs: fat at 0.04 ppm, liver at 0.02 ppm, meat at 0.01 ppm and meat by-products (except liver) at 0.01 ppm; in the animal product commodities of poultry: eggs at 0.03 ppm, fat at 0.05 ppm and meat at 0.02 ppm. The proposed analytical method is by gas chromatography using a Ni63 electron capture or mass selective detector. EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d) (2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of this petition. Additional data may be needed before EPA rules on the petition.

As required by section 408(d) of the FFDCA, as recently amended by the Food Quality protection Act (FQPA), Rhone-Poulenc Ag Company included in the petition a summary of the petition and authorization for the summary to be published in the Federal Register in a notice of receipt of the petition. The summary represents the views of Rhone-Poulenc Ag Company; EPA is in the process of evaluating the petition. As required by section 408 (d)(3), EPA is including the summary as a part of this notice of filing. EPA may have made minor edits to the summary for the purpose of clarity.

A. Residue Chemistry

1. *Metabolism*. The metabolism of fipronil is adequately understood. Adequate data on the nature of the residues in both plant and animals, including identification of major metabolites and degradates of fipronil, are available. In plants and animal the metabolism of fipronil proceeds via oxidation of the sulfoxide to yield sulfone and hydrolysis of nitrile to yield the amide. Fipronil and its sulfone and amide constitute greater than 75% of the identified residues in all studies. A limited amount of reduction of sulfoxide to yield the sulfide occurs in some cases. Further transformation of the primary metabolites affords minor amounts of the carboxylic acid, the amide and the 4-protiopyrazole.

2. *Practical analytical method*. A validated analytical method is available for detecting and measuring levels of fipronil and its metabolites in field corn raw agricultural commodities (grain, forage and fodder) and its processing fractions (oil and starch). Residues are extracted from corn grain, fodder and forage with 75:25 acetonitrile:water and from the remaining corn substrates with acetonitrile. An aliquot of the extract is partitioned against hexane to remove lipids. After the addition of water and the removal of acetonitrile, fipronil and its metabolites are partitioned into dichloromethane. Column chromatography is utilized for clean up / removal of coextractive unknowns. Quantification of fipronil and its metabolites is accomplished by gas chromatography using a Ni63 electron capture or mass selective detector.

B. Toxicology Profile

1. *Acute toxicity*. The acute oral LD_{50} in rats is 97 mg/kg. The dermal LD_{50} values in rats and rabbits are greater than 2,000 mg/kg and 354 mg/kg, respectively. The inhalation LC_{50} for a 2-hour exposure (nose only) is 0.39 mg/L. Slight skin and moderate eye irritation are observed in rabbits with complete clearing within 7 days for skin and 14 days for eye. Fipronil is not a dermal sensitizer in guinea pigs (Buehler method).

2. *Genotoxicity*. Fipronil was negative in both *in vitro* and *in vivo* assays conducted to investigate gene mutations, DNA damage, and chromosomal aberrations.

3. *Developmental/reproductive effects*. Rat and rabbit developmental

toxicity studies were negative at doses up to 20 mg/kg/day and 1 mg/kg/day, respectively. In a 2–generation rat study, the NOEL for reproductive toxicity was 30 ppm (2.64 mg/kg/day for both sexes combined).

4. *Subchronic effects*. The NOELs in rats and dogs were 5 ppm (0.35 mg/kg/day for both sexes combined) and 2 mg/kg/day, respectively.

5. *Chronic effects*. The NOELs in 1-year dietary dog and 2-year dietary rat studies were 0.3 mg/kg/day and 0.5 ppm, respectively, based on clinical signs. The chronic Reference Dose (RfD) of 0.0002 mg/kg/day established by EPA is based on the NOEL from the chronic rat study (equivalent to 0.02 mg/kg/day in male rats and 0.03 mg/kg/day in female rats) divided by an uncertainty factor of 100 to account for inter- and intra-species variation.

6. *Carcinogenicity*. Fipronil was not carcinogenic when administered to mice at any dose level tested. In rats, thyroid tumors were observed only at 300 ppm (HDT). Mechanistic data indicate that these tumors are related to an imbalance of thyroid hormones and are specific to the rat. EPA's Health Effects Division Carcinogenicity Peer Review Committee classified fipronil in Group C and recommended that RfD methodology, i.e. non-linear or threshold, be used for the estimation of human risk.

7. *Endocrine effects*. No evidence of estrogenic or androgenic effects were noted in any study with fipronil. No adverse effects on mating or fertility indices and gestation, live birth, or weaning indices were noted in a two-generation rat reproduction study. In a developmental neurotoxicity study, development of pups was delayed only at a dose producing maternal toxicity which resulted in smaller, less developed pups. However, even in the presence of maternal toxicity, the pups developed fully and were comparable to controls by study termination.

C. Aggregate Exposure/Cumulative Effects

1. *Dietary exposure*. A chronic dietary assessment for fipronil use in/on corn demonstrates that the most realistic scenario, i.e. anticipated residues with estimated market share, results in exposures of less than 3% of the RfD for all subgroups including the most sensitive subgroup, children 1 to 6 years of age. Scenarios using tolerances and estimated market share, as well as anticipated residues and 100% crop treated, demonstrated exposures of less than 40% of the RfD for the most sensitive subgroup (children 1 to 6 years of age) and less than 15% of the RfD for the US population in general. Therefore, chronic dietary exposure to fipronil residues from both primary and secondary sources, as a result of its use on field corn, does not represent a significant risk to any segment of the population.

An acute dietary analysis using tolerances, assuming fipronil in milk fat only with a tolerance of 0.7 ppm, 1989-92 consumption data, and a NOAEL of 5.0 mg/kg from the acute neurotoxicity study results in Margins of Exposure (MOEs) for all segments of the population of over 2,000 for the 95th percentile and over 1,000 for both the 99th and 99.9th percentile. A more realistic assessment using anticipated residues would result in considerably higher MOEs. However, even with extremely conservative assumptions, sufficient MOEs exist for acute dietary exposure to fipronil residues from both primary and secondary sources. Therefore, fipronil use on field corn does not represent a significant acute dietary risk to any segment of the population.

2. *Drinking water exposure*. The combined factors of low mobility, moderate persistence, low application rates, and in-furrow application result in fipronil and its metabolites having little potential to reach groundwater as a result of movement through the soil profile or of surface run-off. Thus, the potential for ground water and/or surface water contamination by fipronil and its degradates is expected to be very low.

3. *Non-occupational exposure*. Fipronil is currently registered for use on golf and commercial turfgrass under the brand name CHIPCO CHOICETM and for treatment of cats and dogs for fleas and ticks under the brand name FRONTLINE . These uses are not expected to contribute significantly to overall exposure. Fipronil has an extremely low vapor pressure and low dermal penetration. These properties minimize the amount of actual exposure that might occur. The application of fipronil on golf and commercial turf using a slit applicator which places the granule well into or below the thatch reduces the likelihood of post application exposure. Further, as these areas have only limited human activity involving minimal dermal contact with treated turf, potential exposure is expected to be negligible. Exposure due to the application of FRONTLINE is also expected to be low. The particle sizecharacteristics of the spray product result in negligible inhalation exposure while the use of gloves, as required on the label in conjunction with the low dermal penetration rate of fipronil, result in minimal exposure via the dermal route. The affinity of fipronil for the sebum and hair of animals and its one to three month efficacy indicate that the material remains on the pet and is not bioavailable to those coming in contact with the pet. Pending uses which include use of fipronil as a termiticide and use in ant/roach baits are also anticipated to present negligible exposure.

4. *Cumulative risk*. Fipronil belongs to a novel chemical class of insecticides known as phenylpyrazoles. It is the only compound from this class of chemistry registered for use as an insecticide. Fipronil exhibits a mode of action different from traditional organophosphate, carbamate, or pyrethroid insecticides. Fipronil acts by binding within the chloride channel of the GABA receptor. There is no indication that effects from fipronil would be cumulative with any other pesticide.

D. Safety Determinations

5. *U.S. general population*. Both aggregate and dietary exposure assessments demonstrate that all current and pending uses of fipronil do not pose any significant risk to the general population. Therefore, based on a very complete database, there is reasonable certainty that no harm will result from aggregate exposure to the chemical residue including all anticipated dietary exposures and all other exposures for which there is reliable information.

6. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of fipronil, the available developmental and reproductive toxicity studies were considered. Developmental toxicity studies in two species indicate that fipronil has no teratogenic potential at any dose level. Further, no adverse effects on fetal development were observed in rats or rabbits even in the presence of maternal toxicity. In a two-generation rat reproduction study, effects on pups were seen only at the highest dose tested in the presence of parental toxicity. In a developmental neurotoxicity study, development of pups was delayed only at a dose producing maternal toxicity which resulted in smaller, less developed pups. However, even in the presence of maternal toxicity, the pups developed fully and were comparable to controls by study termination. Thus, maternal and developmental NOELs and LELs were comparable in all studies indicating no increase susceptibility of developing organisms. Further, the NOEL of 0.02 mg/kg/day from the 2-year rat study, which was used to calculate the RfD for fipronil, is already lower

than the NOELs from developmental studies by a factor of 45 to 1,000 times. As a hundredfold uncertainty factor is already used to calculate the RfD which is based on a NOEL significantly lower than NOELs from all developmental and reproductive studies, an additional uncertainty factor is not warranted and the RfD of 0.0002 mg/kg/day is appropriate for assessing risk to infants and children.

E. International Tolerances

There are no Codex maximum residue levels established for fipronil. (Marion Johnson)

3. Zeneca Ag Products

PP-6E4675

EPA has received a pesticide petition (PP 6E4675) from Zeneca Ag Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, Delaware 19850–5458, proposing pursuant to 408(e) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(e), to amend 40 CFR 180.1001(d) by establishing an exemption from the requirement for a tolerance for residues of the inert ingredient titantium dioxide when used in pesticide formulations used on growing crops.

Pursuant to section 408 (d)(2)(A)(i) of the FFDCA, as amended, Zeneca Ag Products has submitted the following summary of information, data and arguments in support of their pesticide petition. This summary was prepared by Zeneca and EPA has not fully evaluated the merits of the petition. EPA edited the summary to clarify that the conclusions and arguments were the petitioner's and not necessarily EPA's.

A. Residue Chemistry

Titanium(Ti) is the eighth most abundant element in the earth's crust and consequently spontaneously enters the food chain to some degree. Humans are estimated to consume approximately 300 µg Ti/day in food. Since the various forms of titanium, including titanium dioxide, are so abundant as a background element, estimations of residues resulting from use as an inert ingredient in a pesticide formulation would not be of value in determining the overall impact of this particular use.

Analytical method. There are two approved AIHA methods for analysis of titanium residues: (1) Hydrogen peroxide colormetric method with a sensitivity of 2 µg Ti; and (2) Atomic absorption with a sensitivity of 1.9 µg/ml.

B. Toxicological Profile

Titanium dioxide (TiO_2) is the most commercially important of all the titanium compounds. TiO_2 is an opaque powder that is approved for use as a colorant in cosmetics (21 CFR 73.2575 and 21 CFR 73.3126), pharmaceuticals (21 CFR 73.575) and foods, as well as in an extensive range of industrial uses (e.g. paper, paints, enamels and plastics) throughout the world. Titanium dioxide is exempt from the requirement for a tolerance when used as a colorant in pesticide formulations (40 CFR 180.1001). In the **Federal Register** of June 20, 1988, EPA announced that it was deleting titanium dioxide from the list of toxic chemicals under section 313 of Title III of the Superfund Amendments. This rule concluded that titanium dioxide will not cause significant adverse effects to humans or to the environment.

The wide range of relatively unrestricted uses of titanium dioxide reflects the fact that the compound is held to be toxicologically inert, belonging to that group of materials classified as ≥Generally Accepted as Safe≥ (GRAS). The scientific committee on food coloring materials determined that no ADI need be set for the use of titanium dioxide, as its use does not present any health concerns (1983). Indeed, titanium dioxide is frequently used as a negative control material *in vivo* chronic dust exposure studies and *in vivo* assessments of fibrogenic potential of dusts.

1. *Acute toxicity.* Titanium dioxide (TiO_2) has very low acute toxicity with no deaths in rats administered as much as 24 grams/Kg. No overt signs of toxicity occurred in a person that ingested approximately 1 pound of TiO_2. Skin and eye contact to the dry powder produced no irritation to the skin and very slight irritation to the eyes. An acute 4-hour inhalation exposure at concentrations of 6.82 mg/L produced no mortalities. Intratracheal administration also indicated a low level of acute toxicity. In a 2-week inhalation study, rats exposed to 1.92 mg/L showed a typical dust-cell reaction. Additionally, only a typical dust-cell reaction was noted in rats exposed to 1 mg/L from 4-weeks up to 1-year.

2. *Genotoxicity.* Titanium dioxide has no genotoxic potential as judged from unequivocal negatives in a range of studies *in vitro* and *in vivo*.

3. *Reproductive and developmental toxicity.* No relevant data are available for this material. However, the OECD Screening Information Data Set (SIDS) Manual for 1996, which contains chemical data and regulatory decisions agreed by scientists within the European Community, stated that due to a lack of toxicity resulting from subchronic and chronic exposure to titanium dioxide, specific testing for reproductive and developmental toxicity were not required for TiO_2.

4. *Subchronic toxicity.* Repeated doses ranging from 800 to 1,500 mg/kg of Titanium dioxide for 2-13 months did not produce adverse effects in all species tested. Some of these studies were limited in terms of the number of animals used (group sizes were 1 to 4).

In a comprehensive study reported as part of the NCI program, groups of 50 male and 50 female F344 rats or B6C3F1 mice were fed diets containing 25,000 or 50,000 ppm titanium dioxide for 103 weeks. Even though these doses (equivalent to 1.25 g/kg or 2.5 g/kg in rats and 3.75 g/kg or 7.5 g/kg in mice) were very high (well in excess of the modern guideline limit dose of 20,000 ppm in rat or 7,000 ppm in mouse), there was no significant evidence of chronic toxicity.

5. *Chronic toxicity* —a. *Carcinogenicity*. In an NCI study groups of 50 male and 50 female F344 rats or B6C3F1 mice were fed diets containing 25,000 ppm or 50,000 ppm titanium dioxide for 103 weeks. There were no compound-related increases in tumors. There was a non-statistically significant increase in C-cell adenoma and of thyroid carcinoma in female rats which, it was concluded, was unrelated to titanium dioxide.

In a study in which F344 rats were fed diets containing up to 5% mica coated with titanium dioxide there was no increase in tumors. In addition, there were no tumors in rats or mice injected intraperitoneally (single or multiple doses) or subcutaneously and observed for periods of 18 months or longer.

There are no epidemiological studies following purely oral exposure to titanium dioxide. However, in studies of factory workers exposed to titanium dioxide dust (primarily via inhalation) there was no evidence of increased cancers.

b. *Pulmonary effects of eitanium dioxide.* TiO_2 is considered generally to be inert and this is confirmed by the very low acute inhalation toxicity (LC_{50} 6.82 mg/L). Single administration of TiO_2 by intratracheal instillation may produce changes in the alveolar cell population, lung lining fluid components and lung tissues. Such changes, the majority of which reversed rapidly even with very high lung loading, were consistent with administration of a relatively high dose of an inert, insoluble dust into the lung. The acceptance that TiO_2 is relatively inert in the lung has led to the use of this as a negative control in many studies investigating the pulmonary

effects of particles. Results in the majority of these studies are again consistent with the inert nature of this material.

A number of repeat exposure inhalation studies have been conducted to investigate either the inherent toxicity of TiO_2 or again to investigate the response of the lung to exposure to inert particles. The majority of studies demonstrate that sub-chronic and chronic exposure to realistic concentrations of TiO_2 result in minimal changes consistent with a steady accumulation of inert particles in the lung.

In a 2-year inhalation study, groups of 200 rats were exposed 6-hours a day, 5-days a week to 10, 50 or 250 mg/m of TiO_2. Survival of the exposed animals was comparable to that of the control group, and there were no compound-related clinical signs of toxicity at any dose level.

In rats, white foci of accumulated material were apparent on the visceral surface and throughout the lung parenchyma at gross necropsy. At 10mg/m this was minimal but marked increases were noted at 50 mg/m and particularly at 250 mg/m. Microscopically, these foci represented not only aggregates of dust or dust containing cells but in most instances the additional biological response of the lung (e.g. pleurisy, collagenized fibrosis associated with cholesterol granulomas, alveoli bronchiolarization, pneumonia, and alveolar cell hyperplasia) to the persistent presence of inert particles. At 250 mg/m in this study, and at 10 mg/m in a subsequent study using a different type (ultrafine) of TiO_2, resulted in an increased incidence of lung tumors at termination. These tumors were either broncho-alveolar or epidermoid/squamous. Such tumors are now known to be a common response of the lung to excessive lung burdens of insoluble dusts, are seen only in the rat and are of questionable relevance to man.

A case-control epidemiology study of male employees exposed to titanium dioxide did not demonstrate an increased risk for lung cancer. In addition, there was no dose-response relationship between titanium dioxide exposure and chronic respiratory disease, pleural thickening, pleural plaques, or pleural nodules.

6. *Animal metabolism*. Data on the absorption of titanium compounds is limited. When male and female rats were fed diet containing 100 g titanium dioxide per kg of diet, for about 32 days, no retention of titanium occurred in the liver, spleen, kidney, bone, plasma or erythrocytes. However, there were measurable amounts (0.06 and 0.11 mg/kg wet weight) in the muscles. Following intravenous injection of 250mg titanium dioxide/kg to rats, there was an exponential disappearance rate from the blood with only about 30% remaining after 10 minutes. Seventy percent of the injected dose was detected in the liver after 5 minutes, rising to almost 80% by 15 minutes. The organ with the next highest concentration was the spleen, after 6 hours. By 24 hours, the highest concentration was in the celiac lymph nodes that drain the lymph from the liver. 1-year after the single injection, the highest tissue concentrations (178.9 mg/gm) were still in these lymph nodes.

7. *Human data*. In a study involving five adult males, each of whom consumed 5g on three consecutive days, there was no significant increase in urinary content of titanium indicating there had been no significant absorption/excretion of the compound. However, titanium dioxide has been found in the lymphatic systems of three workers employed in processing titanium dioxide pigments, indicating the compound can access the tissues, following inhalation exposure. Titanium dioxide is also known to have a long residence time (in the order of a year) in the lung.

C. Aggregate Exposure

Titanium dioxide is currently approved for use in a significant number of pharmaceutical, cosmetic, industrial and food products. Therefore, the potential for aggregate exposure from dietary and non-dietary routes does exist for titanium dioxide. However, the use of titanium dioxide as an inert in a pesticide formulation would not be expected to significantly raise the background levels found naturally in the food chain or general environment. Also, since the acute, subchronic and chronic toxicity testing has shown titanium dioxide to be physiologically inert, there is no concern for adverse health effects resulting from potential aggregate exposures.

D. Cumulative effects

Because of the low toxicity of titanium dioxide and because its presence in the environment is primarily naturally-occurring, Zeneca does not believe that there is any reason to be concerned about the potential for cumulative effects of titanium dioxide and other substances that may have a common mechanism of toxicity.

E. Safety Determination

Titanium dioxide has been shown to be physiologically inert by most routes of exposure, and is classified as ≥Generally Accepted as Safe≥ (GRAS). Based on this information, Zeneca believes that is a reasonable certainty that no harm will result to infants, children, or the general population from aggregate exposure to titanium dioxide residues.

F. Existing Tolerances or Tolerance Exemptions

Titanium dioxide is currently approved by FDA for use in foods, cosmetics and pharmaceuticals. Titanium dioxide also is exempt from the requirement for a tolerance by EPA for use as a colorant in pesticide formulations (40 CFR 180.1001). (Indira Gairola)

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COUNCIL ON ENVIRONMENTAL QUALITY

American Heritage Rivers Initiative

AGENCY: Council on Environmental Quality.

ACTION: Proposal With Request for Comments—Re-Issue of May 19, 1997 Notice With Clarification Section and Revised Schedule.

SUMMARY: In the State of the Union Address, President Clinton announced that he had directed his Cabinet to design an initiative to support communities in their efforts to restore and protect America's rivers. The White House subsequently convened an interagency task force to develop what has come to be known as the American Heritage Rivers initiative. The charter of the interagency task force is to integrate the environmental, historic and economic programs and services of federal agencies to benefit communities. The agencies designing this initiative include the Departments of Agriculture, Commerce, Defense, Energy, Interior, Justice, and Housing and Urban Development, the Environmental Protection agency, Advisory Council on Historic Preservation, Army Corps of Engineers and the National Endowment for the Humanities.

There are many citizens, nongovernmental organizations and local, state and tribal governments working to restore and revitalize their river communities. The Administration is creating the American Heritage Rivers initiative to help these communities restore and protect their river resources in a way that integrates natural resource protection, economic development, and the preservation of historical and

cultural values. This initiative proposes to assist these communities through better use of existing programs and resources and coordinating the delivery of those services in a manner designed by the community, or ''bottom-up.''

Under this program, the President will designate ten rivers as American Heritage Rivers in calendar year 1997. These designated rivers will receive special recognition and focused federal support and will serve as models of the most innovative, economically successful and ecologically sustainable approaches to river restoration and protection for communities across the United States. In addition to the ten rivers receiving designation, the initiative will provide improved information and services for all river communities. The initiative will create no new regulatory requirements for individuals or state and local governments.

DATES: Comments must be received by 5:00 p.m., EST, August 20, 1997. Written comments are required.

ADDRESSES: Comments should be addressed to: Executive office of the President, Council on Environmental Quality, Old Executive Office Building, Room 360, Washington, DC 20501. Fax: 202–456–6546. E-mail address: AHRivers@epamail.epa.gov.

FOR FURTHER INFORMATION CONTACT: Karen Hobbs, Agency Representative, Council on Environmental Quality, Old Executive Office Building, Room 360, Washington, DC 20501. Phone: 202–395–7417; Fax: 202–456–6546.

SUPPLEMENTARY INFORMATION: This notice is available on the American Heritage Rivers Internet Homepage at: http://www.epa.gov/OWOW/heritage/rivers.html. This document is divided into four sections: background on the American Heritage Rivers initiative; overall program design; benefits of designation and the designation process; and services available to all river communities. Comments are sought on the usefulness of the initiative, its design, and ways in which the federal government can support communities.

Clarification to the Federal Register Notice of May 19, 1997

The proposal outlining the American Heritage Rivers initiative first appeared in the Federal Register Notice on May 19, 1997. The following points are intended to clarify issues raised over the last month.

- The American Heritage Rivers nomination is a voluntary, community-defined effort.
- The American Heritage Rivers initiative imposes no new federal regulations for individuals or state, tribal and local governments.
- Nominations for designation as an American Heritage River must demonstrate broad support of the local community.
- Foreign governments and their international organizations will not have a role in sponsoring a nomination to be an American Heritage River nor will they have any authority granted to them as a result of an American Heritage River designation.
- Any community which nominates a river for designation and has its river designated, may have this designation terminated at its request at any point in the future.
- A local mechanism will be required that allows members of a community to comment on the nomination of a river or river stretch by their community.

All comments received between May 19, 1997 and August 19, 1997 will be considered.

Background

Rivers have always been an integral part of our Nation's history—providing opportunities for trade and commerce, routes for exploration and discovery, inspiration for ideas and culture, means of recreation, and focal points for community development. Rivers often define the distinctive character of communities. To capture or restore that distinctive character, communities across America are working to revitalize their waterfronts, and to enhance the historic, cultural, recreational, economic, public health, and environmental values of their rivers. Federal and state governments enact laws and impose regulations to clean up pollution and improve water quality. The goal of the American Heritage River initiative is to support communities (hereafter referred to as River Communities), within existing laws and regulations, by providing them with better access to information, tools and resources, and encouraging private funding of local efforts deserving of special recognition.

The development of this initiative has been guided by six principles. The Administration believes that a successful initiative will be community-led, flexible, coordinated, broad, partnership-based, and action-oriented. These principles embody the Administration's effort to reinvent government in accordance with the National Performance Review. The National Performance Review, directed by Vice President Gore, seeks to create a government that works better and costs less through focusing on customer service, development partnership and delegating power to the front lines. The Administration believes that a successful initiative will be community-led flexible, coordinated, broad, partnership-based, and action-oriented.

Overall Program Design

The initiative will be driven by the needs and desires of communities that wish to participate in the program. Communities already work with the federal government in numerous ways that effect rivers, and this work will continue. The initiative will make national expertise available to community-based restoration, protection and revitalization efforts, and will simplify community access to existing federal resources. The initiative will actively promote successful models that demonstrate private and public collaboration to preserve the special heritage associated with our rivers, and share this information through a clearinghouse.

The American Heritage Rivers initiative will have two components:

- Enhanced services and program delivery to designated rivers; and
- Improved delivery of services and information.

Part I: Benefits of Designation and the Designation Process

The President will designate, by proclamation, ten rivers. These designated rivers will receive focused support in the form of programs and enhanced services, including a ''River Navigator'' (formerly referred to as a ''caseworker'' in public meetings and earlier documents) to work with the community to provide access to the federal agencies and existing programs and to simplify the delivery of these programs. Designated rivers and their communities will also receive a commitment from federal agencies to act as ''Good Neighbors'' in making decisions that effect communities. Each river will become a laboratory for reinvention of federal programs and delivery of services that will support each Community's revitalization efforts.

1. Presidential Proclamation

Communities designate as American Heritage Rivers will receive recognition by proclamation of the President of the United States.

2. ''River Navigator''

Each designated river will be assigned a ''River Navigator'' to help implement the community's vision and provide a single contact/liaison for all federal resources.

3. Coordinated Delivery of Federal Services

Programs exist in numerous federal agencies, including the Department of Agriculture, Interior, Army, Housing and Urban Development, the Environmental Protection Agency and others to support rivers. An interagency task force, established to oversee the development of the initiative in Washington, D.C., will reduce duplication in and of programs, coordinate and leverage streamlined resources, and pay particular attention to designated rivers.

The interagency task force will work with each River Community as it is designated to identify technical and funding needs. First, a team of planning and technical assistance experts will help each designated River Community assess its strategy and implementation plan to identify technical assistance and funding needs. Then, federal agencies will commit field staff and resources to the teams, which will also include non-federal partners, such as state, local, tribal governments and nongovernmental organizations, as well as other partners. Technical assistance, education, funding and high quality aerial photography and maps will help identify and evaluate historic, environmental and economic resources. Planning assistance and community outreach will ensure a well-defined action strategy and a broad base of support. Training in soil and water quality testing will help communities develop a baseline against which to measure progress and environmental monitoring will help communities develop a report card on river conditions and trends. Economic modeling will help communities assess benefits and costs of proposed river projects. Interpretative techniques will identify the unique aspects of the American settlement of the community. The teams will help to implement the ''Good Neighbor Policy'' (discussed below). Through the establishment of these teams, federal agencies will seek stronger intergovernmental partnerships with state, local and tribal governments to streamline and speed the delivery of services and programs. Individual program services will be simplified and expedited, within existing laws and mandates. For some River Communities, Performance-Based Organizations will be established. A Performance-Based Organization, an idea championed by Vice President Gore and the National Performance Review, is granted flexibility from certain bureaucratic requirements in exchange for a commitment to achieve ambitious performance-based goals. In addition, regional and state personnel of federal agencies will assess their successes and implementation problems associated with the initiative, and make recommendations for improving delivery and accessibility of services and programs.

4. ''Good Neighbor Policy''

Federal agencies will commit to a ''Good Neighbor Policy'' under which they will help ensure that their actions have a positive effect on the natural, historical, economic and cultural resources of American Heritage River communities.

The interagency task force will develop ways to inform communities and federal agencies about American Heritage Rivers goals and objectives to ensure that federal actions are complementary to these goals. The ''Good Neighbor Policy'' will require the federal agencies to identify ways to inform local groups regarding federal actions and will require agencies to consult with American Heritage River communities early in the planning stages of federal actions and take into account the community's goals and objectives.

5. Private Sector Opportunities

The Administration will encourage nongovernmental organizations, businesses and other partners to work with state, tribal and local governments to restore, protect, and revitalize American Heritage Rivers that run through their communities.

How Do River Communities Nominate a River?

Communities wishing to nominate their river must meet basic criteria and complete a nomination form. The nomination will require information from the nominating River Community, such as:

1. A brief description of the proposed American Heritage River area;
2. A brief description of how the proposed American Heritage River meets the qualifying criteria;
3. The names, addresses and phone numbers of sponsors listed separately. Letters of endorsement and support are highly recommended.

Nominations must be no more than 15 pages, 10 point type sizes or larger with one inch margins. Letters of endorsement and support and maps describing the proposed designated area will not count toward the 15 page limit. Due to the constraints of the review and selection process, additional materials, such as videos, photographs and/or plans, will not be considered. E-mail transmissions of the applications will be accepted.

Information about the American Heritage Rivers initiative is readily available to all River Communities through personal contacts, Internet access, a toll-free phone line and written materials. Federal agency field staff will receive special orientation on the initiative to enable them to answer river community questions. Special emphasis is given to outreach methods for minority and low income communities.

Information about qualifying and selection criteria and the selection process is available to the public and clearly explained in the application as well as in other information media (such as those listed above).

Who May Put Forward Nominations?

Any River Community working to improve, protect or revitalize a river is eligible to nominate a river area. A River Community is self-defined by the members of the community. It can include private citizens, landowners, educational and arts organizations, community leaders, economic developers, businesses, nonprofit organizations, public and private institutions, local and state government agencies, Indian tribes, elected officials, and/or other parties within and adjacent to the proposed area or areas that support the designation and the goals of American Heritage Rivers.

Scope of Area Covered by Nomination

A River Community will define the area covered by the nomination and should reflect the River Community's capability to implement its plan of action. The length of the area, whether it is an entire watershed, the length of an entire river, or a short stretch of a river, may cross jurisdictional boundaries (if supported by that government and community through letters of support and endorsement).

What Are the Qualifying Criteria?

The qualifying criteria are intended to be broad, flexible and credible. Designation is available both to community-led efforts that are well underway and to communities just beginning. In making a nomination, sponsoring communities or organizations must demonstrate broad community support; notable resource qualities; local and regional partnership agreements; strategies that lead to action; and an ability to achieve measurable results.

1. Broad Community Support

A broad spectrum of private citizens, such as landowners, businesses,

educational and arts organizations, community leaders, economic developers, nonprofit organizations, public and private institutions, local and state government agencies, Indian tribes, elected officials, and/or other parties within and adjacent to the proposed area or areas support the designation and the goals of American Heritage Rivers.

2. Notable Resource Qualifies

There is within the proposed river area (as defined by the community or organization) a range of natural, economic, scenic, historic, cultural, and/or recreational features that demonstrate distinctive qualifies of America's river heritage.

3. Local and Regional Partnership Agreements

The principal party or parties nominating the river and local or regional governmental entities show their willingness and capability to enter into new, or to continue and expand existing, partnership agreements with each other as well as with federal and state agencies, Indian tribes, and/or other parties to implement a plan for the river area.

4. Strategies That Lead to Actions

The principal local sponsoring party, or parties, has in hand, or is developing, a broad plan of action for the river area. Any actions planned on the designated area should not impact downstream communities. At a minimum, the strategy includes the following components:

- Community vision;
- Operating procedures and policies;
- Description of how the proposal takes into account existing plans for the area;
- Public participation and public education;
- Projects and products (including any anticipated impacts beyond the designated river area;
- Resources committed and anticipated (including means for generating additional and matching support from both public and private sources);
- Schedule of actions;
- What the community expects the federal role to be;
- Obstacles to community action, including those the community believes can be resolved by joint federal, state and local support;
- Measures of success.

5. Measurable Results

Implementation of the community's vision must result in measurable benefits to the river community reflecting the community's goals, including, but not limited to, protection of water resources and/or public health, restoration of rivers, protection and highlighting historic and cultural resources, revitalization of local and regional economies, and/or implementing sustainable development within the river area.

What Are the Selection Criteria?

A selection council, convened by the President and discussed below, will, for those nominations meeting the qualifying criteria, also seek to ensure that, individually or as a group, American Heritage Rivers will exemplify America's river heritage at its best, in all its natural, historic, cultural, social, economic, and ecological diversity. The selection council will judge whether the designated rivers will showcase a variety of stream sizes and situations, in urban, rural, and mixed contexts. They will also assess the potential for an American Heritage River to showcase one or more innovative programs in such areas as watershed planning, historic preservation, wildlife management, fisheries' restoration, community revitalization, floodplain management and recreation. Applicants should keep in mind the selection criteria in their responses to the qualifying criteria.

In addition, designated rivers will be able to benefit significantly from a broad range of refocused or retargeted federal programs or other assistance and help generate broader public support for the goals and guiding principles of American Heritage Rivers as excellent examples and models for emulation throughout the Nation.

Evidence of Support

The ability of a River Community to achieve its goals of river quality improvement and economic and community revitalization will depend on the cooperation of state, tribal and/or local officials, as well as strong partnerships with nongovernmental and community organizations. If a state, tribal and/or local government(s) nominates a watershed, river or river stretch, letters of support from nongovernmental organizations and community groups are highly recommended. If a nongovernmental organization(s) nominates a watershed, river or river stretch, letters of support from state, tribal and/or local units of government are highly recommended.

Number of Designations

The President will designate ten rivers in calendar year 1997. The experience gained from the designated rivers and the level of community support for the initiative will guide future river designations.

Terms of Designation

Designation will generally be considered permanent, subject to implementation of the community's plan of action. The ''River Navigator,'' however, will be for a term not to exceed five years.

Selection Council

An interagency task force, composed of the heads of federal agencies, will make recommendations to the President regarding designations. The Administration is considering options on how to include the opinions of the public and experts from a variety of fields in this decision-making process.

Part II: Services Available to All River Communities

All River Communities will be able to take advantage of improved delivery of existing federal agency services and greater access to information. Federal agencies will use existing staff, resources and programs to assist all River Communities in their river restoration and community revitalization efforts.

1. Improved Delivery of Existing Services and Programs

During the first year, federal agencies will focus on improving service and program delivery to the designated river communities, but will also implement methods to improve information access and service delivery to all river communities. There will be an emphasis on establishing stronger intra-and inter-agency communications systems and incentives and performance measures for field staff to rely more on partnerships with other federal agencies. Special emphasis will be given for outreach to minority and low income communities.

2. Information

A. Internet Services

A ''State of the Rivers'' Home Page will provide information via the Internet on river conditions and demographics of river communities. Visitors to the American Heritage Rivers initiative Home Page will also be able to access Web Pages devoted to the ''State of Your River,'' (modeled on EPA's Surf Your Watershed program) which will in turn link to various sources of information. For example, a person might use a zip code or country name to locate a particular river, and then ''point and click'' for information about that river,

such as drinking water sources, land use, or population. From the American Heritage Rivers initiative Home Page, a user will be able to link to the Home Pages of all participating federal agencies to access information on such topics as economic modeling, available grants, teaching guides and where to get aerial photographs and advice from experts.

An American Heritage Rivers Riverfront Internet Page will present users with a broad array of goods and services from which to choose. This electronic tool kit will be customer-driven, so that users can easily scan the tools available and quickly find and obtain those that best fit their community's interest. The Riverfront Internet Page will be divided into the following categories: facts and maps; getting started; assistance yellow pages; local action; building partnerships; and knowing your assets.

B. ''Talent Bank''

A ''talent bank'' will share knowledge and techniques about community river restoration and revitalization efforts. The ''talent bank'' will build on existing expertise and provide access to creative ideas for addressing river goals and needs; real world experience in translating those ideas into practical, workable action; and expertise (professional, technical, organizational, financial or other skills) for helping carry out particular projects or other aspects of community plans. It will be available on both the Internet and in hard copy.

C. Catalog of Federal Support

A catalog of federal support will be developed and made available via the Internet, as well as in hard copy. Whether on the Internet or in hard copy, this information is intended to provide hands-on, step-by-step help to communities that are just beginning to restore and revitalize their rivers. The information will consist of brochures, ''how-to'' pamphlets, a bibliography, and videos.

Next Steps

Specific input is sought on the following:

a. Overall design of the American Heritage Rivers initiative.

b. Qualifying and selection criteria.

c. Nomination and selection process.

d. Types of assistance needed by communities working on rivers, including comments on exiting or needed federal programs and services.

During April and May, the interagency team sought ideas from communities and interested parties to establish criteria for river selection, to determine how rivers will be designated, and to propose how the initiative will be implemented. The following cities hosted meetings, with the approximate number of attendees in parentheses:

April 7
Washington, D.C. (100 attendees)
April 14
Washington, D.C. (40 attendees)
April 16
Albuquerque, New Mexico (60 attendees)
April 22
Boston, Massachusetts (40 attendees)
April 25
Philadelphia, Pennsylvania (80 attendees)
April 28
Atlanta, Georgia (40 attendees)
Chicago, Illinois (120 attendees)
San Francisco, California (30 attendees)
April 29
Los Angeles, California (30 attendees)
April 30
Seattle, Washington (40 attendees)
May 1
Asheville, North Carolina (60 attendees)
May 7
Denver, Colorado (50 attendees)

The schedule for subsequent action is as follows:

May–August: **Federal Register** Notice of Draft Program Design, with Comment Period
August: Cabinet Recommends Initiative Design to President
September: Federal Register Notice of Final Program, Open Nominations
December: Applications Due
January: Designated Rivers Announcements

After comments from the Federal Register notice have closed, the Cabinet will incorporate changes and suggestions into the design of the American Heritage Rivers initiative before forwarding it to the President for approval. If the President approves the initiative design, it is expected that the President will direct his Cabinet to implement the American Heritage Rivers initiative.

Dated: June 18, 1997.

Kathleen A. McGinty,

Chair, Council on Environmental Quality.

[FR Doc. 97–16378 Filed 6–18–97; 1:36 pm]

BILLING CODE 3125–01–M

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), that the July 22, 1997 special meeting of the Farm Credit Administration Board (Board) will not be held. The FCA Board will hold a meeting at 9:00 a.m. on Thursday, July 24, 1997. An agenda for this meeting will be published at a later date.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

Dated: June 18, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–16375 Filed 6–18–97; 2:09 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

June 17, 1997.

Deletion of Agenda Item From June 19th Open Meeting

The Following item has been deleted from the list of agenda items scheduled for consideration at the June 19, 1997, Open Meeting and previously listed in the Commission's Notice of June 12, 1997.

ITEM NO: 1.

BUREAU: Mass Media.

SUBJECT:

Title: Broadcast Advertisement of Distilled Spirits.

Summary: The Commission will consider action regarding the recent initiation of broadcast advertising by the distilled spirits industry, particularly with regard to liquor consumption by minors, and seeks comment on what governmental response, if any, is appropriate.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–16342 Filed 6–18–97; 1:14 pm]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5

U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10 a.m. on Tuesday, June 24, 1997, to consider the following matters:

Summary Agenda

No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum re: Executive Management Report for the Quarter Ending March 1997.

Memorandum and resolution re: Redesignation of Chairman of the Supervision Appeals Review Committee.

Discussion Agenda

Memorandum and resolution re: Final Rule—Part 338—Fair Housing.

Memorandum and resolution re: Notice of Proposed Rulemaking—Part 347—Foreign Activities of Insured State Nonmember Banks; Part 346—Foreign Banks; and Part 351—International Operations.

Memorandum re: Statement of Policy—Section 19 of the Federal Payment Systems.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Deputy Executive Secretary of the Corporation, at (202) 898–6757.

Dated: June 17, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 97–16329 Filed 6–18–97; 10:39 am]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1175–DR]

Minnesota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota, (FEMA–1175–DR), dated April 8, 1997, and related determinations.

EFFECTIVE DATE: June 10, 1997.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Minnesota, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 8, 1997:

Beltrami County for Hazard Mitigation (already designated for Categories A and B under the Public Assistance program).

Murray County for Public Assistance and Hazard Mitigation.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 97–16233 Filed 6–19–97; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 3, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Daniel Biggs, Great Bend, Kansas, to acquire an additional 11.62 percent, for a total of 16.25 percent; Merlin Grimes, Great Bend, Kansas, to acquire an additional 20.37 percent, for a total of 25.00 percent; ED&J, Inc., c/o David Marmie, Great Bend, Kansas, to acquire an additional 17.37 percent, for a total of 22.00 percent; Ronald Carr and Dennis Call, both of Great Bend, Kansas, to each acquire a total of 12.50 percent, and R. Joe Southard, Great Bend, Kansas, to acquire a total of 11.75 percent, of the voting shares of First Wakeeney Agency, Inc., Wakeeney, Kansas, and thereby indirectly acquire Interstate Bank, Great Bend, Kansas.

Board of Governors of the Federal Reserve System, June 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16147 Filed 6–19–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc.97-15127) published on page 31602 of the issue for Tuesday, June 10, 1997.

Under the Federal Reserve Bank of Atlanta heading, the entry for F&M Bancorporation, Inc., Kaukauna, Wisconsin, and F&M Merger Corporation, Kaukauna, Wisconsin, is revised to read as follows:

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. F & M Bancorporation, Inc., Kaukauna, Wisconsin, and F & M Merger Corporation, Kaukauna, Wisconsin; to acquire and merge with Clear Lake Bancorp, Inc., Clear Lake, Wisconsin, and thereby indirectly acquire Landmark Bank, Clear Lake, Wisconsin.

Comments on this application must be received by July 3, 1997.

Board of Governors of the Federal Reserve System, June 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16149 Filed 6–19–97; 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 July 14, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Peoples Community Bancshares, Inc., Colquitt, Georgia; to acquire 100 percent of the voting shares of Farmers Bank of Malone, Malone, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Enterbank Holdings, Inc., Clayton, Missouri; to acquire 8.33 percent of the voting shares of City Bancorp, Springfield, Missouri, and thereby indirectly acquire THE BANK (a proposed *de novo* bank), Springfield, Missouri.

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. AMFED Financial, Inc., Minneapolis, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Norwest Bank Nevada, National Association, Las Vegas, Nevada. Bank currently operates as Norwest Bank Nevada, F.S.B., and proposes to convert to a national bank.

2. Norwest Corporation, Minneapolis, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of AMFED Financial, Inc., Minneapolis, Minnesota, and thereby indirectly acquire Norwest Bank, Nevada, N.A., Las Vegas, Nevada.

Board of Governors of the Federal Reserve System, June 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16150 Filed 6–19–97; 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 July 17, 1997.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Northway Financial, Inc., Berlin, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of The Berlin City Bank, Berlin, New Hampshire, and 100 percent of the voting shares of Pemi Bancorp, Inc., Plymouth, New Hampshire, and thereby indirectly acquire Pemigewasset National Bank of Plymouth, Plymouth, New Hampshire.

Board of Governors of the Federal Reserve System, June 17, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16229 Filed 6–19–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 3, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Deposit Guaranty Corp., Jackson, Mississippi, through its subsidiary, CSF Acquisition Corp., Jackson, Mississippi; to acquire CitiSave Financial Corporation, Baton Rouge, Louisiana, and thereby indirectly acquire Citizens Savings Association, F.A., Baton Rouge, Louisiana, and thereby engage in operating a savings association,

pursuant to § 225.28(b)(4)(ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 16, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16148 Filed 6–19–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 10:00 a.m., Wednesday, June 25, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW, Washington, DC 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: June 18, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–16328 Filed 6–18–97; 10:39 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[Dkt. C–3719]

Comtrad Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the Virginia-based company from misrepresenting the ability of any food storage product to cool food items or maintain proper cold storage temperatures and to hold its cooling capacity after being unplugged, or misrepresenting the effect of operating such a product off a car battery when the car is not running, and requires the respondent to substantiate any claims regarding the safety and efficacy of food storage products.

DATES: Complaint and Order issued February 25, 1997.[1]

FOR FURTHER INFORMATION CONTACT: Phoebe Morse, Federal Trade Commission, Boston Regional Office, 101 Merrimac St., Suite 810, Boston, MA. 02114–4719. (617) 424–5960

SUPPLEMENTARY INFORMATION: On Monday, December 16, 1996, there was published in the **Federal Register**, 61 FR 66040, a proposed consent agreement with analysis In the Matter of Comtrad Industries, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,

Secretary.

[FR Doc. 97–16192 Filed 6–19–97; 8:45 am]

BILLING CODE 6750–01–M

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

FEDERAL TRADE COMMISSION

[Dkt. C–3718]

Natural Innovations, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the Ohio-based manufacturer and its president from making pain relief or pain elimination claims for their device without possessing competent and reliable scientific evidence to support such claims and prohibits them from representing that any endorsement or testimonial represents the typical experience with their product, unless the claim is substantiated or it is accompanied by a prominent disclaimer.

DATES: Complaint and Order issued February 25, 1997.[1]

FOR FURTHER INFORMATION CONTACT: Lesley Fair, FTC/S–4002, Washington, D.C. 20580. (202) 326–3081.

SUPPLEMENTARY INFORMATION: On Monday, December 16, 1996, there was published in the **Federal Register,** 61 FR 66042 a proposed consent agreement with analysis In the Matter of Natural Innovations, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 97–16191 Filed 6–19–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Dkt. C–3730]

Uno Restaurant Corporation, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the Massachusetts-based pizza corporations from misrepresenting the existence or amount of fat or any other nutrient or substance in any pizza or other baked crust food products.

DATES: Complaint and Order issued April 4, 1997.[1]

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public

FOR FURTHER INFORMATION CONTACT: Phoebe Morse or John Dugan, Federal Trade Commission, Boston Regional Office, 101 Merrimac St., Suite 810, Boston, MA. 02114–4719. (617) 424–5960.

SUPPLEMENTARY INFORMATION: On Wednesday, January 29, 1997, there was published in the **Federal Register** 62 FR 4291, a proposed consent agreement with analysis In the Matter of Uno Restaurant Corporation, et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 97–16190 Filed 6–19–97; 8:45 am]

BILLING CODE 6750–01–M

FEDERAL TRADE COMMISSION

[Dkt. C–3717]

World Media T.V., Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the California-based advertising production and distribution corporation from making pain relief or pain elimination claims in infomercials for any device without possessing competent and reliable scientific evidence to support such claims and prohibits the respondent from representing that any endorsement or testimonial represents the typical experience with the product, unless the claim is substantiated or it is accompanied by a prominent disclaimer.

DATES: Complaint and Order issued February 25, 1997.[1].

FOR FURTHER INFORMATION CONTACT: Lesley Fair, FTC/S–4002, Washington, DC 20580. (202) 326–3081.

SUPPLEMENTARY INFORMATION: On Monday, December 16, 1996, there was published in the **Federal Register**, 61 FR 66042 a proposed consent agreement with analysis In the Matter of Natural Innovations, Inc., et al./World Media T.V., Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,

Secretary.

[FR Doc. 97–16189 Filed 6–19–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 741]

Cooperative Agreements To Support State; Assessment Initiatives

Introduction

The Centers for Disease Control and Prevention (CDC), the Nation's prevention agency, announces the availability of fiscal year (FY) 1997 funds for cooperative agreements to enhance State and local capacity to assess progress toward achieving national, State, and community health objectives; improve the capacity to conduct health assessment through partnerships; and utilize assessment information for policy making and program management.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. The activities in this announcement are directly related to the priority area of Surveillance and Data Systems in Healthy People 2000. (For ordering a copy of Healthy People 2000, see the section *Where to Obtain Additional Information*.)

Authority

This program is authorized under the Public Health Service Act, Sections 301(a), 311(b), and 317 [42 U.S.C. 241(a), 243(b) and 247b], as amended.

Smoke-Free Workplace

CDC strongly encourages all recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are the official public health agencies of States or their bona fide agents or instrumentalities and regional consortia of such agencies. This includes the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of the Marshall Islands, and the Republic of Palau.

Note: Effective January 1, 1996, Section 18 of Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant (cooperative agreement), contract, loan, or any other form.

Availability of Funds

Approximately $1,335,000 is available in FY 1997 to fund approximately 6–7 awards. It is expected that the average award will be $200,000 ranging from $175,000 to $250,000. It is expected that the awards will begin on or about September 30, 1997, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory performance, an acceptable continuing application, and the availability of funds.

If requested, Federal personnel may be assigned to a project in lieu of a portion of the financial assistance.

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from a Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grant, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1997 HHS Appropriations Act, which became effective October 1, 1996, expressly prohibits the use of 1997 appropriated funds for indirect or ''grass roots'' lobbying efforts that are designed to support or defeat legislation pending before State legislatures. This new law, Section 503 of Pub. L. No. 104–208, provides as follows:

Sec. 503: (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, . . . except in presentation to the Congress or any State legislative body itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1997, as enacted by the Omnibus Consolidated Appropriations Act, 1997, Division A, Title I, Section 101(e), Pub. L. No. 104–208 (September 30, 1996).

Background

The ability of the public health system to assure the health of Americans depends on its capacity to accomplish three major functions: assessment, policy development, and assurance. The 1988 Institute of Medicine Report, The Future of Public Health, emphasized the importance of strengthening these core functions to respond to the public health priorities of this decade. In addition to the three core functions, ten public health practices have been determined as essential. Of the ten, three of these practices relate to the assessment function (assess, investigate, analyze), two focus on policy development (prioritize, plan), and four address assurance (manage, implement, evaluate, and inform/educate).

The Year 2000 Health Objectives are based on the three core functions. Not only do the Year 2000 Objectives define the health problems and measures that need to be monitored over time, they define specific surveillance and data-system objectives that must be addressed if public health agencies at all levels of government are to perform the first of these major functions—assessment.

During fiscal years 1992–1996, CDC awarded seven cooperative agreements to State health departments to enhance their assessment capacity. Since that time, important changes have affected the practice of public health. Among these are:

- Expansion of the managed care model in the health delivery sector;
- Recognition of local communities as the critical arena for effective public health interventions;
- Commitment to public health strategies founded on partnerships between public and private organizations;
- Movement for privatizing public health functions and changing the respective roles of government agencies;
- Emergence of new infectious diseases and other threats to the health of the public;
- Transfer of health policy-making responsibilities from the Federal to State and local government;
- Commitment by CDC and State and local public health organizations to integrate information systems.

These influences provide the public health arena with new challenges and opportunities when developing effective assessment capacity at the State and community level. Chief among these is the opportunity to strengthen the capacity to conduct comprehensive health assessment through new partnerships with various public and private entities.

Where assessment capacity is robust, integrated, and networked, its practice enables community and State public health agencies— in partnership with other public and private organizations—to collaborate in the collection, analysis, and use of information on a wide spectrum of health matters, for example: (a) Vital statistics; (b) morbidity and mortality related to infection, illness, chronic disease, injury and disabilities; (c) personal, occupational, and environmental risk factors; (d) the provision and effectiveness of public health programs and health care services; (e) community perceptions of health problems and priorities, and others. In most of the nation, however, assessment capacity is not yet sufficiently developed to support that vision. Many information systems serve only governmental public health agencies, pass information from the community to State and Federal agencies, and employ categorical or ''stand-alone'' electronic systems.

Strong assessment capacity is essential to determine health status of target populations, establish priorities, develop effective health policies, and evaluate the impact of public health and health care programs. The ability of public health officials to carry out assessment requires the following component:

1. Developing, maintaining, and using health information systems to identify the impact of diseases, risk factors, and health care on the population and to monitor changes in the impact, cost, quality, and effectiveness over time.

2. Making health information available to State and local health departments, Federal agencies, and other private and public users, which enables health officials to define the health needs of a population; to design and implement health prevention, health promotion, and intervention programs; and to evaluate the effectiveness of those programs.

3. Building the capacity of State and local health departments and other relevant organizations to use integrated health information and public health surveillance systems and to strengthen the core functions of policy development and assurance.

4. Evaluating health information strategies, to determine their adequacy in serving the health needs of communities and making appropriate changes to maximize their effectiveness.

The ready exchange of data, information, knowledge, and expertise among public health agencies and other public and private organizations is critical to comprehensive health assessment. Recognizing this as an essential objective, CDC initiated the Wide-Ranging Online Data for Epidemiologic Research (WONDER)—a system of remote data base access and electronic mail; and the Information Network for Public Health Officials (INPHO)—infrastructure-building program.

Purpose

This project is intended to address health assessment capacity building through the development of State public/private partnerships. The

purposes of this cooperative agreement are to:

A. Promote the development of innovative assessment partnerships between traditional public health agencies and other public and private partners.

B. Develop novel and creative approaches and methods of assessment that will enhance State and local capacity to monitor progress toward achieving measurable national, State, and community health objectives.

C. Strengthen the capacity to use information from assessment for policy making, program management and coordination.

Funds will be awarded for developing assessment capacity in one or more of the following four areas of emphasis. The objective of these partnerships is to build the capacity of all partner agencies to use health assessment information in policy development and program management.

1. ''Managed Care Assessment Partnership'' associates State and community public health agencies with health care provider organizations operating under a capitated or other managed care model.

2. ''Collaborative Community Assessment Partnership'' combines State and community public health agencies with local community-based organizations (e.g., community health centers, community mental health centers, Indian tribal clinics, nonprofit human services organizations, schools, employers, and others).

3. ''Medicaid Assessment Partnership'' combines State and community public health agencies with Medicaid agencies and organizations affiliated with Medicaid agencies (e.g., health care providers under contract to Medicaid agencies).

4. ''Preventive Health Assessment Partnership'' of State and community public health agencies and other organizations (e.g., universities, schools of public health, academic health centers, professional and voluntary organizations, Indian tribal governments, philanthropic foundations, and businesses) that share an interest in the health of a defined population and that can apply information, resources, and other elements that are valuable to the goal of building improved assessment capacity.

Program Requirements

In conducting activities to achieve the purposes of this program, the recipient shall be responsible for the activities under A. below, and CDC shall be responsible for conducting activities under B.

Applicant must apply for one or more of the partnership categories.

A. Recipient Activities

Year One

1. Develop a consortium of health partners to address the assessment needs of the partnership. At least one of the following partnership categories must be included: Managed Care Assessment Partnership; Collaborative Community Assessment Partnership; Medicaid Assessment Partnership; and Preventive Health Assessment Partnership.

2. Identify and describe project partners and their capacity to provide assessment data and their skills and expertise in using data for policy development and planning.

3. Form a project steering committee with representation from consortium partners and hold, at minimum, quarterly meetings.

4. Determine the priority health assessment needs of the project partners and the populations they serve.

5. Develop a five-year strategic plan for building assessment capacity including: major goals and objectives; a description of major data systems; ability of combining data from various system; data gaps; modifications to current data systems; development of a combined surveillance system to address identified health problems; roles and responsibilities of all partners in the consortium; analysis plans; data dissemination plans; and other relevant information.

6. Create or adopt health status indicators whose measurements and use will become the objectives of the strategic plan.

7. Conduct an evaluation of each agency's surveillance/data systems using the approach in the Guidelines for Evaluating Surveillance Systems. Focus on only those systems that are relevant to the indicators to be measured. (For obtaining a copy of Guidelines for Evaluating Surveillance Systems, see the section **Where to Obtain Additional Information**.)

Subsequent Years (Years 2–5)

8. Implement the strategic plan for building assessment capacity.

9. Develop and maintain a methodology for public health assessment, including the flow, editing, analysis, and application of data.

10. Coordinate the health assessment system among partners and with other appropriate organizational units in and out of the agency to ensure consistency and comparability in the data that are collected and to ensure a single point for data management.

11. Plan and implement procedures and training for ensuring the timeliness, completeness, and quality of the data.

12. Develop and implement a plan for the analysis and use of health assessment data in appropriate prevention and intervention programs to reduce the prevalence of risk factors associated with identified health problems.

13. Prepare and disseminate health assessment information through presentation and publication in appropriate forums.

14. Develop an evaluation strategy to assess the effectiveness and efficiency of the assessment practices used to monitor the health of the population and provide reasonable evidence of the use of assessment information in policy development and implementing changes in health programs and priorities.

B. CDC Activities

1. Collaborate in the design and adoption of selected health status indicators, standardized data items, definitions, procedures, and methods to collect assessment information.

2. Provide training, as appropriate, on: public health assessment and surveillance; analytic and methodological issues; electronic data transfer; integration of laboratory data; and the uses of assessment data for policy and planning.

3. Assist States to analyze, interpret, and use the health assessment data to measure program effectiveness, improve interventions, and formulate relevant policies.

4. Collaborate with the recipients in preparing and presenting program-relevant findings to appropriate State and national audiences.

5. Collaborate with the recipients in evaluating the effectiveness and efficiency of the health assessment system to monitor and intervene upon the health risks of identified populations.

6. Review models, findings, and results of these projects and, in collaboration with the recipients, compile and disseminate models of improved capacity and practices for consideration and potential adoption or adaptation in other jurisdictions.

Technical Reporting Requirements

Semiannual progress reports on project activities should be submitted within 30 days after the end of each reporting period. An original and two copies of a final performance report must be submitted within 90 days after the end of the project period. These reports must include:

A. A brief program description.

B. A comparison of the actual accomplishments to the goals and objectives established for the period.

C. If established goals and objectives were not accomplished or were delayed, document both the reason for the deviation and the anticipated corrective action, or rationale for deletion of the activity from the project.

D. Other pertinent information, including the analysis of data collected.

Financial status reports must be submitted no later than 90 days after the end of each budget period. Final financial status reports are required no later than 90 days after the end of the project period.

Application Content

Applicants are required to submit an original application and two copies. Pages must be clearly numbered, and a complete index to the application and its appendices must be included. Please begin each separate section on a new page. The original and each copy of the application set must be submitted unstapled and unbound. All material must be typewritten, single-spaced, with unreduced type on 8½″ by 11″ paper, with at least 1″ margins, headers and footers, and printed on one side only.

All applicants must develop their applications in accordance with PHS Form 5161–1, information contained in this program announcement, and the instructions outlined below. If the proposed program is a multiple year project, the applicant should provide a detailed description for each year. The application, excluding budget and appendixes, should not exceed 30 pages.

Applicant must provide a narrative describing the following:

A. Executive Summary

Provide a clear, concise, and written summary of the following: (1) Statement of need; (2) major goals, objectives, and activities of the proposed project; (3) operational plan; (4) capability of applicant; and (5) estimated cost of the project including the requested amount.

B. Table of Contents

C. Statement of Need

Describe the role of assessment in setting the State's public health priorities developing agency policy and planning; the State's current assessment capability; the State's relationship with potential partners and how assessment is conducted; and how this project will strengthen the capacity to conduct assessment activities.

D. Goals and Objectives

Establish and submit long-term (5 year) goals and short-term (1 year) objectives for the assessment activities included in the application. Objectives must be specific, measurable, time-phased, and feasible.

E. Operational Plan

1. Submit a plan to develop and expand assessment activities through a consortium of health partners. At least one of the following partnership categories must be included in the plan: Managed Care Assessment Partnership; Collaborative Community Assessment Partnership; Medicaid Assessment Partnership; or Preventive Health Assessment Partnership.
2. Submit a time schedule for all activities to be carried out in year one, including responsible staff for each activity.
3. Describe future years' activities and explain how the first year will logically lead into program activities in subsequent years.
4. Describe procedures to disseminate information from the assessment activities for policy development, program evaluation, and research through presentation and publication in appropriate forums.

F. Capability

1. Identify and describe the availability of data and information for the project from various potential partners.
2. Identify and describe the project staff, their qualifications and experience in epidemiology, surveillance, statistical applications, program management, policy development, health assessment, and integrated electronic information systems. Include the curriculum vitae and job descriptions for key project staff in the supporting materials in the appendix.
3. Provide written commitments from the appropriate public/private organization expected to support activities as a potential partner in this project.

G. Project Evaluation

Submit a plan to evaluate the project that assesses the extent to which:
1. The consortium or partnership has been a successful means of conducting and strengthening assessment activities.
2. Data were used for policy development, program planning, and evaluation of appropriate intervention programs.
3. Data were appropriately analyzed and disseminated through periodic reports, presentations, and publication.

H. Budget

1. Line-item descriptive justification for personnel, travel, supplies, and other services should be submitted. Applicant should be precise about the purpose of each budget item as it relates to the project.
2. If applicable, applicants requesting monies for contracts should include the name of the person or firm to be contracted, a description of the services to be performed, an itemized and detailed budget including justification, the period of performance, and the method of selection.
3. Funding levels for years two through five should be estimated.

I. Supporting materials

1. Curriculum vitae and job descriptions of key personnel.
2. Materials related to previous or current activities of State and local, public and private, health agencies directed toward assessment.
3. Letters of endorsement and/or collaboration of participating partners, as appropriate.

Evaluation Criteria (100 Points)

Applications will be reviewed and evaluated according to the following criteria:

A. Potential for Public Health Impact (10 Points)

1. Evidence of the applicant's plans to improve its ability to perform the assessment function in conjunction with outside public/private partners.
2. Evidence of the applicant's ability to develop, implement, evaluate, and use assessment activities to support effective program policies and interventions.
3. Extent and availability of statewide health data and information from a variety of public and private sources.

B. Capability (30 Points)

1. The extent and appropriateness of previous State health department assessment and policy development efforts to monitor health risks of general and high-risk populations.
2. The ability of the State to integrate information and data from two or more existing public and/or private sources for program development and evaluation.
3. Evidence of strong working relationships with the organizational entities involved with this project.
4. Evidence that key project staff have experience in surveillance, assessment, applied research, partnership development, electronic data information systems, and policy-making.

C. Project Design (55 Points Total)

1. Partnership Development (15 Points)

a. The extent to which the applicant describes the feasibility of developing a partnership for assessment activities in one or more of the following four areas (Extra points will not be awarded for developing more than one partnership): Managed Care Assessment Partnership; Collaborative Community Assessment Partnership; Medicaid Assessment Partnership; and/or Preventive Health Assessment Partnership.

b. The adequacy of procedures for selecting private/public partners, target population and health problem areas.

c. The adequacy of the partnership structure to establish partner concurrence, build consensus, address problem resolution, and carry out project activities within the proposed time schedule.

2. Strategic Plan (25 Points)

a. The adequacy of the applicant's plans to develop and maintain a working partnership for public health assessment and policy development.

b. The objectives and activities are appropriate, feasible, and time appropriate to the project.

c. The ability of the applicant's plans to be flexible and able to incorporate additional partners, activities, etc., as emerging issues warrant.

3. Program Evaluation (15 Points)

a. The extent to which the applicant proposes a strategy of ongoing evaluation and feedback for this project.

b. The adequacy of the applicant's plans to evaluate the overall effectiveness and success of this project.

D. Commitment (5 Points)

1. Evidence that the organizational positioning of this project is conducive to accomplishing the stated purposes of this cooperative agreement, including formal written commitments from appropriate organizational entities that would be expected to support the project.

2. Evidence of the applicant's ability to continue the project beyond established performance period.

E. Budget (Not Weighted)

The extent to which the applicant describes the total amount of funds requested in each of the object class categories and clearly links the budget items to objectives and activities proposed for the budget period.

F. Human Subjects (Not Weighted)

Whether or not exempt from the Department of Health and Human Services (DHHS) regulations, are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, (2) protections appear adequate, but there are comments regarding the protocol,(3) protections appear inadequate and there are concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should forward them to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, Georgia 30305. The due date for State process recommendations is 30 days after the application deadline date for new and competing continuation applications. The granting agency does not guarantee to ''accommodate or explain'' for State process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit. Should human subjects review be required, the proposed work plan should incorporate time lines for such development and review activities.

Women, Racial, and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, Georgia 30305, on or before *August 11, 1997.*

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Application: Applications that do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and telephone number. Please refer to *Announcement 741.* You will receive a complete program description, information on application procedures, and application forms. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Albertha Carey, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 314, Mail Stop E–18, Atlanta, Georgia 30305, telephone (404) 842–6591; electronic mail at ayc1@cdc.gov.

Technical assistance may be obtained from Colette Zyrkowski, Division of Public Health Surveillance and Informatics, Epidemiology Program Office, Centers for Disease Control and Prevention (CDC), Mail Stop C–08, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–0080; fax (404) 639–1546; or Internet or CDC WONDER electronic mail at coz1@cdc.gov.

You may obtain this announcement from one of two Internet sites on the actual publication date: CDC's homepage at http://www.cdc.gov or the Government Printing Office homepage (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Please refer to *Program Announcement 741* when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) referenced in the ''Introduction'' through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325, telephone (202) 512–1800. Centers for Disease Control and Prevention Guidelines for Evaluating Surveillance Systems can be found in the Morbidity and Mortality Weekly Report 1988; 37 (suppl. no. S–5).

Dated: June 16, 1997.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–16169 Filed 6–19–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Subcommittee on Intimate Partner Violence Prevention Research and the Injury Research Grant Review Committee (IRGRC): Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee and conference call committee meetings.

Name: Subcommittee on Intimate Partner Violence Prevention Research of the IRGRC.

Times and Dates: 6:30 p.m.–9 p.m., July 13, 1997. 8 a.m.–4 p.m., July 14, 1997.

Place: Renaissance Atlanta Hotel-Concourse, One Hartsfield Centre Parkway, Atlanta, Georgia 30354.

Status: Open: 6:30 p.m.–6:45 p.m., July 13, 1997.

Closed: 6:45 p.m.–9 p.m., July 13, 1997, through 4 p.m., July 14, 1997.

Purpose: The Subcommittee advises IRGRC on the technical and scientific merit of injury prevention research grant applications on intimate partner violence prevention.

Matters to be Discussed: Agenda items include a description of the Subcommittee's responsibilities and review process, and review of grant applications.

Name: Injury Research Grant Review Committee.

Time and Date: 2 p.m.–4 p.m., July 16, 1997.

Place: National Center for Injury Prevention and Control (NCIPC), CDC, Koger Center, Vanderbilt Building, 1st Floor, Conference Room 1006, 2939 Flowers Road, South, Atlanta, Georgia 30341. (Exit Chamblee-Tucker Road off I–85.)

Status: Open: 2 p.m.–2:15 p.m., July 16, 1997.

Closed: 2:15 p.m.–4 p.m., July 16, 1997.

Purpose: This committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the scientific merit and technical feasibility of grant applications received from academic institutions and other public and private profit and nonprofit organizations, including State and local government agencies, to conduct specific injury research that focus on prevention and control and to support injury prevention research centers.

Matters to be Discussed: Agenda items include a budget update, recent awards, report of the Subcommittee on Intimate Partner and Violence Prevention Research, description of the review process, future meeting dates, and review of grant applications.

Beginning at 2:15 p.m., July 13, through 4 p.m., July 14, the Subcommittee on Intimate Partner Violence Prevention Research of the IRGRC will meet and from 2:15–4 p.m., July 16, IRGRC will meet to conduct a review of grant applications. These portions of the meetings will be closed to the public in accordance with provisions set forth in section 552b(c) (4) and (6), title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Richard W. Sattin, M.D., Executive Secretary, IRGRC, NCIPC, CDC, 4770 Buford Highway, NE, M/S K58, Atlanta, Georgia 30341–3724, telephone 770/488–4580.

Dated: June 13, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–16171 Filed 6–19–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N–0251]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by July 21, 1997.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attention: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Mark L. Pincus, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1471.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance:

Title: Electronic Records; Electronic Signatures—21 CFR Part 11

Description: FDA regulations in part 11 (21 CFR part 11) provide criteria for acceptance of electronic records, electronic signatures, and handwritten signatures executed to electronic records in place of paper records. The regulations will become effective on August 20, 1997. Under these regulations, records and reports may be submitted to FDA electronically, provided the agency has stated its ability to accept the records electronically in an agency-established public docket and that the other requirements of part 11 are met.

The recordkeeping provisions in part 11 (§§ 11.10, 11.30, 11.50, and 11.300) require standard operating procedures to assure appropriate use of, and precautions for, systems using electronic records and signatures. The reporting provision (§ 11.100) requires persons to certify in writing to FDA that they will regard electronic signatures used in their systems as the legally binding equivalent of traditional handwritten signatures.

Description of Respondents: Businesses and other for-profit organizations, State or local governments, Federal agencies, and nonprofit institutions.

Most of the burden created by the information collection provisions of this final rule will be a one-time burden associated with the creation of standard operating procedures, validation, and certification. The agency anticipates that the use of electronic media will result in a substantial net reduction in the paperwork burden associated with maintaining FDA-required records.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	Frequency per Recordkeeper	Hours per Recordkeeper	Total Hours
11.10	50	40	2,000
11.30	50	40	2,000
11.50	50	40	2,000
11.300	50	40	2,000
Total Recordkeeping Burden Hours			8,000

There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Hours per Response
11.100	1,000	1	1,000
Total Reporting Burden Hours			1,000

There are no capital costs or operating and maintenance costs associated with this information collection.

Dated: June 16, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–16178 Filed 6–19–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97F–0170]

Toyo-Morton, Ltd.; Filing of Food Additive Petition; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of April 30, 1997 (62 FR 23467). The document announced that Toyo-Morton, Ltd., filed a petition proposing that the food additive regulations be amended to provide for the safe use of polyester-epoxy-urethane adhesive for use as a nonfood contact layer of laminated articles intended for use in contact with food. The document published with an incorrect docket number. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

In FR Doc. 97–11078, appearing on page 23467 in the **Federal Register** of Wednesday, April 30, 1997, the following correction is made:

1. On page 23467, in the third column, Docket No. ''97C–0171'' is corrected to read ''97F–0170''.

Dated: June 9, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–16236 Filed 6–19–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Ophthalmic Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on July 10 and 11, 1997, 8 a.m. to 5 p.m.

Location: Gaithersburg Hilton, Salons A, B, and C of the Ballroom, 620 Perry Pkwy., Gaithersburg, MD.

Contact Person: Sara M. Thornton, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD, 20850, 301–594–2053, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12396, or the world wide web at http://www.fda.gov. Please call the Information Line for up-to-date information on this meeting.

Agenda: On July 10, 1997, there will be a presentation of the basic concepts of FDA's Product Development Protocol Process with specific focus on the implementation of the process within the Division of Ophthalmic Devices. The committee will discuss issues relating to a premarket approval application (PMA) for a monofocal intraocular lens and a PMA for a multifocal intraocular lens for primary implantation for the visual correction of aphakia. On July 11, 1997, the committee will discuss issues relating to a PMA for an excimer laser for the correction of myopia using laser in-situ keratomileusis (LASIK).

Procedure: Interested persons may present data, information, or views, orally, or in writing, on issues pending before the committee. Written submissions may be made to the contact person by July 1, 1997. Oral presentations from the public will be scheduled between approximately 8 a.m. and 9 a.m. on July 10 and 11, 1997. Time allotted for each presentation may be limited. Those desiring to make formal presentations should notify the contact person before July 1, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

FDA regrets that it was unable to publish this notice 15 days prior to the July 10 and 11, 1997, Ophthalmic Devices Panel of the Medical Devices Advisory Committee meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Ophthalmic Devices Panel of the Medical Devices Advisory Committee were available at this time, the Commissioner concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Dated: June 12, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–16235 Filed 6–19–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Assessment of HIV Counseling and Testing (C&T) Services for Women of Childbearing Age in Bureau of Primary Health Care (BPHC) Programs—

New—The Health Resources and Services Administration (HRSA), Bureau of Primary Health Care (BPHC) is planning to conduct a survey-based study of its primary care programs to examine various implementation issues related to the design and delivery of HIV counseling and testing (HIV C&T) services to women of childbearing age. The survey population will be a probability sample of the BPHC-funded grantees, designed to permit analysis by type of BPHC funding received.

The mail survey instrument will be designed to explore various HIV C&T implementation issues and relevant research questions, including: (a) Extent to which HIV C&T services are available (provided directly by programs or through referrals), (b) attributes of the BPHC programs that offer HIV C&T services to women of childbearing age; (c) characteristics of HIV C&T services, provided by BPHC programs; (d) programmatic and population-specific barriers to delivery of HIV C&T services; (e) lessons and best practices for replication; (f) recommendations for technical assistance to facilitate timely, effective implementation. The resulting analysis and report will present program-based lessons and recommendations for assisting and improving capacity of various BPHC programs to design and implement HIV C&T services for women of childbearing age, and thus assist in promoting community-based HIV C&T services for women, especially pregnant women. Response burden is as follows:

Type of respondent	Number of respondents	Responses/ respondent	Hours per response	Total burden hours
Grantees providing HIV C&T Services	141	2	2	282
Grantees not providing HIV C&T Services	69	1	1	69
Total	210			351

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Virginia Huth, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 12, 1997.

James J. Corrigan,

Acting Associate Administrator for Management and Program Support.

[FR Doc. 97–16237 Filed 6–19–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: May 1997

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of May 1997, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, Maternal and Child Health Services Block Grant and Block Grants to States for Social Services programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS:	
ADKINS, GLEN BANGOR, ME	06/03/97
BERKOVITZ, PINCHES, BROOKLYN, NY	05/22/97
BURNS, RICHARD D, LOUISVILLE, KY	06/04/97
COBLE, DANIEL ALEXANDER, ROCKINGHAM, NC	06/04/97
CUMMINGS, CORMA JEAN, HOT SPRINGS, AR	05/25/97
DAVIDSON, TRUMAN ANDREW, LONG BEACH, CA	06/09/97
FAUNTLEROY, NATHANIEL, COLUMBUS, OH	05/22/97
GRIFFIN, DEBORAH A, INDIANAPOLIS, IN	05/26/97
HANEY, COLEEN, MISHAWAKA, IN	05/26/97
HARVEY, EDWIN L, BIG STONE GAP, VA	06/09/97
JACKSON, RODNEY, TEANECK, NJ	06/02/97
JAMES, ROBERT E, SPRINGFIELD, NJ	06/08/97
LEBOLD, MICHELLE B, COLUMBUS, OH	05/26/97
LEE, LARRY FRANCIS, FARMVILLE, VA	06/01/97
LENTS, LISA, LOOGOOTEE, IN	05/26/97
LILLY, TRACY LANCE, HOT SPRINGS, AR	05/25/97
LUCAS, MELISSA ANN, CAMERON, OK	05/25/97
LUCAS, CHARLENE G, TULSA, OK	05/25/97
MELOCHE, LISA L, NEW ALBANY, IN	06/01/97
MORA, JUAN RICARDO, MIAMI, FL	06/04/97
MORRISON, CAROL S, SPOKANE, WA	05/26/97
NELSON, ROBERT, SAN MARCOS, TX	05/25/97
NGUYEN, DUC QUI, ANAHEIM, CA	05/26/97
OLIVER, JAMES WESLEY, POWHATAN, VA	06/01/97
ORVIETO, LAWRENCE, IRVINGTON, NY	05/22/97
OTIS, DOLORES F, HENDERSONVILLE, NC	06/04/97
REDHEAD, LUCIA, BRONX, NY	06/08/97
RICE, DAVID VERNAL, COLEMAN, FL	06/04/97
SHAH, KHALIL AHMED, JAMAICA, NY	06/08/97
SHUPE, SANDRA K, BIG STONE GAP, VA	06/09/97
STREET, DONNA, HONAKER, VA	06/01/97
SWISHER, DEBRA LEE, BLOOMINGTON, MN	05/26/97
WHEELER, STEPHEN WAYNE, CLINTON, AR	05/25/97
PATIENT ABUSE/NEGLECT CONVICTIONS:	
AMES, VALERIE J, SEARSMONT, ME	06/02/97
BLACK, JETHRO JR, ALTON, IL	05/26/97
BREWER, AMY MARIE, MIAMI, OK	05/25/97
BUCKHANAN, ANGELIA, KENTWOOD, LA	05/25/97
CANTU, TRINIDAD B, CORPUS CHRISTI, TX	05/25/97
CARTER, RUTH MARIE, DETROIT, MI	05/26/97
FARRUGGIA, PAMELA J, MT MORRIS, NY	05/22/97
HAMBIDGE, WILLIAM R, NEW BERN, NC	06/02/97
JENNINGS, WANDA KAY, FARMERVILLE, LA	05/25/97
JOHNSON, LINDA LOU, MESA, AZ	06/05/97
JONES, SAMONE RENEE, ALEXANDRIA, LA	05/25/97
LEE, PATRICK DYWANE, SHREVEPORT, LA	05/25/97
MCCARTHY, MICHELLE LENORE, HAMTRAMCK, MI	05/26/97
MILLER, JUDITH MARIE, BATON ROUGE, LA	05/25/97
PFLUG, KELLY JEAN, TUCSON, AZ	05/26/97
RICKER, JENNIFER A, NIAGARA FALLS, NY	06/08/97
ROHDE, PHYLLIS, NEENAH, WI	05/26/97
RUSCH, KIMBERLY MARIE, TUCSON, AZ	05/26/97
SCHNEIDER, JOAN SCHWITZKY, VAIL, AZ	05/26/97
SMITH, MONICA D, SPENCER, OK	05/25/97
SPAZIANO, TAMMY, WARWICK, RI	06/02/97
YOUNG, IRVIN, FAIRFIELD, AL	06/04/97
CONVICTION FOR HEALTH CARE FRAUD:	
HAYES, CYNTHIA MCLEMORE, SHREVEPORT, LA	05/25/97
PATEL, RASHMI, WALNUT, CA	06/05/97
PATEL, MANOJ, WALNUT, CA	06/05/97
CONTROLLED SUBSTANCE CONVICTIONS:	
CALLAHAN, KEITH, FLINT, MI	05/26/97
GUTHRIE, JOHN R, SPARTANBURG, SC	06/02/97
LICENSE REVOCATION/SUSPENSION/SURRENDER:	
AMATO, JOACHIM, ORCHARD PARK, NY	06/08/97
ANDREWS, GLEN WALTER, DETROIT, MI	05/26/97
ATKINSON, TONYA, DES MOINES, IA	05/26/97
AUGUSTIN, GESNER, JAMAICA, NY	05/22/97
BENYO, MARY T, SPRINGFIELD, VA	06/01/97
BIRDSONG, EDWARD M, PATCHOGUE, NY	05/22/97
BOEYINK, LYNDA K, SIOUX CENTER, IA	05/26/97
BOLTON, EDWIN R JR., DERBY LINE, VT	06/02/97
CANELOS, JAMES, RIDGEWOOD, NY	06/08/97
CARUSO, MICHAEL CANDIO, ANNISTON, AL	06/04/97
COOK, ELIZABETH D, ROCHESTER, NH	06/03/97
COTTON, ANGELA M, BERWICK, ME	06/03/97
DARDIK, IRVING I, GREAT MEADOWS, NJ	6/08/97
DECOSTA, DIANE, CUMBERLAND, RI	6/03/97
FAMORCA, FLORENTINO PELAYO, CARNEY'S POINT, NJ	6/08/97
FEATHLER, GARY, LITCHFIELD, CT	6/03/97
FISCHER, RONALD L, BOSTON, MA	6/03/97
FOFANAH, ISHMAEL, WOODBRIDGE, VA	6/01/97
GHIASUDDIN, MOHAMMAD, WAPPINGERS FALLS, NY	5/22/97
GOLD, RICHARD, MONSEY, NY	5/22/97
GREENE, PATRICK J, DECORAH, IA	6/03/97

Subject, city, state	Effective date
GRIMSLEY, MARK S, HIXON, TN	6/04/97
HALIL, SAIHB SINUHE, MAYAGUEZ, PR	5/22/97
HARRIS, FRANK W, HIGHLAND PARK, MI	5/26/97
HOLLOMAN, SHARON D, NEWPORT NEWS, VA	6/01/97
HUTTON, TERRANCE E, WASHINGTON, MI	6/09/97
JASINOWSKI, CECILE, S ATTLEBORO, MA	6/03/97
JOHNSON, SALLY PRICE, PEMBROKE, VA	6/01/97
KEEFE, JOHN A, BANGOR, ME	6/02/97
KORZENIEWSKI, SUSAN L, LYMAN, ME	6/02/97
LAMAR, JUANITA J A, WORCESTER, MA	6/03/97
LARO, CATHY A, CONCORD, NH	6/03/97
LAVENDER, DIANE L, ESTHERVILLE, IA	5/26/97
MATTSON, LINDA, PORTSMOUTH, NH	6/02/97
O'BRIEN-CALL, SUSAN, WOODFORD, VA	6/09/97
PICCONE, VINCENT A, STATEN ISLAND, NY	5/22/97
POLLIO, THOMAS, HAMDEN, CT	6/03/97
RICHARDS, AUBREY, BOLIVAR, TN	6/04/97
ROBINSON, ODESSA ANN, KING GEORGE, VA	6/01/97
ROCK, ELTON, WILLIAMSVILLE, NY	06/08/97
SANDERS, RONALD F, CENTERVILLE, VA	06/01/97
SHERRARD, DAVID L, BOONE, IA	06/09/97
STEPHENS, BILLY JOE, ABINGDON, VA	06/01/97
TASI, STEPHANIE, STOWE, VT	06/02/97
UMMER, ARUMPANAYIL, LOCKPORT, NY	06/08/97
VALLIERES, MARY E, RUCKERSVILLE, VA	06/09/97
VELUSH, LORRAINE, SOUTHBURY, CT	06/03/97
WANGELIN, ROBERT L, GREENSBORO, NC	06/04/97
WYLIE, DEBRA, MADRID, IA	05/26/97
FEDERAL/STATE EXCLUSION/SUSPENSION:	
CARR, GEORGE A, TARRYTOWN, NY	05/22/97
CONFIDENTIAL HEALTH, JAMAICA, NY	05/22/97
DEDE, SAMUEL O, JAMAICA, NY	05/22/97
FABRIKANT, JAY, NEW YORK, NY	06/08/97
FRIEDMAN, ANDREW J, STONEHAM, MA	06/03/97
HASSAN, FAISAL, NEW YORK, NY	06/08/97
NEW YORK HEALTH PLAN, INC., NEW YORK, NY	06/08/97
SIMPSON, OSCAR G, HUNTSVILLE, AL	06/04/97
SMITH, LINDA, WOODBURY, NY	06/08/97
DEFAULT ON HEAL LOAN:	
BARDSLEY, MARIJANE, FAIR OAKS, CA	06/05/97
BEAN, RHONDA L, ALEXANDRIA, VA	06/01/97
BERTIN, MICHAEL W, BIRMINGHAM, MI	06/09/97
BETTIS, GAIL M, ROSEDALE, NY	05/22/97
BOTEFUHR, CARL R, BAINBRIDGE ISLAND, WA	06/05/97
BOUROUKAS, NICK K, CHICAGO, IL	06/09/97
CHOE, KEVIN K (KYONGNNAM), LAKEWOOD, CA	06/05/97
CHUNG, JOHN J, ROSEMEAD, CA	06/05/97
CORMIER, PAMELA J, BANGOR, ME	06/03/97
DEMPSTER-PIERCE, ALEXANDRA ALDIE, VA	06/01/97
DOTTI, JOHN T, YORKTOWN, VA	06/01/97
DUNLOP, DANIEL W, NEW HARTFORD, CT	06/05/97
ELLIS, CARL EDISON JR, ESCONDIDO, CA	06/05/97
FARIS, DANA A, INDEPENDENCE, MO	06/09/97
FAUCHER, DENNIS L, BRADFORD, PA	06/01/97
FERMIN, REYDANTE G, W BLOOMFIELD TWNSHP, MI	06/09/97
FRANKLIN, PETER E, MONTEREY, CA	06/05/97
FREELAND, GEORGE D, SPARTA, MI	06/09/97
GARCIA, GILBERTO G, LONG BEACH, CA	06/05/97
GARZA, JOHN J, THOUSAND OAKS, CA	06/05/97
GLADDEN, MARC B, IRONWOOD, MI	06/09/97
JACOBY, AVI, FOREST HILLS, NY	06/03/97
JAKAVICK, WILLIAM L, BROOKHAVEN, PA	06/01/97
JONES, JAMES M, CHESTERFIELD, VA	06/01/97
MASSOUD, YEHIA A, NEW YORK, NY	05/22/97
MCLAUGHLIN, PAUL J, ANDOVER, MA	05/22/97
MIKOLS, ANN MARIE, SWAMPSCOTT, MA	06/03/97
MOINI, KIAN, FOUNTAIN VALLEY, CA	04/18/97
OBERSTEIN, LAWRENCE B, SANTA ROSA, CA	05/26/97
PARDO, FERNANDO A, ONTARIO, CA	06/05/97
PIKUR, MARK M, PITTSBURGH, PA	06/01/97
PINSON, LETITIA A, SAN PEDRO, CA	06/05/97
PONDER, ALVIN F III, BROOKLYN, NY	06/02/97
PREVOST, GEORGE E, NASHUA, NH	06/03/97
ROSADO, HECTOR L, PONCE, PR	05/22/97
RUCKER, ELLESTON CRAIG, LAS VEGAS, NV	06/05/97
TODD-FERGUSON, LINDA KAY, AUSTIN, TX	05/25/97
VERDELL, CLARENCE R, VOORHEES, NJ	06/08/97
WATSON, SUSAN L, CHELMSFORD, MA	06/03/97
YURICK, RICHARD, NEW YORK, NY	05/22/97

Dated: June 10, 1997.

William M. Libercci,

Director, Health Care Administrative Sanctions, Office of Enforcement and Compliance.

[FR Doc. 97–16138 Filed 6–19–97; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of an advisory committee meeting of the National Cancer Institute.

The meeting will be closed to the public in accordance with the provisions set forth in sec. 552b(6), Title 5, U.S.C. The closed session will be devoted to the review, discussion, and evaluation of individual programs and projects. This will include consideration of personnel qualifications and performance, the competence of individual investigators and similar matters, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Committee Name: Board of Scientific Counselors, National Cancer Institute Subcommittee B—Basic Sciences.

Date: July 8, 1997.

Place: National Institutes of Health, 9000 Rockville Pike, Bldg. 31, C Wing, 6th floor, Conference Room 6, Bethesda, MD 20892.

Closed: July 8, 1997–8:30 a.m. to 5:00 p.m.

Agenda: To discuss administrative confidential matters and site visit reports pertaining to laboratories in the Division of Basic Sciences.

Contact Person: Florence E. Farber, Ph.D., Executive Secretary, Executive Plaza North, Rm. 643G, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410, Telephone: 301–496–2379.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the intramural research review cycle.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and

Prevention Research, 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93,398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16197 Filed 6–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a teleconference of the National Cancer Advisory Board, Subcommittee on Activities and Agenda (Working Group), July 7, 1997 at the National Cancer Institute, Executive Plaza North, Suite 640, 6130 Executive Blvd., Bethesda, MD 20892.

The entire meeting will be open to the public from 1:00 p.m. to 4:00 p.m. Attendance by the public is limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below. Discussions will address general meeting formats, future agenda items and activities of the National Cancer Advisory Board.

Linda Quick-Cameron, Committee Management Officer, National Cancer Institute, Executive Plaza North, Room 630, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 (301/496–5708) will provide a summary of the meeting and the roster of Subcommittee members upon request.

Contact Person: Marvin Kalt, Ph.D., Subcommittee on Activities and Agenda (Working Group), National Cancer Institute, Executive Plaza North, Room 600, 6130 Executive Blvd., MSC 7410, Bethesda, MD 20892–7410 will furnish substantive program information.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: June 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16198 Filed 6–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Subcommittee C—Basic and Preclinical Sciences.

Date: August 4–6, 1997.

Time: August 4—7:00 p.m. to 11:00 p.m.; August 5 and 6—8:00 a.m. to 6:00 p.m.

Place: The Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Virginia P. Wray, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, 6130 Executive Blvd. Room 635, Bethesda, Md 20892, Telephone: 301–496–9236.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Application and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16200 Filed 6–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Cancer Institute Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Subcommittee E—Prevention and Control Subcommittee.

Date: July 28–29, 1997.

Time: 9 a.m.

Place: The Georgetown Inn, 1310 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Sally A. Mulhern, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, 6130 Executive Blvd. Room 635G, Bethesda, MD 20892, Telephone: 301–496–7413.

Committee Name: Subcommittee H—Clinical Group Subcommittee.

Date: July 29–30, 1997.

Time: 8:00 a.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro, Bethesda, MD 20814.

Contact Person: John L. Meyer, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, 6130 Executive Blvd. Room 611C, Bethesda, MD 20892, Telephone: 301–496–7403.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16201 Filed 6–19–97; 8:45 am]

BILLING Code 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Prevention and Cessation of Tobacco Use by Children and Youth in the U.S.

Date: July 22–24, 1997.

Time: July 22—7:00 p.m. to 11:30 p.m., July 23—7:30 a.m. to 8:00 p.m., July 24—7:30 a.m. to 12:00 p.m.

Place: DoubleTree Hotel—Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Gerry Lovinger, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 630C, 6130 Executive Boulevard, MSC

7410, Bethesda, MD 20892–7410, Telephone: 301/496–7987.

Purpose/Agenda: To evaluate and review grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: June 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16202 Filed 6–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute on Alcohol Abuse and Alcoholism Initial Review Group:

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: Clinical and Treatment Subcommittee.

Dates of Meeting: June 19–20, 1997.

Time: June 19, 8:30 a.m. to recess; June 20, 8:30 a.m. to adjournment.

Place of Meeting: River Inn, 924—25th Street, NW., Washington, DC 20037.

Contact Person: Elsie D. Taylor, 6000 Executive Blvd, Suite 409, Bethesda, MD 20892–7003, 301–443–9787.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; National Institutes of Health)

Dated: June 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16199 Filed 6–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meeting:

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of Contract (97–59).

Dates: June 27, 1997.

Time: 10:00 a.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

This notice is being published less than fifteen days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: June 16, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–16203 Filed 6–19–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the SAMHSA Special Emphasis Panel II (SEP II) in June and July.

A summary of the meetings may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857. Telephone: (301) 443–4783.

Substantive program information may be obtained from the individual named as Contact for the meetings listed below.

The first meetings will include the review, discussion and evaluation of individual contract proposals. These discussions could reveal personal information concerning individuals associated with the proposals and confidential and financial information about an individual's proposal. These discussions may also reveal information about procurement activities exempt from disclosure by statute and trade secrets and commercial or financial information obtained from a person and privileged and confidential. Accordingly, the meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c) (3), (4), and (6) and 5 U.S.C. App. 2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Dates: June 23, 1997.

Place: Renaissance Hotel, 999 9th Street, NW, Meeting Room 15, Washington, DC 20037.

Closed: June 23, 1997, 9:00 a.m.–2:00 p.m.

Contact: Stan Kusnetz, M.S.Ed., Room 17–89, Parklawn Building, Telephone: 301–443–3042 and FAX: 301–443–3437.

Committee Name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Dates: June 30, 1997.

Place: Residence Inn—Bethesda, 7335 Wisconsin Avenue, Calvert Room, Bethesda, MD 20814.

Closed: June 30, 1997, 9:00 a.m.–12:00 p.m.

Contact: Joan C. Harrison, Room 17–89, Parklawn Building, Telephone: 301–594–2811 and FAX: 301–443–3437.

The following meetings will include the review, discussion and evaluation of individual grant applications. These discussions could reveal personal information concerning individuals

associated with the applications. Accordingly, these meetings are concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, section 10(d).

Committee Name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Dates: July 1, 1997, 1:00 p.m.–4 p.m.

Place: Parklawn Building, Room 16C–26—Telephone Conference, 5600 Fishers Lane, Rockville, Maryland 20852.

Closed: June 30, 1997, 1:00 p.m.–4:00 p.m.

Panel: FEMA—Crisis Counseling—North Dakota.

Committee Name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Dates: July 1,1997, 1:00 p.m.–4:00 p.m.

Place: Parklawn Building, Room 16C–26—Telephone Conference, 5600 Fishers Lane, Rockville, Maryland 20852.

Closed: July 1, 1997, 1:00 p.m.–4:00 p.m.

Panel: FEMA—Crisis Counseling—Minnesota.

Committee Name: SAMHSA Special Emphasis Panel II (SEP II).

Meeting Dates: July 2, 1997, 2:00 p.m.–5:00 p.m.

Place: Parklawn Building, Room 16C–26—Telephone Conference, 5600 Fishers Lane, Rockville, Maryland 20852.

Closed: July 2, 1997, 2:00 p.m.–5:00 p.m.

Panel: FEMA—Crisis Counseling—South Dakota.

Contact: Susan Flanigan, Review Administrator, Room 16C–26 Parklawn Building, Telephone: 301–443–4735 and FAX: 301–443–4864.

This notice is being published less than 15 days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: June 16, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–16179 Filed 6–19–97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4235–N–08]

Federal Property Suitable as Facilities To Assist the Homeless

AGENY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, undertilized, 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 *Nation Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (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 made 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–42, 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 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 propertied 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 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: *Energy*: Ms. Marsha Penhaker, Department of Energy, Facilities Planning and Acquisition Branch, FM–20, Room 6H–058, Washington, DC 20585; (202) 586–0426; *GSA* Mr. Brain K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW, Washington, DC 20405; (202) 501–2059; **Navy**: Mr. Charles C. Cocks, Department

for the Navy, Director, Real Estate Policy Division, Naval Facilities Engineering Command, Code 241A, 200 Stovall Street, Alexandria, VA 22331–2300; (703) 325–7342; (These are not toll-free numbers).

Dated: June 12, 1997.

Fred Karnas, Jr.,

Acting Deputy Assistant Secretary for Economic Development.

Title V, Federal Surplus Property Program Federal Register Report for 06/20/97

Suitable/Available Properties

Buildings (by State)

Virginia

Bldg. 2058A
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720054
Status: Excess
Comment: 280 sq. ft., poor condition, most recent use—storage, off-site use only.

Bldg. 2076
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720055
Status: Excess
Comment: 3000 sq. ft., fair condition, most recent use—offices, off-site use only.

Bldg. 2078
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720056
Status: Excess
Comment: 168 sq. ft., poor condition, most recent use—storage, off-site use only.

Bldg. 2079
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720057
Status: Excess
Comment: 576 sq. ft., poor condition, most recent use—storage, off-site use only.

Bldg. 2082
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720058
Status: Excess
Comment: 187 sq. ft., poor condition, most recent use—storage, off-site use only.

Bldg. 3319
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720059
Status: Excess
Comment: 9000 sq. ft., fair condition, most recent use—maintenance, off-site use only.

Bldg. 3373
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720060
Status: Excess
Comment: 1800 sq. ft., fair condition, most recent use—office, off-site use only.

Bldg. 3627
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720061
Status: Excess
Comment: 1200 sq. ft., fair condition, most recent use—laundry/dry cleaners, off-site use only.

Bldg. 3684
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720062
Status: Excess
Comment: 2200 sq. ft., poor condition, most recent use—recreation pavillion, off-site use only.

Bldg. 3692
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720063
Status: Excess
Comment: 3000 sq. ft., fair condition, most recent use—storage, off-site use only.

Bldg. NAB748
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720064
Status: Excess
Comment: 1700 sq. ft., poor condition, most recent use—storage, off-site use only.

Bldg. 3151
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720065
Status: Excess
Comment: 2600 sq. ft., fair condition, most recent use—office, off-site use only.

Unsuitable Properties

Buildings (by State)

California

Bldg. 727
Naval Air Weapons Station, Point Mugu
Oxnard Co: Ventura CA 93042–5001
Landholding Agency: Navy
Property Number: 779720050
Status: Unutilized
Reason: Secured Area

Connecticut

Bldgs. DG–8, DG–9
Naval Submarine Base New London
Groton Co: New London CT 06349–
Landholding Agency: Navy
Property Number: 779720046
Status: Excess
Reason: Extensive deterioration.

New York

Fort Niagara Light
Town of Porter Co: Niagara NY 14174–
Landholding Agency: GSA
Property Number: 549720007
Status: Surplus
Reason: Other
Comment: landlocked
GSA Number: 1–U–NY–0842.

North Carolina

Bldg. 9065
Marine Corps Air Station, Cherry Point
Point of Marsh Bombing Range
Havelock Co: Carteret NC 28511–
Landholding Agency: Navy
Property Number: 779720047
Status: Excess
Reason: Secured Area; Extensive deterioration.

Bldg. 4329
Marine Corps Air Station, Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 779720048
Status: Excess
Reason: Secured Area.

Bldg. 4424
Marine Corps Air Station, Cherry Point
Havelock Co: Craven NC 28533–
Landholding Agency: Navy
Property Number: 779720049
Status: Excess
Reason: Secured Area.

Tennessee

Bldgs. 9714–3, 9714–4, 9983–AY
Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831–
Landholding Agency: Energy
Property Number: 419720004
Status: Unutilized
Reason: Secured Area.

Virginia

Bldg. 423
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779720051
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration.

Bldg. 540
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779720052
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration.

Bldg. 546
Norfolk Naval Shipyard
Portsmouth VA 23709–5000
Landholding Agency: Navy
Property Number: 779720053
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material; Secured Area; Extensive deterioration.

Bldg. 1231
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720066
Status: Excess
Reason: Extensive deterioration.

Bldg. 1512
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720067
Status: Excess
Reason: Extensive deterioration

Bldg. 1513

Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720068
Status: Excess
Reason: Extensive deterioration

Bldg. 1603
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720069
Status: Excess
Reason: Extensive deterioration.

Bldg. 2008
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720070
Status: Excess
Reason: Extensive deterioration.

Bldg. 2018A
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720071
Status: Unutilized
Reason: Extensive deterioration.

Bldg. 2025
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720072
Status: Excess
Reason: Extensive deterioration.

Bldg. 2028
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720073
Status: Excess
Reason: Extensive deterioration.

Bldg. 2061
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720074
Status: Excess
Reason: Extensive deterioration.

Bldg. 2074
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720075
Status: Excess
Reason: Extensive deterioration.

Bldg. 2090
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720076
Status: Excess
Reason: Extensive deterioration.

Bldg. 3128
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720077
Status: Excess
Reason: Extensive deterioration.

Bldg. 3529
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720078
Status: Excess
Reason: Extensive deterioration.

Bldg. CB201A
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720079
Status: Excess
Reason: Extensive deterioration.

Bldg. CB202
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720080
Status: Excess
Reason: Extensive deterioration.

Bldg. CB203
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720081
Status: Excess
Reason: Extensive deterioration.

Bldg. CB207
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720082
Status: Excess
Reason: Extensive deterioration.

Bldg. Q137
Naval Amphibious Base Little Creek
Norfolk VA 23521–2616
Landholding Agency: Navy
Property Number: 779720083
Status: Excess
Reason: Extensive deterioration.

[FR Doc. 97–15911 Filed 6–19–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Extension Approval under the Paperwork Reduction Act

SUMMARY: The proposal for the collection of information listed below has been submitted to OMB for extension approval under the provisions of the Paperwork Reduction Act. Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address listed below.

DATES: Comments must be submitted on or before August 19, 1997.

ADDRESSES: Comments and suggestions on the requirement should be sent directly to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Interior Desk Officer; Washington, DC 20503; and a copy of the comments should be sent to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 224–ARLSQ; 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Service Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax).

SUPPLEMENTARY INFORMATION: Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents.

Title: Grant Agreement and Grant Agreement Amendment.

OMB Approval Number: 1018–0049.

Service Form Number(s): 3–1552 (Grant Agreement); 3–1591 (Grant Amendment).

Description and use: The Federal Grants and Cooperative Agreement Act of 1997 requires Federal agencies to use some type of grant agreements as the legal instrument to transfer money, property, or services to State and/or local governments. The Fish and Wildlife Service uses the form to make awards for approved grant projects, including determining if the estimated cost is reasonable, the cost sharing is consistent with the applicable program statutes, and whether sufficient federal funds are available for obligation. The state uses the information to request funds and identify proposed cost sharing. Federal costs distribution provides the State an opportunity to consolidate work under a single project for funding by more than one grant program and distribute the Federal share obligation among applicable grant programs.

An amendment to the grant agreement is initiated by the grantee to request a change to a previously approved grant agreement. Each item on the amendment form relates to a comparable item on the agreement. This information is used by the Service to revise a previous funding obligation or to document the approval of revision(s) requested.

Frequency of Collection: Annually, On occasion.

Description of Respondents: State governments.

Estimated Completion Time: 1 hour.

Annual Responses: 1,500 (1,000 grant agreements); 500 (grant agreement amendments).

Total Annual Burden Hours: 1,500.

Dated: March 27, 1997,

Randal Bowman,

Assistant Director—External Affairs.

[FR Doc. 97–16159 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–040–1220–00]

Temporary Closure of Certain Roads and Public Lands: Nevada, Ely and Las Vegas Districts

AGENCY: Bureau of Land Management.

ACTION: Temporary closure of certain roads and public lands in Clark and Lincoln County, Nevada, during the operation of the 1997 Silver State 300 Off-Highway Vehicle Race.

SUMMARY: The Assistant District Manager, Nonrenewable Resources of the Ely District Office announces the temporary closure of selected roads and public lands under the administration of the Ely Field Office and the Las Vegas Field Office. Approximately 50 miles of a 300 mile vehicle race route are affected by this temporary closure. This action is being taken to comply with provisions of the U.S. Fish & Wildlife Service's Biological Opinion for this race event (File No. 1–5–97–F–169), to prevent unnecessary environmental degradation of desert tortoise habitat during the official permitted running of the 1997 Silver State 300 Race, and to provide for public safety.

EFFECTIVE DATE AND TIMES: June 21, 1997 from 4:30 am through 1:00 pm Pacific Standard Time. As soon as all race vehicles have completed travel along segments of the designated route, the area will be progressively opened proceeding in a south to north direction. The area may be opened earlier than 1:00 pm if all race vehicles have passed beyond the northern boundary of the closure area.

FOR FURTHER INFORMATION CONTACT: Mike Bunker, Outdoor Recreation Planner, Ely District, Bureau of Land Management, HC 33 Box 33500, Ely, Nevada 89301–9408. Telephone (702) 289–1800.

SUPPLEMENTARY INFORMATION: Maps of the designated route for this race event affected by this closure are available for inspection at the Bureau of Land Management Offices in Caliente, Ely and Las Vegas in Nevada.

Closure Areas: The closure affects a designated route and adjoining lands, bounded by Interstate Highway 15 on the south and a point west of Lyman Crossing in Meadow Valley Wash on the north. The designated route is marked with colorful flagging, directional arrows and other markers that identify the race route on the ground. The area consists of established roads and adjoining lands within the area described below—

T. 9 S., R. 67 E.,
Sec. 16, 17, 18, 19, 20, 28, 29, 33, 34, and 35
T. 9 S., R. 68 E.,
Sec. 31, 33, and 34
T. 10 S., R. 67 E.,
Sec. 1, 2, and 3
T. 10 S., R. 68 E.,
Sec. 2, 3, 4, 5, 6, 11, 12, 13, and 14
T. 10 S., R. 69 E.,
Sec. 4, 5, 6, 8, 9, 10, 14, 15, 23, 26, and 34
T. 11 S., R. 69 E.,
Sec. 3, 4, 9, 16, 17, 19, 20, 28, and 33
T. 12 S., R. 69 E.,
Sec. 3, 4, 10, 11, 15, 21, 22, 29, 31, and 32
T. 13 S., R. 69 E.,
Sec. 5, 8, 16, 17, 20, 28, and 29.

The entire width and length of the designated route and all lands within 300 feet of the edge of the course located within the legal description above, are closed to all vehicles except for Law Enforcement, Emergency Vehicles, Race Management Vehicles, and Official Race Vehicles. Access routes leading to the course are closed to vehicle use at a point 300 feet from their intersection with the course. Spectators are prohibited from entering the closure area. No vehicle stopping or parking is allowed within the closure area.

The following restrictions will be in effect for the duration of the closure. Unless otherwise authorized no person shall:

1. Park any vehicle in violation of posted restrictions, or in such a manner as to obstruct or impede normal or emergency traffic movement or the parking of other vehicles, creating a safety hazard, or endanger any person, property or feature. Vehicles so parked are subject to citation, removal and impoundment at owners expense;

2. Take a vehicle through, around or beyond a restrictive sign, recognizable barricade, fence, or traffic control barrier or other device;

3. Obstruct, resist, or attempt to elude a Law Enforcement Officer of fail to follow their orders or direction.

The above restrictions do not apply to public highways and roads, emergency vehicles, and vehicles owned by the United States, the State of Nevada, Lincoln County or Clark County. Vehicles under permit for operation by event participants or by race management personnel must adhere to the race permit stipulations. Vehicles that are not operated by spectators that need to cross through the closure area may be specifically authorized to proceed if travel is confined to an access road that leads to a checkpoint where crossing of the race route can be safely accomplished as directed by race management personnel.

Authority for closure of public lands is found in 43 CFR part 8360, subpart 8364.1 and 43 CFR part 8372. Persons who violate this closure order may be subject to imprisonment for not more than 12 months, or a fine in accordance with the applicable provisions of 18 USC 3571, or both.

Dated: June 13, 1997.

Gene L. Drais,

Assistant District Manager, Nonrenewable Resources.

[FR Doc. 97–16144 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–094–07–6332–02: GP7–0205]

Temporary Closure of Public Lands; Lane County, Oregon

AGENCY: Bureau of Land Management, Interior

ACTION: Temporary Closure of Public Lands in Lane County, Oregon.

SUMMARY: Notice is hereby given that certain public lands in Lane County, Oregon are temporarily closed to all public use, including recreation, camping, shooting, hiking and sightseeing, from June 11, 1997 through September 30, 1997. The closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this temporary closure are specifically identified as follows:

Willamette Meridian, Oregon

T. 15 S., R. 7 W.
Sec. 26: Three sites within the S½NE¼, NE¼SW¼ and NW¼SE¼, as shown on a map available from the address shown below.

Containing approximately 19 acres.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; the holders of BLM road use permits that include roads within the closure area; the contractor authorized to construct the Hult Reservoir Fish Ladder and their subcontractors. Access by additional parties may be allowed, but must be

approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

The public lands temporarily closed to public use under this order will be posted with signs at points of public access.

The purpose of this temporary closure is to provide for public safety, facilitate construction of the fish ladder and the protection of property and equipment during the mobilization, construction and de-mobilization phases of the Hult Reservoir Fish Ladder project.

DATES: This closure is effective from June 11, 1997 through September 30, 1997.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands are available from the Eugene District Office, P. O. Box 10226 (2890 Chad Drive), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Saundra Miles at (541) 683–6600.

Dated: June 5, 1997.

Gary Hoppe,

Acting Coast Range Area, Manager.

[FR Doc. 97–16137 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–1610–00]

Emergency Closure

SUMMARY: This closure applies to the Muddy Mountains Education Area and two roads accessing it. This notice shall amend the original seasonal closure orders for the Muddy Mountain Road. The Texaco Road has been closed to all motorized vehicle use indefinitely due to severe erosion. It is still available for foot, horse and mountain bike use as signed. The Muddy Mountain main seasonal access road, to the junction of the Texaco Road, has been closed to all use until road reconstruction of spring runoff damage is completed. All public (BLM) roads and/or (BLM) trails are closed which are immediately adjacent to the Muddy Mountain Road where it joins with Circle Drive (Natrona County Road 505), Sections 1, 2, 3, 4, 9, and 10, T. 31. N., R. 79. W. of the Sixth Principal Meridian in Natrona County, Wyoming. Also, facilities are not available for use in Rim and Lodgepole campgrounds and no camping or fires are allowed in the Environmental Education Area or the two campgrounds. These closures are necessary to not only protect the natural resources in the area, but also for the health and safety of the public who may attempt to use the area until road reconstruction can be completed.

EFFECTIVE DATES: Closures are effective upon publication of this notice and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Mike Karbs, Platte River Area Manager, Phone number (307) 261–7500.

SUPPLEMENTARY INFORMATION: In accordance with title 43 Code of Federal Regulations 8341.2, notice is hereby given that the public lands described below, administered by the Bureau of Land Management (BLM) have been closed to all motorized vehicle use, as amended herein; except for BLM operation and maintenance vehicles, law enforcement and fire vehicles and other vehicles specifically authorized by an authorized officer of the Bureau of Land Management. This closure affects the Muddy Mountain and Texaco Roads, the facilities within the Muddy Mountain Environmental Education Area and the Lodgepole and Rim Campgrounds, and all adjoining recreational trails in T. 31 N., R. 79 W., Sec. 1, 2, 3, 4, 9, 10, 11, 12, 14; and T. 31 N., R. 78 W., Sec. 6, 7, and 18.

Dated: June 10, 1997.

Donald Hinrichsen,

Casper District Manager.

[FR Doc. 97–16157 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ917–AZA28350]

Notice of Proposed Exchange of Lands in Gila, La Paz, Pinal and Mohave Counties, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of exchange proposal.

SUMMARY: Notice is hereby given that the Bureau of Land Management is considering a proposal to exchange land pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended. The exchange has been proposed by ASARCO Incorporated.

The following described public land is being considered for disposal by the United States:

Gila and Salt River Meridian, Arizona

Mineral Estate Only

T. 6 S., R. 4 E.,
Sec. 12, lots 1 and 2, W½NE¼;
Sec. 23, NW¼;
Sec. 24, W½.
T. 3 S., R. 12 E.,
Sec. 24, SE¼.
T. 2 S., R. 13 E.,
Sec. 35, W½MW¼.
T. 3 S., R. 13 E.,
Sec. 9, lots 1 and 2, E½ME¼, SW¼ME¼, W½SE¼;
Sec. 10 lots 1, 2 and 4, N½NW¼, SW¼NW¼;
Sec. 11, lot 3;
Sec. 12, lots 1, 2, 5 and 6; lot 7, excluding patent Nos. 02–62–0014, 02–64–0243 and 02–69–0016, SE¼ excluding patent No. 02–64–0243
Sec. 30, lots 1 to 6, inclusive, E½SW¼, SE¼.
T. 2 S., R. 14 E.,
Sec. 31, lots 3 and 4.
T. 3 S., R. 14 E.,
Sec. 6, lots 4, 5 and 12;
Sec. 7, lots 2 to 4, inclusive, and lots 8 and 11;
Sec. 17, lot 4, SW¼SW¼;
Sec. 18, lots 5 to 9, inclusive, SE¼SE¼.
The areas described aggregate approximately 2,780.13 acres.

Surface and Mineral Estate

T. 3 S., R. 12 E.,
Sec. 25, SW¼, E½;
Sec. 26.
T. 2 S., R. 13 E.,
Sec. 34, lots 2 to4, inclusive, and lots 8 and 9, W½NE¼, NW¼, N½SW¼, SW¼SW¼.
T. 3 S., R. 13 E.,
Sec. 1, lots 3 to 7, inclusive, S½NW¼, NW¼SE¼;
Sec. 2, lots 12 and 13;
Sec. 8, S½SE¼SE¼, SE¼SW¼SE¼, E½SW¼SW¼SE¼, SE¼NW¼SW¼SE¼, S½NE¼SW¼SE¼, SW¼NW¼SE¼SE¼;
Sec. 10, lot 5;
Sec. 11, lots 11, 12, 13, and 14;
Sec. 13, lot 4, and lots 8 to 14, inclusive, SE¼NE¼;
Sec. 17, E½SW¼SE¼MW¼, S½S½SW¼NW¼, N½SW¼SW¼NW¼, E½NE¼NW¼, SW¼NE¼NW¼, N½SE¼SW¼MW¼;
Sec. 19, lots 1 to 10, inclusive, NE¼NW¼, NE¼NE¼, E½SE¼;
Sec. 20, W½NW¼, W½E½NW¼ NW¼SW¼, W½NE¼SW¼, W½W½SW¼SW¼;
Sec. 22, S½;
Sec. 23, W½SW¼;
Sec. 26, W½W½;
Sec. 27, E½NW¼ E½;
Sec. 34, E½NE¼, NW¼NE¼;
Sec. 35, W½NW¼SW¼.
T. 3 S., R. 14 E.,
Sec. 18, lots 1, 2, 10, 11, E½NW¼, E½SW¼, W½SE¼;
Sec. 19, lot 1, E½NW¼, NE¼;
Sec. 20, NW¼NW¼;
Sec. 33, NW¼, S½;

Sec. 34, S½SW¼.
T. 4 S., R. 14 E.,
Sec. 3, lots 3 and 4, S½NW¼, SW¼;
Sec. 4, lots 1 to 7, inclusive, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 5, lots 1 to 12, inclusive;
Sec. 8, E½NE¼.
T. 4 S., R. 15 E.,
Tracts 37, 38 and 39.
T. 5 S., R. 15 E.,
Sec. 11, N½NE¼;
Sec. 28, S½,NW¼.
The areas described aggregate approximately 8,197.98 acres.

All selected lands aggregate approximately 10,978.11 acres.

Subject to valid existing rights, the public land identified above has been segregated from appropriation under the public land laws, mineral laws, and mineral leasing laws for a period of five (5) years beginning on November 21, 1994.

In exchange the United States will acquire the following described land from ASARCO Incorporated:

Gila and Salt River Meridian, Arizona

T. 25 N., R. 18 W.,
Sec. 4, SW¼NW¼;
Sec. 17, E½NE¼;
Sec. 20, SE¼SE¼.
T. 4 S., R. 12 E.
Sec. 6, SE¼;
Sec. 7, NE¼.
T. 19 N., R. 19 W.
Sec. 23, W½SE¼, NE¼SE¼.
T. 3 N., R. 16 W.,
Mineral patent 546603 (MS3207).
T. 14 N., R. 14 W.
Sec. 19, lots 1 to 4, inclusive, E½W½, E½;
Sec. 31, lots 1 to 4, inclusive, E½W½, E½.
T. 14 N., R. 15 W.
Sec. 3, lot 1 to 4, inclusive, S½N½, S½;
Secs. 9, 11, 15, 23, 25, 27 and 35.
T. 15 N., R. 13 W.,
Sec. 19, lots 3 and 4, E½SW¼;
Sec. 27, S½;
Sec. 29;
Sec. 33, NW¼, W½SW¼;
Sec. 35, N½NW¼SW¼, SW¼SW¼, N½SE¼, SE¼SE¼.
The areas described aggregate approximately 8,993.69 acres.

More detailed information concerning the proposed exchange may be obtained from Shela McFarlin, Project Manager, Arizona State Office, 222 North Central Avenue, Phoenix Arizona 85004–2208, telephone (602) 417–9568 or, Bill Ruddick, Team Leader, Arizona Exchange Team, (602) 417–9561.

Interested parties may submit comments concerning the proposed exchange to the Project Manager, at the above address. In order to be considered in the environmental analysis of the proposed exchange, comments must be in writing, and be postmarked within 45 days from the initial date of publication of this notice.

Dated: June 13, 1997.

Ken R. Drew,

Program Manager, Phoenix Field Office.

[FR Doc. 97–16283 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–985–0777–66; WYW–38232/WYW–37337]

Realty Action: Availability of Lands Under the R&PP Act in Big Horn and Washakie Counties, Wyoming, Worland District

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management's (BLM's) Bighorn Basin Resource Area office has examined the following BLM-administered public lands in Big Horn County and Washakie County, Wyoming and found them suitable for classification for conveyance to Big Horn County and the Ten Sleep Solid Waste Disposal District (located in Washakie County), respectively, under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). Big Horn County and the Ten Sleep Solid Waste Disposal District propose to continue to use the lands for sanitary landfills.

Sixth Principal Meridian

WYW–38232—South Big Horn County Landfill, T. 52N. R.93 W. section 31;
SW¼NE¼SE¼, W½SE¼SE¼, W½SE¼, E½NE¼SW¼; containing 130 acres;
WYW–37337—Ten Sleep Landfill, T. 47 N. R. 88 W. section 21, lots 5, 8, NE¼ NE¼ SE¼; section 22, lots 10, 11, 14; containing 53.64 acres.

SUPPLEMENTARY INFORMATION: The described public lands are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest.

The patents, 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 the minerals.

4. Those rights for power lines granted to Big Horn Rural Electric Cooperative, under rights-of-way WYW–0150311 and WYW–38266 (South Big Horn County site only).

5. Those rights for a road/stock driveway reserved to the United States, under reservation WYW–141762 (Washakie County site only).

Detailed information concerning this action is available for review at the Bureau of Land Management, Bighorn Basin Resource Area Office, 101 South 23rd Street, Worland, Wyoming.

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 conveyance under the 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 conveyance or classification of the public lands to the District Manager, Worland District Office, P.O. Box 119, Worland, Wyoming 82401–0119.

Classification Comments

Interested parties may submit comments involving the suitability of the land for sanitary landfills. Comments on the classification are restricted to whether the land is physically suited for the proposals, 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 proposed in the application and plans of development, 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 sanitary landfills.

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**.

Comments, including names and street addresses of respondents will be available for public review at the Worland District Office, 101 South 23rd Street, Worland, Wyoming during regular business hours (7:30 a.m. to 4:30 p.m.) Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to

withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Dated: June 10, 1997.

Darrell Barnes,

District Manager.

[FR Doc. 97–16155 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–050–1220–00; GP7–0208]

Amendment to Prohibited Acts in Deschutes National Wild and Scenic River Area

AGENCY: Bureau of Land Management, Interior, Prineville District.

ACTION: Notice.

SUPPLEMENTARY INFORMATION: The following amendments are made to the notice dated April 8, 1994 published in the **Federal Register;** Vol. 59, No. 73; Friday, April 15, 1994.

The following definition is added:

Camping means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, parking of a motor vehicle, motor home, or trailer or mooring of a vessel for the apparent purpose of overnight occupancy.

Part 1 (Camping) is amended by the following:

Subpart (a) is replaced with the following:

Camping longer than 4 consecutive nights at a boat-in only camp site or vehicle camping for a total period of not more than 14 days during any 28 day period. The 28 day period will begin the first full day the site is occupied. The 14 day limit may be reached either through a number of separate visits of through a period of continuous occupation. Once the 14 day limit is reached in any camping area, person(s) must move a distance of not less than 50 miles away from the campsite if they intend to continue camping on public lands.

Subpart (d) is replaced with the following:

Camping on river islands, or any area posted as closed to that use or Camping outside designated campsites between Deschutes Club locked gate and Maupine, or Camping outside of a designated campsite to the east (road side) of the River between Maupin and Sherars Falls, or Vehicle camping in any River segment outside of designated campsites.

Subpart (l) is added as follows:

Exceeding the maximum allowable number of persons and/or vehicles allowed for a designated campsite.

Subpart (m) is added as follows:

Reserving, holding, or transferring campsites for the benefit of another party.

Subpart (n) is added as follows:

Moving any table, stove, barrier, litter receptacle or other campground equipment.

Part 8 (Boating) is amended by the following:

Subpart (j) is added as follows:

Failure to complete boater registration when requested to do so by agency personnel.

Subpart (k) is added as follows:

Failure to pay required boater use fee.

Subpart (l) is added as follows:

Failure to register for boat-in ares, camping sites or River sections/zones as required.

Subpart (m) is added as follows:

Failure to camp in assigned boat-in areas, camping sites or River section/zone as required.

Subpart (n) is added as follows:

Launching or taking out watercraft in an area designated as closed to this activity.

Subpart (o) is added as follows:

Failure to possess one type III or IV Personal Floatation Device (PFD) per person in a vessel.

Part 9 (alcoholic beverages and controlled substances) is added by the following:

For the purposes of these regulations, the term ''highway'' shall mean: every public way, road, street, thoroughfare and place, including bridges, viaducts and other structures upon public lands, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

The following are prohibited:

(a) Operating a vessel, or knowingly allowing another person to operate a vessel, in a reckless or negligent manner, or in a manner so as to endanger or likely to endanger a person or property.

(b) Operating a vessel when under the influence of alcohol or controlled substance to a degree that may endanger oneself or another person or damage property or public land resources; or the alcohol concentration in the operator's blood or breath is 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams or more of alcohol per 210 liters of breath. Provided, however, that if State Law that applies to operating a vessel while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph.

(c) Selling, giving, or otherwise making available any alcoholic liquor to any person who is visibly intoxicated.

(d) No one other than the person's parent shall sell, give, or otherwise make available any alcoholic liquor to a person under the age of 21 years. A person violates this regulation who sells, gives, or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this regulation.

(e) No person under the age of 21 years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, no person under the age of 21 years shall have personal possession of alcoholic liquor.

For the purposes of this regulation, personal possession of alcoholic liquor includes the acceptance or consumption of a container of such liquor, or any portion thereof or a drink of such liquor. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.

(f) Drinks any alcoholic liquor in a motor vehicle when the vehicle is upon a highway.

(g) Possesses on one's person, while in a vehicle upon a highway, any bottle, can, or other receptacle containing any alcoholic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed.

(h) Keeps in a motor vehicle when the vehicle is upon any highway, any bottle, can, or other receptacle containing any alcoholic liquor, which has been opened, or a seal broken, or the contents of which have been partially removed. The following apply to this paragraph:

1. This paragraph applies only to the registered owner of any motor vehicle or, if the registered owner is not then present in the vehicle, to the driver of the vehicle.

2. This paragraph does not apply if the bottle, can, or other receptacle is kept in the trunk of the vehicle, or kept in some other area of the vehicle not normally occupied by the driver or

passengers if the vehicle is not equipped with a trunk.

3. For purposes of this paragraph, a utility compartment or glove compartment is considered within the area occupied by the driver and passengers.

4. This paragraph does not apply to the living quarters of a camper or a motor home.

The offense described in regulations (g) and (h) above does not apply to a motor vehicle operated by a publicly owned transit system or a motor vehicle operated by a common carrier and used primarily to carry passengers for hire.

(I) Operating or being in actual physical control of a motor vehicle is prohibited while:

1. Under the influence of alcohol, or a drug, or drugs, or any combination thereof, to a degree that renders the operator incapable of safe operation; or

2. The alcohol concentration in the operator's blood or breath is 0.10 grams or more of alcohol per 100 milliliters of blood or 0.10 grams or more of alcohol per 210 liters of breath. Provided, however, that if State law that applies to operating a motor vehicle while under the influence of alcohol establishes more restrictive limits of alcohol concentration in the operator's blood or breath, those limits supersede the limits specified in this paragraph.

(j) The provisions of paragraph (I) above also apply to an operator who is or has been legally entitled to use alcohol or another drug.

(k) Tests.

1. At the request or direction of an authorized person who has probable cause to believe that an operator of a motor vehicle upon public lands has violated a provision of paragraph (I) of this section, the operator shall submit to one or more tests of the blood, breath, saliva, or urine for the purpose of determining blood alcohol and drug content.

2. Refusal by an operator to submit to at test is prohibited and proof of refusal may be admissible in any related judicial proceeding.

3. Any test or tests for the presence of alcohol and drugs shall be determined by and administered at the direction of an authorized person.

4. Any test shall be conducted by using accepted scientific methods and equipment of proven accuracy and reliability operated by personnel certified in its use.

(l) Presumptive levels:

1. The results of chemical or other quantitative tests are intended to supplement the elements of probable cause used as the basis for the arrest of an operator charged with a violation of paragraph (i1) of this section. If the alcohol concentration in the operator's blood or breath at the time of testing is less than alcohol concentrations specified in paragraph (i2) of this section, this fact does not give rise to any presumption that the operator is or is not under the influence of alcohol.

2. The provisions of paragraph (l1) of this section are not intended to limit the introduction of any other competent evidence bearing upon the question of whether the operator, at the time of the alleged violation, was under the influence of alcohol, or a drug, or drugs, or any combination therefore.

(m) Within the Sandy Beach Recreation Site, consuming alcoholic beverages or possessing any bottle, can or other receptacle containing any liquor, which has been opened, or a seal broken, or the contents of which have been partially removed. This paragraph does not apply if the bottle, can or other receptacle has been stored out of view and is not readily accessible.

Dated: June 12, 1997.

James G. Kenna,

Acting District Manager.

[FR Doc. 97–16151 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA–28350]

Notice of Intent To Prepare a Plan Amendment to the Phoenix and Safford District Resource Management Plans Combined With an Environmental Impact Statement Analyzing the Impacts of the Proposed Exchange of Approximately 10,336 Acres of Public Land Near Kearny, Arizona and 640 Acres of Federal Mineral Estate Near Casa Grande, Arizona for Private Lands of Equal Appraised Value in Central and Western Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) will be directing the preparation of a combined plan amendment and an environmental impact statement (EIS) for the exchange of public lands near Kearny and Casa Grande, Arizona for private lands of equal value (approximately 8,994 acres) in central and western Arizona. The plan amendment/EIS will consider amending the Phoenix and Safford District Resource Management Plans under BLM planning regulations (43 CFR part 1600) for the purpose of exchanging public lands pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1617) as amended. The exchange has been proposed by ASARCO Incorporated to support mining operations and mineral development.

1. Description of the proposed planning action: In response to an exchange proposal, the plan amendment will consider amending the Phoenix and Safford District Resource Management Plans, specifically considering whether to change the land tenure decision for 10,336 acres from retention and management as public lands *to* disposal by exchange.

2. Identification of the geographic areas involved: The plan amendment involves 10,336 acres near Kearny, Arizona, most situated within the White Canyon Resource Conservation Area currently managed by the BLM Phoenix Field Office. The proposed land exchange involves these same acres plus 640 acres near Casa Grande for a total of 10,976 acres.

3. Alternatives to be analyzed: At a minimum, the no action alternative and an alternative that considers the proposed action will be analyzed.

4. General types of issues anticipated: The planning area and proposed land exchange involves issues related to the natural and cultural values and uses of the public lands in question. Issues to be fully analyzed involve impacts on water resources, native vegetation, wilderness, riparian areas, wildlife, recreation, socioeconomics, public access, grazing allotments, county tax base, minerals, and cultural resources.

5. Disciplines to be represented and used to prepare the environmental impact statement: Hydrology, biology, botany, wildlife, recreation, realty, range, socioeconomics, geology, and archaeology.

6. The kind and extent of public participation: Public open houses scoping meetings will be held at: Kearny Open House, July 21, 1997 4 to 8 p.m., Constitution Hall (Senior Citizen Center), 912 East Tilbury Drive, Kearny, Arizona (520–363–5547); Mesa Open House, July 22, 1997 4 to 8 p.m., Mesa Community Center, Rendezvous Center, 201 North Center Street, Mesa, Arizona (602–644–2178); Kingman Open House, July 23, 1997 4 to 8 p.m., Council Chambers, City of Kingman Council Building, 310 North 4th Street, Kingman, Arizona (520–753–8102).

DATES: Public comments may be submitted during the public meeting or in writing to the address below. Public

comments will be accepted if postmarked by August 4, 1997.

ADDRESSES: Written comments concerning the plan amendment/EIS should be submitted to Bureau of Land Management, Attn: Shela McFarlin, Project Manager, Arizona State Office (AZ–917), 222 N. Central, Phoenix, Arizona 85004.

FOR FURTHER INFORMATION CONTACT; Shela McFarlin, at the above address, phone (602) 417–9568.

SUPPLEMENTARY INFORMATION: Federal (public) lands (in Pinal and Gila counties) being analyzed for exchange include federal mineral estate (2,780 acres) and federal surface and mineral estate (8,196 acres). Most of these parcels surround the Ray Mine and Hayden Complex operated by ASARCO Incorporated; or, these consist of future prospects for mineral development, including 640 acres near Casa Grande. The non-federal lands to be offered to the BLM include high resource values such as: wilderness inholdings or areas adjacent to the Mt. Tipton and New Water Wilderness, hydroriparian zone along the Gila River, desert tortoise category I and II habitat, and checkerboard inholdings within the McCracken Area of Critical Environmental concern. These parcels are located within Mohave (mainly), Gila and LaPaz counties.

The plan amendment/EIS will be developed by a third party contractor approved by the BLM. The contractor will use an interdisciplinary team to develop the document. The BLM will have the responsibility for the review of the plan amendment/EIS.

Complete records of all phases of the environmental documentation process will be available for public review at the BLM, Phoenix field Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027, and at the BLM, Arizona State Office, 222 N. Central, Phoenix, Arizona 85004.

Dated: June 17, 1997.

Ken R. Drew,

Program Manager, Phoenix Field Office.

[FR Doc. 97–16282 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–4214–010; COC–60653]

Proposed Withdrawal: Opportunity for Public Meeting; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw approximately 22,000 acres of National Forest System lands for 10 years to allow management alternatives for Forest Service management of the Spanish Peaks Planning Area. This notice closes these lands to location and entry under the mining laws for up to two years. The lands remain open to mineral leasing.

DATES: Comments on this proposed withdrawal or requests for public meeting must be received on or before September 18, 1997.

ADDRESSES: Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–239–3706.

SUPPLEMENTARY INFORMATION: On June 9, 1997, the Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. Ch 2):

San Isabel National Forest

Sixth Principal Meridian

T. 30 S., R. 67 W.,
Secs. 19, 28 to 32, inclusive,
Sec. 20, S½;
Sec. 33, N½.
T. 30 S., R. 68 W.,
Secs. 24, 25, 33, 34, 35, and 36, inclusive;
Sec. 26, S½;
Sec. 31, S½;
Sec. 32, E½NE¼ and S½.
T. 31 S., R. 67 W.,
Secs. 5 and 6, inclusive;
Sec. 7, N½;
Sec. 8, N½.
T. 31 S., R. 68 W.,
Secs. 1 to 5, inclusive; 7 to 10, inclusive;
Sec. 6, All, excluding lot 4;
Sec. 11, N½;
Sec. 12, N½;
Sec. 15, NE¼NE¼;
Sec. 17, N½;
Sec. 18, N½.
T. 31 S., R. 69 W.,
Secs. 2 and 12, inclusive;
Sec. 1, lots 7 to 12, inclusive;
Sec. 1, S½;
Sec. 11, N½ and N½S½;
Sec. 13, NE¼NE¼.

The area described contains approximately 22,000 acres of National Forest System lands in Huerfano and Las Animas Counties. The acreage includes approximately 500 acres of non-Federal lands which are not subject to the withdrawal.

The purpose of this withdrawal is to protect wilderness values within the Spanish Peaks Planning Area.

For a period of 90 days from the date of publication of this notice, all parties who wish to submit comments, suggestions, or objections in connection with this proposed withdrawal, may present their views in writing to the Colorado State Director. A public meeting will be scheduled and conducted in accordance with 43 CFR 2310.3–1(c)(2). Notice of the meeting will be published in the **Federal Register**.

This application will be processed in accordance with the regulations set forth in 43 CFR Part 2310.

For a period of two years from the date of publication in the **Federal Register**, this land will be segregated from the mining laws as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. During this period the Forest Service will continue to manage these lands.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 97–16153 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from Hawaii in the Control of Fort Kamehameha and Hickam Field, United States Army, U.S. Army Garrison, HI

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects in the control of Fort Kamehameha and Hickam Field, United States Army, U.S. Army Garrison, HI.

A detailed assessment of the human remains was made by U.S. Army installation staff and U.S. Army Corps of Engineers St. Louis District professional staff in consultation with representatives of Hui Malama I Na Kupuna 'O Hawai'i Nei, the Oahu Burial Council, and the Office of Hawaiian Affairs.

In 1940, human remains representing one individual were recovered from a shallow sand burial approximately 100–150 yards from the edge of the Pearl Harbor channel during a legally authorized construction project on Hickam Field, Oahu, HI. No known

individuals were identified. The one associated funerary object is a piece of coral.

In 1982, human remains representing one individual were recovered during a legally authorized work project at the southwest corner of Quarters #16 on Fort Kamehameha, Oahu, HI. No known individual was identified. The four associated funerary objects include a historic pearl four-hole button, two fish bones, and a bag of soil matrix of the burial.

In 1987, human remains representing four individuals were recovered by U.S. Army Corps archeological staff after being unearthed by neighborhood children digging in the substrate beneath Quarters #14 in the family housing area of Fort Kamehameha. No known individuals were identified. No associated funerary objects are present.

In 1988, human remains representing one individual were uncovered by children playing on a sand berm on Battery Hasbrouck, Fort Kamehameha. No known individual was identified. No associated funerary objects are present.

In 1989, human remains representing two individuals were recovered on the surface of a recently upgraded parking lot adjacent to Battery Hasbrouck, Fort Kamehameha. No known individual was identified. No associated funerary objects are present.

These individuals have been determined to be Native Hawaiian based on the locations of the burials, manner of internment, and the types of associated funerary objects present.

Based on the above mentioned information, officials of the U.S. Army have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of nine individuals of Native American ancestry. Officials of the U.S. Army have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the five objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the U.S. Army have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and Hui Malama I Na Kupuna 'O Hawai'i Nei, the Oahu Burial Council, and the Office of Hawaiian Affairs.

This notice has been sent to officials of Hui Malama I Na Kupuna 'O Hawai'i Nei, the Oahu Burial Council, and the Office of Hawaiian Affairs. Representatives of any other Native Hawaiian organization that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Laurie Lucking, cultural Resources Manager, U.S. Army Garrison, HI; telephone: (808) 656–2878, before July 21, 1997. Repatriation of the human remains and associated funerary objects to Hui Malama I Na Kupuna 'O Hawai'i Nei, the Oahu Burial Council, and the Office of Hawaiian Affairs may begin after that date if no additional claimants come forward.

Dated: June 12, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 97–16166 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains From Washington County, ME in the Possession of the Maine State Museum, Augusta, ME

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and from Washington County, ME in the possession of the Maine State Museum, Augusta, ME.

A detailed assessment of the human remains was made by Maine State Museum professional staff in consultation with representatives of the Aroostook Band of MicMacs, Houlton Band of Maliseets, Passamaquoddy Tribe, and the Penobscot Indian Nation.

During the 19th century, human remains representing one individual were recovered from an unknown site in Lubec, Washington County, ME, by an unknown individual. These human remains were transferred to the Maine State Museum in 1989 by the Smithsonian Institution. No known individual was identified. No associated funerary objects are present.

Osteological evidence indicates this individual is morphologially consistent with contemporary Native Americans. The overall condition of these human remains indicates they are probably attributable to the 16th century. Washington County, ME is located within the historically documented territory of the Etchemin, from whom the Passamaquoddy Tribe descends. There is no evidence of any other cultural group living in this area during the 16th century.

Based on the above mentioned information, officials of the Maine State Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Maine State Museum have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and the Passamaquoddy Tribe.

This notice has been sent to officials of the Aroostook Band of MicMacs, Houlton Band of Maliseets, Passamaquoddy Tribe, and the Penobscot Indian Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Dr. Bruce Bourque, Chief Archaeologist, Maine State Museum, 83 State House Station, Augusta, ME 04333; telephone (207) 287–2301, before July 21, 1997. Repatriation of the human remains to the Passamaquoddy Tribe may begin after that date if no additional claimants come forward.

Dated: June 12, 1997.

Francis P. McManamon,

Departmental Consulting Archeologist,

Manager, Archeology and Ethnography Program.

[FR Doc. 97–16167 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Maine in the Possession of the Maine State Museum, Augusta, ME

AGENCY: National Park Service

ACTION: Notice

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003 (d), of the completion of an inventory of human remains and associated funerary objects from Maine in the possession of the Maine State Museum, Augusta, ME.

A detailed assessment of the human remains was made by Maine State Museum professional staff in consultation with representatives of the Aroostook Band of MicMacs, Houlton Band of Maliseets, Passamaquoddy Tribe, and the Penobscot Indian Nation.

In the late 19th or early 20th century, human remains representing seven individuals were recovered from the Riverside/Sturgis Farm site (38.14) in Vassalboro, ME, and were donated to the Maine State Museum in 1986 by the Kennebec Historical Society. No known individuals were identified. No associated funerary objects are present.

In 1989, human remains representing three individuals were recovered from the Leta Young site (53.23) in Benton, ME, during legally authorized archeological testing. In 1995, these human remains were transferred to the Maine State Museum by the University of Maine at Farmington. No known individuals were identified. The associated funerary object is a strand of shell beads.

The two sites listed above are located in Kennebec County, ME within the historically documented territory of the Etchemin, from whom the present-day Penobscot Indian Nation trace their descent. The individuals from these two sites date from the late precontact into the historic period (1335–1765 AD) based on radiocarbon dates of 405 +/- 105 and 432 +/- 60 B.P. respectively. Osteological evidence indicates these individuals are morphologically consistent with contemporary Native Americans.

In the early 1960s, human remains representing two individuals were recovered from the Fort Pemaquid site (16.49) in Bristol, ME, by the Maine Bureau of Parks and Recreation and were transferred to the Maine State Museum in 1982. No known individuals were identified. The fourteen associated funerary objects include sheet brass tubes, brass sheets, a copper or brass disk, leather, hide, and bark fragments.

In 1995, human remains representing one individual were recovered from the Fort Pemaquid site (16.49) by the Maine Historic Preservation Commission and transferred to the Maine State Museum. No known individual was identified. No associated funerary objects were present.

Osteological evidence indicates these individuals are morphologically consistent with contemporary Native Americans. The Fort Pemaquid site is located in Lincoln County, ME within the historically documented territory of the Etchemin, from whom the present-day Penobscot Indian Nation trace their descent. Based on the associated funerary objects and a radiocarbon date of 660 +/- 50 B.P., these human remains are estimated to be from the late to terminal precontact period into the early historic period (ca. 1190–16th century AD.).

During 1967–1969, human remains representing 23 individuals were recovered from the Goddard site (30.42) by Mr. Guy Mellgren and Mr. Edward Runge who donated them to the Maine State Museum in 1972 and 1973. No known individuals were identified. The eighteen associated funerary objects include celts, ochre, copper beads, fragments of copper, leather, fur, plant material, and a shark tooth.

In 1980, human remains representing five individuals were recovered from the Goddard site (30.42) during Maine State Museum excavations. No known individuals were identified. The seven associated funerary objects include copper beads, fragments of copper, plant material, fur, and leather.

Osteological evidence indicates these individuals are morphologically consistent with contemporary Native Americans. The Goddard site is located in Hancock County, ME within the historically documented territory of the Etchemin, from whom the present-day Penobscot Indian Nation trace their descent. Based on cultural material, specifically the presence of European trade copper, and radiocarbon dates of 377+/- 57, 540 +/- 50, and 679 +/- 59 B.P., these human remains are estimated to be from the late precontact period to the terminal precontact period—early historic period (1153– 1707 AD.). Because there is so little European trade material, an earlier rather than later date is more likely for these human remains.

In 1976, human remains representing one individual were recovered from the Parson's site (29.47) by the Maine State Museum. No known individuals were identified. No associated funerary objects were present.

Osteological evidence indicates this individual is morphologically consistent with contemporary Native Americans. The Parson's site is located in Knox County, ME within the historically documented territory of the Etchemin, from whom the present-day Penobscot Indian Nation trace their descent. Although the radiocarbon dates are 400 +/- 110 B.P. (1330—1770 AD.), these human remains are estimated to be from the late precontact period based on the precontact cultural material and absence of any cultural material of European or Euroamerican origin at Parson's site.

In 1984 and 1985, human remains representing one individual were recovered from the Oak Island site (70.3) in Skowhegan, ME by the Maine State Medical Examiner's office and the University of Maine at Farmington (UMF). In 1994, these human remains were transferred to the Maine State Museum by UMF. No known individuals were identified. No associated funerary objects were present.

Osteological evidence indicates this individual is morphologically consistent with contemporary Native Americans. This site is located in Somerset County, ME, within the historically documented territory of the Etchemin, from whom the present-day Penobscot Indian Nation trace their decsent. Based on radiocarbon dates of 270+/- 60 B.P. from this site, this burial dates from the late precontact to the historic period (1560–1800 AD).

Based on the above mentioned information, officials of the Maine State Museum have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 43 individuals of Native American ancestry. Officials of the Maine State Museum have also determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 40 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Maine State Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Penobscot Indian Nation.

This notice has been sent to officials of the Aroostook Band of MicMacs, Houlton Band of Maliseets, Passamaquoddy Tribe, and the Penobscot Indian Nation. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Dr. Bruce Bourque, Chief Archaeologist, Maine State Museum, 83 State House Station, Augusta, ME 04333; telephone (207) 287–2301, before July 21, 1997. Repatriation of the human remains and associated funerary objects to the Penobscot Indian Nation may begin after that date if no additional claimants come forward.

Dated: June 13, 1997.

Daniel Haas,

Acting Departmental Consulting Archeologist,

Archeology and Ethnography Program.

[FR Doc. 97–16165 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Bay-Delta Advisory Council; Notice of Renewal

This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (Public Law 92–463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the Bay-Delta Advisory Council. The purpose of the Bay-Delta Advisory Council is to provide advice on the development of a long-term solution for problems affecting the public values in the California San Francisco Bay/Sacramento-San Joaquin Delta and its watershed estuary.

Further information regarding the advisory council may be obtained from the Bureau of Reclamation, Department of the Interior, 1849 C Street, NW., Washington, DC 20240. You may also call Sharon Gross, CALFED Bay-Delta Program, at 916–657–2666.

The certification of establishment is published below:

Certification

I hereby certify that renewal of the Bay-Delta Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 30 U.S.C. 1–8.

Dated: June 6, 1997.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 97–16230 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–94–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for the general provisions at 30 CFR Part 700.

DATES: Comments on the proposed information collection must be received by August 19, 1997, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR 700, General.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity;

Title: General, 30 CFR part 700.

OMB Control Number: 1029–0094.

Summary: This Part establishes procedures and requirements for terminating jurisdiction of surface coal mining and reclamation operations, petitions for rulemaking, and citizen suits filed under the Surface Mining Control and Reclamation Act of 1977.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State and tribal regulatory authorities, private citizens and citizen groups, and surface coal mining companies.

Total Annual Responses: 10.

Total Annual Burden Hours: 8.

Dated: June 12, 1997.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 97–16131 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–372 and 731–TA–768 (Preliminary)]

Fresh Atlantic Salmon From Chile

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty and antidumping Investigations Nos. 701–TA–372 and 731–TA–768 (Preliminary) under sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. §§ 1671b(a) and 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Chile of fresh or chilled Atlantic salmon,[1] provided for in subheadings 0302.12.00 and 0304.10.40 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Chile and sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) and 732(c)(1)(B) of the Act (19 U.S.C. §§ 1671a(c)(1)(B) and 1673a(c)(1)(B)), the Commission must reach a preliminary determination in countervailing duty and antidumping

[1] The subject matter of these investigations includes fresh or chilled Atlantic salmon, whether sold ''dressed'' or as ''cuts.'' Dressed Atlantic salmon refers to salmon that has been bled, gutted, and cleaned. It may be sold with the head on or off, with the tail on or off, and with the gills in or out. Cuts of fresh Atlantic salmon refer to salmon that has been either cut crosswise into ''steaks'' or lengthwise into two ''sides'' (fillets); these cuts may be further cut into smaller portions or sold in combination packages. The cuts may be subjected to various degrees of trimming, and sold with the skin on or off and with the ''pin bones'' in or out. Excluded from these investigations are all other species of salmon, as well as live Atlantic salmon and Atlantic salmon that has been subjected to further processing, such as frozen, canned, or smoked Atlantic salmon or fillets or meat thereof.

investigations in 45 days, or in this case by July 28, 1997. The Commission's views are due at the Department of Commerce within five business days thereafter, or by August 4, 1997.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207), as amended in 61 FR 37818 (July 22, 1996).

EFFECTIVE DATE: June 12, 1997.

FOR FURTHER INFORMATION CONTACT: Brad Hudgens (202–205–3189), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—These investigations are being instituted in response to a petition filed on June 12, 1997, by the Coalition for Fair Atlantic Salmon Trade.

Participation in the investigations and public service list.—Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission countervailing duty and antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on July 3, 1997, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Brad Hudgens (202–205–3189) not later than July 1, 1997, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before July 9, 1997, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

By order of the Commission.

Issued: June 16, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–16135 Filed 6–19–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that a proposed Final Consent Decree in *United States* v. *Roger Fleming*, Civil No. 3:96–2080–17 (D.S.C.), was lodged with the United States District Court for the District of South Carolina on May 28, 1997. The proposed Consent Decree concerns alleged violations of sections 301(a) and 404 of the Clean Water Act, 33 U.S.C. 1311(a) and 1344, resulting from the unauthorized dredging, flooding, and diking of approximately 0.7 acre of wetlands in Eastover, Richland County, South Carolina. The violation involved the construction of a 0.5-acre pond and the discharge of fill material into an additional 0.2 acre of wetlands to form a dike on three sides of the pond. The manner of construction utilized also resulted in the unlawful impoundment of water on adjacent property. The pond was subsequently modified with the installation and reconfiguration of a new inlet pipe to eliminate the impoundment problem.

The proposed Final Consent Decree would provide for the payment of a $250 civil penalty, permanently enjoin the Defendant from further violations of the Clean Water Act, and allow for monitoring of the corrective measures taken to ensure that impoundment does not reoccur.

The U.S. Department of Justice will receive written comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this notice. Comments should be addressed to R. Emery Clark, Assistant United States Attorney, District of South Carolina, 1441 Main Street, Suite 500, Columbia, SC 29201 and should refer to *United States* v. *Roger Fleming*, Civil No. 3:96–2080–17 (D.S.C.).

The proposed Final Consent Decree may be examined at the Clerk's Office, United States District Court for the District of South Carolina, Columbia Division, 1945 Assembly Street, Columbia, South Carolina 29201.

Letitia J. Grishaw,

Chief, Environmental Defense Section, Environment and Natural Resources Division, United States Department of Justice.

[FR Doc. 97–16158 Filed 6–19–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Suzanne Kirkwood King, M.D. Denial of Application

On February 25, 1997, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Suzanne Kirkwood King, M.D., of California, notifying her of an opportunity to show cause as to why DEA should not deny her application for registration as a practitioner under 21 U.S.C. 823(f), for reason that she is not currently authorized to handle controlled substances in the State of California. The order also notified Dr. King that should no request for a hearing be filed within 30 days, her hearing right would be deemed waived.

The DEA received a signed receipt indicating that the order was received on March 7, 1997. No request for a hearing or any other reply was received by the DEA from Dr. King or anyone purporting to represent her in this matter. Therefore, the Acting Deputy Administrator, finding that (1) 30 days have passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. King is deemed to have waived her hearing right. After considering the relevant material from the investigative file in this matter, the Acting Deputy Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e) and 1301.46.

The Acting Deputy Administrator finds that a Decision dated April 11, 1996, the Medical Board of California revoked Dr. King's license to practice medicine based upon the suspension of her Massachusetts medical license, her mental illness and inappropriate behavior, her sexual contact with former patients, her failure to truthfully answer a question on an application for licensure in Massachusetts, and her improper prescribing of controlled substances. The Acting Deputy Administrator finds that in light of the fact that Dr. King is not currently licensed to practice medicine in the State of California, it is reasonable to infer that she is not currently authorized to handle controlled substances in that state.

The DEA does not have statutory authority under the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which she conducts her business. 21 U.S.C. 802(21), and 823(f). This prerequisite has been consistently upheld. See Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D., 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

Here it is clear that Dr. King is not currently authorized to handle controlled substances in the State of California. Therefore, Dr. King is not entitled to a DEA registration in that state.

Accordingly, the Acting Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration dated March 5, 1995, submitted by Suzanne Kirkwood King, M.D., be, and it hereby is, denied. This order is effective July 21, 1997.

Dated: June 12, 1997.

James S. Milford,

Acting Deputy Administrator.

[FR Doc. 97–16133 Filed 6–19–97; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OJP(NIJ)–1133]

RIN 1121–ZA79

National Institute of Justice Solicitation for Policing Research and Evaluation: Fiscal Year 1997

AGENCY: Office of Justice Programs, National Institute of Justice, Justice.

ACTION: Notice of solicitation.

SUMMARY: Announcement of the availability of the National Institute of Justice ''Policing Research and Evaluation: Fiscal Year 1997.''

DATES: Deadline for receipt of proposals is close of business on August 1, 1997.

ADDRESSES: Applications should be mailed to the National Institute of Justice, 633 Indiana Avenue, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: For a copy of the solicitation, please call NCJRS 1–800–851–3420. For general information about application procedures for solicitations, please call the U.S. Department of Justice Response Center 1–800–421–6770.

SUPPLEMENTARY INFORMATION:

Authority

This action is authorized under the Omnibus Crime Control and Safe Streets Act of 1968, §§ 201–03, as amended, 42 U.S.C. 3721–23 (1994).

Background

This solicitation calls for proposals for investigator-initiated research on policing that will take into account the current state of policing research and propose new research that will fill knowledge gaps, and test not only the widely held but also the newly emerging hypotheses on community policing. This solicitation provides a wide base for investigator-initiated applications and to that end is broken down into four broad sections of research and evaluation on community-oriented policing:

Section I: Evaluations, poses two fundamental questions: what organizational/department-wide features constitute an effective community-oriented policing strategy, and what works in terms of specific policing practices?

Section II: Problem-Solving Strategies seeks research on problem-solving approaches applied to a wide range of crimes and public safety issues.

Section III: Partners in Policing, focuses on the police agency's relationship to the community, other law enforcement agencies, and other criminal justice agencies.

Section IV: Presents an opportunity for research on Organizational Challenges posed by the move toward community-oriented policing.

Section V: Seeks applications on one of two Integrating Themes of policing research: the impact of technology, and police response to crime.

While NIJ encourages applicants to identify one of these four areas under which their application should be considered, promising research applications that do not fit precisely with a given section, or cross over areas, may still be considered.

Interested organizations should call the National Criminal Justice Reference Service (NCJRS) at 1–800–851–3420 to obtain a copy of ''Policing Research and Evaluation: Fiscal Year 1997'' (refer to document no. SL000223). The solicitation is available electronically via the NCJRS Bulletin Board, which can be accessed via the Internet. Telnet to ncjrsbbs.ncjrs.org, or gopher to ncjrs.org:71. For World Wide Web access, connect to the NCJRS Justice Information Center at http://www.ncjrs.org. Those without Internet access can dial the NCJRS Bulletin Board via modem: dial 301–738–8895. Set the modem at 9600 baud, 8–N–1.

Jeremy Travis,

Director, National Institute of Justice.

[FR Doc. 97–16238 Filed 6–19–97; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

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
MA970009 (Feb. 14, 1997)
New Jersey
NJ970002 (Feb. 14, 1997)
NJ970003 (Feb. 14, 1997)
NJ970004 (Feb. 14, 1997)

Volume II

Pennsylvania
PA970007 (Feb. 14, 1997)
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PA970009 (Feb. 14, 1997)
PA970010 (Feb. 14, 1997)
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PA970019 (Feb. 14, 1997)
PA970021 (Feb. 14, 1997)
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Indiana
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MT970003 (Feb. 14, 1997)
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MT970008 (Feb. 14, 1997)
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WA970001 (Feb. 14, 1997)
WA970002 (Feb. 14, 1997)
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WA970011 (Feb. 14, 1997)

Volume VII

None

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

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 (NTIS) 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.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC, this 13th day of June 1997.

Terry Sullivan,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–15950 Filed 6–19–97; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health; Notice of Cancellation of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health (MACOSH); Notice of Cancellation of Meeting.

SUMMARY: Notice is hereby given that the Maritime Advisory Committee for Occupational Safety and Health canceled its meeting of June 25 and 26, 1997 at the Francis Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. (OSHA published the Notice of Meeting on May 30, 1997 (62 FR 29376)). After MACOSH reschedules the meeting, OSHA will give notice in the **Federal Register**. MACOSH was established under section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor on matters relating to occupational safety and health programs, policies, and standards in the maritime industries of the United States.

ADDRESSES: Send written comments in response to this notice to: OSHA, Office of Maritime Standards, Room N–3621, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Phone (202) 219–7234, fax (202) 219–7477.

FOR FURTHER INFORMATION CONTACT:

Mr. John Martonik, Acting Director, Directorate of Safety Standards Programs, OSHA, (202) 219–8061.

Signed at Washington, D.C. this 17th day of June 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–16207 Filed 6–19–97; 8:45 am]

BILLING CODE 4510–26–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

June 16, 1977.

TIME AND DATE: 3:45 p.m., Thursday, June 5, 1996.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of the Commissioners present that the Commission consider and act upon the following in closed session:

1. *Secretary of Labor* v. *Laurel Run Mining Co., et al.,* Docket Nos. WEVA 94–347, et al.

No earlier announcement of the scheduling of this meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 97–16423 Filed 6–18–97; 3:59 pm]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–016055]

Advanced Medical Systems, Inc., Issuance of Director's Decision under 10 CFR § 2.206

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, U. S. Nuclear Regulatory Commission, has acted on a Petition for action under 10 CFR 2.206 dated March 3, 1993, filed by William B. Schatz, Esq., on behalf of the Northeast Ohio Regional Sewer District (Petitioner), as supplemented by letters dated September 13, 1994, October 13, 1994 and April 29, 1996, with regards to NRC Licensee, Advanced Medical Systems, Inc. (AMS)

The Petitioner requested, pursuant to 10 CFR 2.206, that the NRC: (1) Modify AMS' License No. 34–19089–01 to require that AMS assume all costs resulting from the off-site release of cobalt-60 that has been deposited at the

Petitioner's Southerly Wastewater Treatment Center; and (2) order AMS to decontaminate the sewer connecting its London Road facility with the public sewer at London Road, and continue down stream with such decontamination to the extent that sampling indicates is necessary.

By letters dated September 13, 1994, October 13, 1994, and April 29, 1996, the Petitioner filed supplements to the Petition. The September 1994 supplement requested that NRC commence enforcement actions against AMS for violations of 10 CFR 20.401(c)(3) and 10 CFR 20.303(a), based on assertions that the disposal records maintained by AMS are grossly inaccurate, in violation of 10 CFR 20.401(c)(3), and that AMS discharged material to the sewer that was not readily soluble or dispersible in water, in violation of 10 CFR 20.303(a). In addition, the September 1994 supplement requested that the March 3, 1993, Petition be granted immediately insofar as it requested that AMS be held responsible for all costs arising from contamination of the Petitioner's treatment plant and that AMS be required to decontaminate the sewer downstream from the London Road facility. In its October 1994 supplement, the Petitioner requested that the NRC commence an enforcement action against AMS for violation of 10 CFR 20.2003, based on the assertion that AMS had recently discharged cobalt-60 to the sewer that was not soluble or readily dispersible biological material, in violation of that provision. In its April 1996, supplement, the Petitioner requested NRC action on a license requiring AMS to safely and reasonably decontaminate the London Road interceptor (the sewer), or, if the NRC's position is that such action has already been ordered, NRC action requiring AMS to actually complete the decontamination.

For the reasons stated in the ''Director's Decision Under 10 CFR 2.206'' (DD–97–13), the Director of the Office of Nuclear Material Safety and Safeguards has denied the first request, that NRC require AMS to assume all costs resulting from the offsite contamination from released licensed material within NRC limits. With regard to the request to order AMS to decontaminate the sewer line, as set forth in DD–97–13), NRC has already partially granted the Petition, insofar as NRC has taken action by amending AMS'' License to require remediation of the sewer line connecting the London Road Facility with the public sewer at London Road. For the reasons stated in DD–97–13, the Director has denied the remaining requests in the Petition and its supplements. The complete text of DD–97–13 follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room, Perry Public Library, 3735 Main Street, Perry, Ohio 44081.

A copy of this Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, this Decision will constitute the final action of the Commission 25 days after the date of issuance unless the Commission, on its own motion, institutes review of the decision within that time.

Dated at Rockville, Maryland, this 13th day of June, 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director Office of Nuclear Material Safety and Safeguards.

Director's Decision under 10 CFR § 2.206

I. Introduction

By letter dated March 3, 1993, addressed to Mr. James Taylor, *former* Executive Director for Operations, U.S. Nuclear Regulatory Commission (NRC), William B. Schatz, Esq., on behalf of the Northeast Ohio Regional Sewer District (District), requested that NRC take action with respect to Advanced Medical Systems, Inc. (AMS), of Cleveland, Ohio, an NRC licensee. The District requested, pursuant to 10 CFR § 2.206, that NRC: (1) Modify AMS License No. 34–19089–01 to require that AMS assume all costs resulting from the off-site release of cobalt-60 that has been deposited at the District's Southerly Wastewater Treatment Center (SWTC); and (2) order AMS to decontaminate the sewer connecting its London Road facility with the public sewer at London Road, and continue downstream with such decontamination to the extent that sampling indicates is necessary.

The District alleges the following bases for its request: (1) Cobalt-60 has been discovered in the ash piles resulting from the incineration of sewage sludge at the District's SWTC; (2) AMS is the only licensee in the District's service area authorized to process cobalt-60 in a loose metallic form consistent with the form present in the ash; (3) AMS is the only entity (except for the former owner of the London Road facility) that has reported discharging cobalt-60 to the sanitary sewer system leading to the SWTC; (4) NRC documents present ample evidence of cobalt-60 contamination at the London Road facility, including numerous drains inside the building; (5) there are excessive exposure rates in the sewer connecting the building to the public sewer system; (6) this sewer line has been classified as a restricted area, which effectively denies the District access to the manhole for sampling industrial discharges; and (7) the AMS London Road facility is the source of the cobalt-60 at the SWTC.

By letter dated April 2, 1993, the Director, Office of Nuclear Material Safety and Safeguards, NRC, formally acknowledged receipt of the Petition and informed the District that its request was being treated pursuant to 10 CFR § 2.206 of the Commission's regulations. A notice of the receipt of the Petition was published in the **Federal Register** on Tuesday, April 13, 1993 (58 FR 19282). Staff sent a copy of the letter dated April 2, 1993, with a copy of the Petition, to AMS.

By letters dated September 13, 1994, October 13, 1994, and April 29, 1996, the District filed supplements to its March 3, 1993, Petition. The District's September 1994 supplement requested that NRC commence enforcement actions against AMS for violations of 10 CFR § 20.401(c)(3) and 10 CFR § 20.303(a), based on assertions that the disposal records maintained by AMS are grossly inaccurate, in violation of 10 CFR § 20.401(c)(3), and that AMS discharged material to the sewer that was not readily soluble in or dispersible in water, in violation of 10 CFR § 20.303(a). In addition, the September 1994 supplement requested that the March 3, 1993, petition be granted immediately insofar as it requested that AMS be held responsible for all costs arising from contamination of the District's treatment plant and that AMS be required to decontaminate the sewer downstream from the London Road facility. In its October 1994 supplement, the District requested that NRC commence an enforcement action against AMS for violation of 10 CFR § 20.2003, based on the assertion that AMS had recently discharged cobalt-60 to the sewer that was not soluble or readily dispersible biological material, in violation of that provision. In its April 1996 supplement, the District requested NRC action on a license requiring AMS to safely and reasonably decontaminate the London Road interceptor (the sewer), or, if NRC's position is that such action has already been ordered, NRC action requiring AMS to actually complete the decontamination.

Since receipt of the March 3, 1993, Petition, NRC has amended AMS' license such that one of the District's requests has already been partially granted, as set forth below. I have completed my evaluation of the remaining matters raised by the District and have determined that, for the reasons stated below, the other requests in the Petition and its supplements should be denied.

II. Background

NRC issued License No. 34–19089–01 to AMS on November 2, 1979. Picker Corporation had previously owned and operated the licensed operation, facilities, and equipment since 1959. From 1979 to mid-1991, the AMS license authorized the possession of 150,000 curies (5550 terabecquerels) of cobalt-60 in solid form for the purpose of manufacturing sealed sources for distribution to authorized recipients for use in teletherapy units (used at medical facilities for treatment of medical conditions). The AMS license currently limits possession to 150,000 curies (5550 terabecquerels) as solid metal and 135,000 curies (4995 terabecquerels) in sealed sources, for use in installing and servicing teletherapy units, and training; the current license does not authorize manufacture of sealed sources for distribution. The license also authorizes possession of 40,000 curies (1480 terabecquerels) of cesium-137 in sealed sources, and 4040 kilograms of plated depleted uranium shielding, incident to teletherapy and industrial radiography installation, maintenance, and service. The facility that houses the licensed material is located on London Road in Cleveland, Ohio.

The District is responsible for operating three wastewater treatment facilities in and around the Cleveland, Ohio, metropolitan area. The District's SWTC has been operating since 1927 to remove grit and debris from wastewater that the District services. This process involves incineration of sludge, transport of the residual ash in a slurry to settlement and evaporation ponds, and eventual transfer of the dried ash to landfills. The SWTC also incinerates sludge generated at other facilities, including the District's Easterly Plant, which services the area where AMS is located.

In April 1991, NRC identified cobalt-60 at the SWTC in ash piles coincidental to an aerial radiation survey of an unrelated site. In September 1991 and March 1992, at the request of NRC, Oak Ridge Institute for Science and Education (ORISE) performed surveys at the SWTC to determine the extent of the cobalt-60 contamination at the facility. The results of the ORISE surveys are reported in *Radiological Characterization Survey for Selected Outdoor Areas, Northeast Ohio Regional Sewer District, Southerly Wastewater Plant, Cleveland, Ohio,* Final Report, August 1992 (hereafter referred to as ''ORISE report''). The ORISE report indicated that there were elevated direct radiation readings that were caused by cobalt-60 contamination, with elevated concentrations in soil and sediment samples. Based on this ORISE report and information collected and examined by NRC staff, NRC estimated that a total activity of 414 millicuries (15.3 gigabecquerels) of cobalt-60 existed at the SWTC in 1992.

Since the District needs to transfer the dried ash from the evaporation ponds to continue operations, NRC approved the site remediation strategy for ash removal, and had ORISE perform an independent survey to evaluate the radiological status of the remediated area. The District performed a radiological characterization of the facility to better determine the amount of cobalt-60 that is actually present on the SWTC site; the District's consultant estimated the quantity of cobalt-60 in the North Fill Area, as of 1993, to be about 443 millicuries (16.4 gigabecquerels).

As discussed below, NRC has evaluated the District's concerns and bases for its requests for NRC action. Although NRC has amended AMS' license to require remediation of the interceptor sewer line operated by the District in the vicinity of the connecting line from the AMS facility, which partially grants one of the District's requests, the District's remaining requests are denied for the reasons discussed below.

III. Discussion

A. Timing and Source of Contamination Identified at the SWTC

In 1991, cobalt-60 was discovered in the North Fill Area.[1] The staff's review of the history of the SWTC revealed that, after renovation of the incinerators between 1975 and 1978, the incinerators came back on line in November 1978, and the current ponds were put into use for the first time. The ponds were then cleaned for the first time from December 1982 to March 1983. The District removed the ash from the evaporation ponds and placed it in the North Fill Area, which was then landscaped. This was the only time the North Fill Area was used for ash disposal. Accordingly, the cobalt-60 entered the District's system and was deposited at SWTC between late 1978 (when the ponds were first used) and December 1982 (when the ponds were first cleaned and the ash placed in the North Fill Area). See Memorandum for Carl J. Paperiello, former Deputy Regional Administrator, NRC Region III, from Loren J. Hueter, Radiation Specialist, Division of Nuclear Material Safety, NRC Region III, on the subject of ''Report on Trip to General Chemical Corporation (Non-licensee), 5000 Warner Road, Cleveland, Ohio, and to Northeast Ohio Regional Sewer District, 6000 Canal Road, Cleveland, Ohio,'' (Docket No. 030–18276; License No. 34–17726–02) dated June 13, 1991. The staff's conclusion as to when cobalt-60 contamination entered the sanitary sewer system is supported by the District's letter, dated September 13, 1994, which stated that the earliest possible date that the cobalt-60 could have been discharged into the sanitary sewer was not more than a week or two before the opening of lagoons in October 1978.

In an attempt to determine all possible contributors of cobalt-60 contamination to the SWTC, NRC conducted a file review of all licenses issued since 1975, active and terminated, for activities at facilities in the zip code areas serviced by the District. NRC contacted existing and previous licensees for additional information. The U.S. Department of Energy was also contacted to determine if any of its operations in the Cleveland metropolitan area could have contributed to the cobalt-60 contamination at the SWTC. Although other cobalt-60 users were found in the NRC's file search, it was concluded that no facility, other than AMS' facility at 1020 London Road, Cleveland, Ohio, was authorized to possess the quantities of unsealed cobalt-60 that could have contributed to the levels of cobalt-60 contamination found at the SWTC. Memorandum from Roy Caniano, Chief, Materials Inspection Branch, Division of Radiological Safety & Safeguards (DRSS), Region III, to William L. Axelson, Director, DRSS, dated November 7, 1994 (hereafter ''Caniano memo'').

Given the information as to the timing of the disposals into the sewer system that caused the cobalt-60 contamination at the SWTC, the staff included Picker, which previously used the facility

[1] Significant levels of cobalt-60 requiring remediation were discovered in the North Fill Area, in the existing In-Place Ash section of the South Fill Area, and in the northern section of the South Fill Area. Only the North Fill Area contamination can be dated with any degree of certainty, although AMS records indicate that 1989 was the last year AMS discharged cobalt-60 directly into the sanitary sewer system.

under NRC license, in its review and inspection, although the District did not seek action against Picker. Current and former Picker employees, as noted in Inspection Report No. 030–16055/93003 (Section 3.C), issued November 7, 1994, stated that liquid radioactive waste was routinely discharged from the London Road facility. They stated, however, that the 1 curie (37 gigabecquerels) per year annual gross quantity disposal limit (10 CFR § 20.303) was never exceeded during their respective tenures. Based on the information gathered during the inspection, it is highly likely that Picker Corporation discharged cobalt-60 into the sanitary sewerage system every year that it operated the London road facility, including the 1978 and 1979 time period of interest. As for AMS, its records indicate that a total of 209 millicuries (7.73 gigabecquerels) of unsealed cobalt-60 was disposed of into the sanitary sewerage system during the period 1980 to 1989. Caniano memo at 3. AMS records indicate that 1989 was the last year that cobalt-60 was discharged directly into the sanitary sewerage system. NRC Inspection Report No. 030–16055/93003(DRSS) at 7, issued November 7, 1994. AMS records also specifically list releases during the 1980–82 time frame. Inspection Report No. 030–16055/93002 at 17, issued August 2, 1993. The information gathered by the staff indicates, therefore, that cobalt-60 was likely released from the London Road facility during the 1979–82 period of interest by both Picker and AMS.

AMS has recorded discharging cobalt-60 to the sanitary sewer system that eventually leads to SWTC, as described above. AMS records indicate, however, that it had been discharging cobalt-60 in accordance with the quantities and concentrations authorized by the then-applicable regulations and license. NRC's inspection and review of records have not revealed any documentation at AMS or other evidence that would indicate discharges in excess of authorized limits.

B. Request for NRC Action To Require AMS To Assume the Cost Resulting From Offsite Release of Cobalt-60

The staff has carefully considered the action the District has requested and the bases stated by the District for its request. In addition, the staff has evaluated the results of its inspections and all available information related to the District's requests. None of the available information, individually or taken together, demonstrates that AMS violated NRC regulatory limits or other requirements related to the discharge of cobalt-60 into the sanitary sewer system.

In a proceeding involving the decommissioning of the Yankee Nuclear Power Station near Rowe, Massachusetts, the Commission stated that it had no authority to grant an intervenor's request for compensation similar to the District's. Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI–96–7, 43 NRC 235 (1996). In the Yankee Atomic proceeding, the licensee had initiated substantial decommissioning of its facility through a ''Component Removal Project'' (CRP) under a new Commission policy interpreting the decommissioning rule (10 CFR § 50.82) and had removed and disposed of many radioactive components through the CRP. The intervenors succeeded in challenging the Commission policy, which had allowed the licensee to initiate the CRP without an opportunity for a hearing. *CAN* v. *NRC*, 59 F.3d 294 (1st Cir. 1995). As relief for the failure to offer an opportunity for a hearing, and based on their assertion that the CRP had caused workers and the public to receive doses far above those as low as reasonably achievable, the intervenors requested the Commission to require the licensee to establish a fund for the treatment of cancers caused by the doses resulting from the CRP. Yankee Atomic, CLI 96–7 at 268. In rejecting the intervenors' arguments, the Commission held that ''no statute or regulation grants the Commission authority to require the Licensee to pay (in effect) compensatory damages to private individuals.'' Id. at 269.

The District's request for compensation from AMS for costs resulting from offsite releases of cobalt-60 from the London Road facility is not materially different from the Yankee Atomic intervenors' request for compensation. No statute authorizes the NRC to require any licensee to pay such compensatory damages, especially in a case in which the releases that resulted in the third party's damages were within applicable NRC limits.

The District, in addition to filing its Petition with NRC, instituted a court action against AMS and other defendants for tort remedies, including property damage and remediation costs, resulting from the discharge of cobalt-60 into the District's system. The action, which was pending before the United States District Court for the Northern District of Ohio, Eastern Division (Case No. 1:94 CV 2555), has been settled. Letter dated January 2, 1997, from L. K. English, Esq., Northeast Ohio Regional Sewer District, to J. Madera, Division of Nuclear Material Safeguards, NRC. A court of competent jurisdiction, and not NRC, is the proper forum for the District to seek compensatory damages from AMS. Accordingly, the District's request for NRC action to require AMS to assume the costs resulting from the release of cobalt-60 is denied.

C. Request To Require AMS to Decontaminate the Sewer Connecting Its London Road Facility With the Public Sewer at London Road and Continue Downstream to the Extent AMS/NRC Sampling Indicates Is Necessary

By letter dated April 29, 1996, the District supplemented its original Petition with a request that AMS be required to ''safely and reasonably'' decontaminate the London Road interceptor. In addition, the District requested that NRC take action to have AMS complete the decontamination of the interceptor if NRC believed that it had already ordered AMS to take action to decontaminate the interceptor. The indicated sewer connection that was identified as having excessive exposure rates is on AMS property. NRC did issue a Notice of Violation (NOV) for AMS' violation of 10 CFR § 20.105, in that the exposure rates in the accessible sewer line on the AMS facility were excessive for an unrestricted area. NOV issued to AMS, License No. 34–19089–01, dated May 5, 1988, resulting from a special safety inspection conducted on April 13, 1988 (NRC Inspection Report No. 16055/88001 (DRSS)). However, the manhole controlling access to the sewer connection was designated a restricted area; the sewer cover on the AMS property was secured with a lock and bar; and the sewer connection area was partially decontaminated, reducing the contamination and exposure rate levels. Letter from T. J. Hebert, Chairman, Radioisotope Committee, AMS, to R. E. Burgin, Senior Radiation Specialist, NRC Region III, dated May 23, 1988. These facts were confirmed by Oak Ridge Associated Universities, contracted by NRC to perform a radiological survey to determine the then current conditions at the AMS facility. See Oak Ridge Associated Universities Report *Radiation Survey of the Advanced Medical Systems, Inc., London Road Facility, Cleveland, Ohio,* Final Report at 20 (April 1989). The exposure rates are no longer considered excessive as a result of the decontamination performed by AMS and the designation of the manhole as a restricted area. Moreover, in 1995, AMS permanently sealed the lateral from the old manhole to the sewer line. AMS also removed most of the original foundation underdrain system and replaced it with a new, clean system. AMS is currently required to test the groundwater pumped from the new

foundation underdrain system, to ensure compliance with 10 CFR § 20.2003.

The NRC has taken action by issuing Amendment No. 32 to AMS' license, dated March 17, 1995, in which the NRC, through Condition 19.F., required AMS to remediate the London Road interceptor in the vicinity of the abandoned lateral, as described in an AMS letter proposing action to remediate contaminated piping. See ''Action Plan for the London Road Facility,'' at 2 (Jan. 27, 1996). License Condition 19 required that remediation of the interceptor be completed within 90 days (i.e., by June 15, 1995). In Amendment No. 35 to AMS' license, dated June 16, 1995, NRC required AMS to initiate remediation activities no later than July 8, 1995, and to notify NRC no later than July 14, 1995, to confirm initiation of the remediation of the interceptor. Amendment No. 35, however, deleted the June 15, 1995, date for completion of remediation of the interceptor imposed by Amendment No. 32.

By a letter dated July 12, 1995, AMS informed NRC that it would not start the remediation of the interceptor until July 29, 1995, and did not provide an estimated completion date for the remediation, as AMS further informed NRC that it needed the District's approval to access the interceptor. Letter from R. Meschter, Radiation Safety Officer (RSO), AMS, to J. Caldwell, NRC, dated July 12, 1995. By a letter dated July 19, 1995, AMS informed NRC that, for the same reasons given in the July 12, 1995, letter, it would not initiate remediation until August 11, 1995. Letter from R. Meschter, RSO, AMS, to J. Caldwell, NRC, dated July 19, 1995. At that time, AMS and the District still had not agreed on arrangements for entry and evaluation of the interceptor.

In a letter dated January 2, 1997, from L. K. English, Esq., Northeast Ohio Regional Sewer District, to J. Madera, NRC, the District forwarded a copy of a settlement agreement between the District and AMS regarding their court litigation. The settlement indicates that AMS agreed, inter alia, to pay the District a fixed sum, and the District agreed to allow re-connection of the AMS facility to the London Road interceptor after AMS' taking certain actions pertaining to conditions of the facility, and to design and construction of the connection. The part of the agreement concerning re-connection provides an alternative to use the present manhole located in London Road, provided that the plans include decontamination of the interceptor, at AMS' cost, before such use. The agreement specifies conditions and procedures under which AMS may plan to use the present manhole in the interceptor. In a meeting with NRC and AMS on February 10, 1997, AMS indicated that it was its intention to reconnect. Official Transcript of Proceedings: ''Public Meeting with Advanced Medical Systems, Inc.,'' pp. 50–51 (Feb. 10, 1997). AMS stated it will probably take from nine months to a year and a half for re-connection to actually happen. Id. at 51. In summary, insofar as Amendments No. 32 and 35 require AMS to remediate the sewer connecting its London Road facility with the public sewer, this request of the District has been partially granted. Although access to the interceptor is now controlled, License Condition 19.F. requires AMS to remediate the interceptor. The staff intends to pursue this matter in the near future. It is the staff's intent that the access concerns be resolved promptly, so that remediation may begin and be completed as soon as practical.

D. Other Issues Raised in Supplements to Petition

By letters dated September 13, 1994, and October 13, 1994, the District supplemented its original Petition with a request that NRC commence an appropriate enforcement action against AMS for the maintenance of grossly inaccurate records of disposal of radioactive material from 1978 to 1993, in violation of 10 CFR § 20.401(b)(3) (in effect through December 31, 1993). The District also asserted that AMS had disposed of cobalt-60 that was not ''readily soluble or dispersible in water,'' in violation of 10 CFR § 20.303 (in effect through December 31, 1993), and had more recently discharged cobalt-60 which was not ''readily soluble or dispersible biological material,'' in violation of 10 CFR § 20.2003 (in effect on January 1, 1994, and thereafter).

The staff has conducted numerous recent inspections at the London Road facility to address the District's concerns over cobalt-60 discharges into the sanitary sewerage system. On March 15, 1995, NRC issued a Notice of Violation to AMS for failures to: (1) Evaluate the quantity of cobalt-60 released to the sewer system resulting from facility floods and certain decontamination activities; and (2) remove non-suspendible solids by the use of a cloth filter, as required by AMS' license conditions. The background relating to unmonitored releases resulting from facility floods and certain decontamination activities is set forth below.

The information as to when the unmonitored releases occurred came from current and former Picker and AMS employees and identified several occasions in the late 1960s and the mid- to late-1980s when the basement was flooded, resulting in backflow into the sewer system. The available information indicated that not all these occurrences were evaluated to identify the amount of radioactivity that may have been released. Inspection Report No. 030–16055/93003, at 16–19. Based on the extensive information provided by the interviewees, the staff concluded that it was unlikely that the cumulative total quantity of cobalt-60 released during these unmonitored releases exceeded a few hundred millicuries. Id.

As to the filtering of the waste water pumped from holding tanks in the Waste Hold-Up Tank room, the information gathered from the interviewees strongly indicated that the filter was not always in place from the mid-1970s through the mid-1980s, thus raising the potential for cobalt-60 pellets to have been discharged through this route into the sewer system. Id. at 14.

The NRC has already taken enforcement action for the failures to: (1) Evaluate and report certain releases into the sewer system as a result of facility floods or decontamination activities that likely included cobalt-60; and (2) ensure that waste water in the hold-up tanks was passed through filters that should have captured any cobalt-60 pellets before the release of the water to the sewer system. The staff does not believe that further enforcement action for the matters identified in the September 1994 supplement is warranted.

Regarding the October 1994 supplement's request for enforcement action for violation of 10 CFR § 20.2003, the staff has not found evidence, based on NRC interviews and review of records, that AMS intentionally disposed of cobalt-60 into the facility's drains leading to the District's sanitary sewerage system since May 1989. The AMS records contain no discharge log entries after this date. Furthermore, AMS has not generated liquid radioactive waste from manufacturing operations in several years, and has no plans to do so in the future, because of termination of source manufacturing operations. See Inspection Report No. 030–16055/93002. However, both the District and the staff performed sampling (post January 1, 1994, the effective date of revision of 10 CFR Part 20) that identified cobalt-60 at the point of discharge of the sanitary sewerage piping from the London Road facility into the District's sewer line. See the

District's supplement to its Petition, dated October 13, 1994, and Inspection Report

No. 030–16055/94003, issued on December 6, 1994. The presence of the cobalt-60 appears to be a result of plate-out of cobalt-60 onto the walls of the piping leading from the London Road facility. The staff had characterized the results of its sampling as indicating an apparent violation of 10 CFR § 20.2003. Id.

The sampling performed by the District and subsequent sampling performed by the staff in early 1995 indicated that some or all the cobalt-60 detected might be ''soluble,'' as that term is defined in NRC Information Notice No. 94–07, dated January 28, 1994. The uncertainty as to the solubility of the cobalt-60 prompted the staff to begin preparations for a solubility analysis of the sample taken on August 17, 1994. In accordance with Region III policy, those samples had been transferred back to the District, on whose property the samples had been taken. Because of further analyses the District had performed on the samples, the samples no longer existed in their original form; therefore further solubility analyses could not be performed. Further representative samples of the water at this point in the waste stream could not be taken because of the District's plugging of the pipe. In view of the inability of the staff to determine that the cobalt-60 in the sampled water was, in fact, insoluble, there was an insufficient basis to cite AMS for a violation of 10 CFR § 20.2003. Furthermore, there is not now a significant potential for discharge of cobalt-60 from the London Road facility to the District's system because: (1) old piping connecting the facility to the District's lines has been plugged; (2) the District has not permitted AMS to connect new clean piping installed by AMS to the District's lines; and (3) AMS collects and treats all water used on the site and holds it in tanks before it is determined not to contain insoluble cobalt-60.

The staff believes that the vast majority of cobalt-60 inventory and activity discharged into the District's sanitary sewerage system was dispersible. It can be expected that a small amount of readily dispersible material would plate-out onto the sewer system pipes over the long history of cobalt-60 discharges by Picker and AMS. Staff concludes that the fact that a small amount of cobalt-60 built up over time in sewer pipes leading from the AMS facility, by itself, does not support the District's assertion that a discharge in violation of 10 CFR § 20.303 or 10 CFR § 20.2003 occurred.

IV. Conclusion

For the reasons discussed above, no basis exists for taking any action, in addition to the action described above, in response to the requests in the Petition and its supplements. Accordingly, no further action pursuant to 10 CFR § 2.206 is being taken in this matter.

As provided by 10 CFR § 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. The Decision will become the final action of the Commission twenty-five (25) days after issuance unless the Commission on its own motion institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 13th day of June, 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director Office of Nuclear Material Safety and Safeguards

[FR Doc. 97–16174 Filed 6–19–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–250, 50–251, 50–335, and 50–389, License Nos. DPR–31, DPR–41, DPR–67, and NPF–16]

Florida Power & Light Company, Turkey Point, Units 3 and 4, and St. Lucie, Units 1 and 2; Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by Petition dated April 23, 1997, as supplemented May 11 and May 17, 1997, Thomas J. Saporito, Jr., on behalf of himself and the National Litigation Consultants (Petitioners) has requested, pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206), that the U.S. Nuclear Regulatory Commission (Commission or NRC) take action with regard to operations at the Florida Power & Light Company's (FPL or licensee) Turkey Point Nuclear Station, Units 3 and 4, and St. Lucie Nuclear Station, Units 1 and 2.

The Petitioners request the Commission (1) modify, suspend, or revoke FPL's operating licenses for these facilities until FPL can sufficiently demonstrate that employees at the FPL nuclear facilities are exposed to a work environment that encourages employees to freely raise safety concerns directly to the NRC without being required to first identify safety concerns to the licensee; (2) take escalated enforcement action because of discriminatory practices of the licensee in violation of 10 CFR 50.7 and/or other NRC regulations, and that the enforcement action be retroactive to the initial occurrence of the violation by the licensee; (3) conduct a public hearing through the Atomic Safety and Licensing Board and permit Petitioners leave to intervene to perfect an evidentiary record in consideration of whether the licensee has violated NRC requirements and/or regulations; (4) require the licensee to post a written notice alongside each NRC Form 3 currently posted at the licensee's nuclear facilities that alerts employees that they can directly contact the NRC about safety concerns without first identifying the safety concerns to the licensee; (5) require the licensee to provide a copy of the posted communications to all employees and insure that all employees are made aware of those communications through the licensee's General Employee Training Program; and (6) require the licensee to provide the NRC with written documents authorized by licensee officers under affirmation that the requirements described in items (4) and (5) have been fully complied with.

In the supplement of May 11, 1997, the imposition of a civil penalty in the amount of $100,000 against each of three former FPL managers is requested and that the NRC refer the matter of the conduct of these managers to the Department of Justice for consideration of invoking criminal proceedings.

In the supplement of May 17, 1997, the Petitioners requested imposition of a civil penalty in the amount of $100,000 against each of six FPL employees and restriction of these employees' licensed activities and revocation of their unescorted access to nuclear facilities; the imposition of a civil penalty in the amount of $100,000 against the International Brotherhood of Electrical Workers (IBEW), that the IBEW be required to inform its members that they have a right to report safety concerns directly to the NRC, and that the IBEW encourages such action at the discretion of its members; and the imposition of a civil penalty in the amount of $100,000 against two agents or representatives of the licensee. The Petitioners also requested investigations of ''willful falsification'' of a company record and the cause of ''transcripts found missing'' in a Department of Labor (DOL) proceeding, and the referral of the matter of the conduct of the eight individuals and entities to the Department of Justice for consideration of invoking criminal proceedings. Finally, it was requested that the NRC conduct an interview with the

Petitioners regarding the substance of their 2.206 Petition.

As grounds for this request, the Petitioners assert that the NRC's failure to take enforcement action against the licensee on the basis of the Secretary of Labor's finding in case 89–ERA–07/17 that FPL violated the Energy Reorganization Act when it discharged an employee for raising safety concerns has resulted in a ''chilling effect'' at FPL and continued discrimination against employees by FPL in violation of 10 CFR 50.7. In addition, in the Petitioners' May 11, 1997, supplement to their Petition, they assert that the employee's ''Damages Brief'' in the Department of Labor proceeding establishes that the licensee and its managers are liable for creating a hostile work environment at Turkey Point and have failed to stop harassment and discrimination against the employee. The Petitioners further assert that the record in this case contains evidence showing direct participation of the employee's chain of command in the retaliatory actions taken against the employee. In the supplement to the Petition of May 17, 1997, the Petitioners assert that certain pleadings and transcripts in this DOL proceeding set out a chronology of events surrounding missing record transcripts and the falsification of a licensee company business record. They further assert that there exists additional evidence necessitating a meeting between the NRC and Petitioners.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this Petition within a reasonable time. A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, D.C. 20555–0001.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 14th day of June 1997.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16175 Filed 6–19–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–219]

GPU Nuclear Corporation; Oyster Creek Nuclear Generating Station; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission (NRC), has dismissed as premature a Petition dated April 1, 1997, submitted as a resolution passed by Berkeley Township Environmental Commission (Petitioners) opposing an upcoming planned transfer of spent nuclear fuel from wet to dry storage during operation of Oyster Creek Nuclear Generating Station (OCNGS). Petitioners requested that NRC direct GPU Nuclear (GPU) to shut down the nuclear reactor at OCNGS during the aforementioned fuel transfer.

Specifically, the Petitioners asserted that (1) the load transfer path for the 100-ton fuel transfer casks passes over the reactor's containment mechanism and other safety-related equipment; (2) NRC Bulletin 96–02, dated April 11, 1996, states that a dropped cask could damage the isolation condensers and the torus, creating the possibility of an unisolable leak, which in industry jargon describes a situation perilously close to a nuclear meltdown; (3) the operating record of GPU demonstrates it is capable of human error, including dropping heavy loads; (4) Berkeley Township could not be successfully evacuated in the event of a serious nuclear accident at OCNGS; and (5) the safer, simpler alternative of turning off the reactor while lifting 100-ton loads over the containment can be easily implemented.

The Director of the Office of Nuclear Reactor Regulation has determined that the request should be dismissed as premature for the reasons stated in the ''Director's Decision Under 10 CFR 2.206 (DD–97–14), the complete text of which follows this notice. The decision and the documents cited in the decision are available for public inspection and copying at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC, and at the local public document room located at Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey.

A copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c). As provided by that regulation, the decision will constitute the final action of the Commission 25 days after the date of its issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Rockville, Maryland this 16th day of June 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Director's Decision Under 10 CFR 2.206

I. Introduction

By a Petition submitted pursuant to 10 CFR 2.206 and dated April 1, 1997 (Petition), Berkeley Township Environmental Commission (Petitioners) requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to Oyster Creek Nuclear Generating Station (OCNGS) operated by GPU Nuclear Corporation (GPU or licensee). The Petitioners requested that the NRC direct the licensee to shut down OCNGS during an upcoming planned transfer of fuel from wet to dry storage.

The Petitioners based their request on the following assertions: (1) The load transfer path for the 100-ton fuel transfer casks passes over the reactor's containment mechanism and other safety-related equipment; (2) NRC Bulletin 96–02, dated April 11, 1996, states that a dropped cask could damage both isolation condensers and the torus, creating the possibility of an unisolable leak, which in industry jargon describes a situation perilously close to a nuclear meltdown; (3) the operating record of GPU demonstrates it is capable of human error, including dropping heavy loads; (4) BerkeleyTownship could not be successfully evacuated in the event of a serious nuclear accident at OCNGS; and (5) the safer, simpler alternative of turning off the reactor while lifting 100-ton loads over the containment can be easily implemented.

For the reasons stated below, I have dismissed the Petitioners' request as premature.

II. Discussion

The Petitioners have requested that the NRC take action against the licensee on a matter involving the potential transfer of spent fuel during plant operation. However, this is an activity for which the licensee has not yet requested authorization from the Commission. At a public meeting on February 29, 1996, the NRC informed GPU that it would have to obtain a license amendment to move fuel from wet to dry storage, using the facility's existing crane, while the reactor is

operating at power. The staff had reviewed the licensee's safety evaluation of its crane, including the crane upgrades, and concluded that all safety concerns had been addressed and resolved and that the planned movement of spent fuel to the dry storage facility during plant operation would be safe and in accordance with all license requirements. However, the NRC also determined that because the possibility of an unreviewed safety question existed before GPU made modifications to upgrade its reactor building crane, GPU would have to submit a request for a license amendment for the proposed cask movement. If GPU submits such an amendment request to the NRC, pursuant to 10 CFR 50.91,[1] it will be published in the **Federal Register** for public comment, and an opportunity for a public hearing will be provided. The Petitioners and other interested members of the public then would have the opportunity to express their concerns about the amendment. As noted above, the licensee cannot transfer the fuel while operating with its current crane configuration without being issued a license amendment.[2]

III. Conclusion

The NRC staff has reviewed the Petitioners' request that GPU shut down its reactor during its transfer of fuel from wet to dry storage. The licensee does not now have a request before the Commission to amend its license to allow such a transfer. As a result, before any Commission action could even be contemplated, the licensee would have to make such a request pursuant to NRC regulations, with the aforementioned opportunities for public participation in the resolution of any such request. For this reason, the Petition is dismissed as premature.

A copy of this Director's Decision will be filed with the Secretary of the Commission for the Commission to review as stated in 10 CFR 2.206(c). This decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland this 16th day of June 1997.

For The Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–16176 Filed 6–19–97; 8:45 am]

BILLING CODE 7590–01–P

[1] 10 CFR 50.91 specifies the Commission procedures to be followed when it receives an application requesting an amendment to an operating license, including procedures for consulting the State in which the facility is located and procedures for notifying the public of the license amendment and the opportunity for a hearing.

[2] The licensee is currently considering various options for moving the spent fuel from wet to dry storage, such as requesting a license amendment based on already completed upgrades to the reactor building crane, transferring the spent fuel when the reactor is shut down, and further upgrading the reactor building crane to meet the criteria for a single-failure-proof crane in which case an amendment to transfer fuel from wet to dry storage may not be required. The Commission has not required license amendments for facilities handling heavy loads that employ a crane meeting the specifications and design criteria in NUREG–0554, ''Single-Failure-Proof Cranes for Nuclear Power Plants.'' However, NRC technical staff will evaluate any option selected to ensure that all safety concerns are adequately addressed and documented.

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Evidence of Coverage Under a Group Health Plan; OMB 3220–0189. Under Section 7(d) of the Railroad Retirement Act (RRA), the Railroad Retirement Board (RRB) administers the Medicare program for individuals covered by the railroad retirement system. Under sections 1837(i) and 1839(b) of the Social Security Act, qualified railroad retirement beneficiaries applying for Medicare (Part B) may be entitled to a Special Enrollment Period (SEP), and/or premium surcharge relief because of coverage under an Employer Group Health Plan (EGHP). The provisions relating to SEP and premium surcharge relief for Medicare benefits are found in Sections 1837(i) and 1839(b) of the Social Security Act and in regulations 42 CFR 407.20, 407.25 and 408.24.

In order for the RRB to determine entitlement to a SEP and/or premium surcharge relief because of coverage under an EGHP, it needs to obtain information regarding the claimant's EGHP coverage, if any. The RRB utilizes Form RL–311–F, Evidence of Coverage Under An Employer Group Health Plan, to obtain the necessary information from railroad employers. Completion is voluntary. One response is requested for each RRB inquiry.

The RRB proposes a minor editorial change to Form RL–311–F to incorporate language required by the Paperwork Reduction Act of 1995. No other changes are proposed. The completion time for the RL–311–F is estimated at 10 minutes per response. The RRB estimates that approximately 1,000 responses are received annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuch Mierzwa,

Clearance Officer.

[FR Doc. 97–16156 Filed 6–19–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1637/803–110]

Arthur Andersen Financial Advisers; Notice of Application

June 16, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

APPLICANT: Arthur Andersen Financial Advisers (''AAFA'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 203A(c) from section 203A(a).

SUMMARY OF APPLICATION: Applicant requests an order to permit it to continue to be registered with the SEC as an investment adviser.

FILING DATES: The application was filed on January 30, 1997, and amended on June 11, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 33 West Monroe Street, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: Jennifer S. Choi, Special Counsel, at (202) 942–0725 (Division of Investment Management, Task Force on Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant was created as an Illinois general partnership in 1994. Its general partners are Arthur Andersen LLP (''Arthur Andersen''), an Illinois limited liability partnership, and Arthur Andersen, Inc., a Delaware corporation and wholly-owned subsidiary of Arthur Andersen.[1] Arthur Andersen provides accounting, auditing, tax consulting, business systems consulting, corporate finance and other related services.

2. Applicant was established to supervise the investment advice rendered in connection with personal and institutional financial planning and employee benefit plan consulting services (collectively, ''investment advisory services'') provided by partners and professional employees of Arthur Andersen to clients of Arthur Andersen.[2] Personal financial planning services may include such things as personal tax and cash flow planning, estate planning, retirement planning, educational funding, insurance planning, compensation and benefits planning, and the preparation of financial analyses and personal financial statements reflecting net worth, cash flow, and income tax projections. In this connection, applicant supervises matters such as the allocation of assets among different investment categories, portfolio diversification, managing portfolio risk and general economic and financial topics.

3. Applicant also supervises activities involving similar types of investment advisory services provided to employee benefit plan clients of Arthur Andersen. These services include performing an actuarial study of the employee benefit plan and its related cash flows to assist the employee benefit plan client in developing an asset allocation matrix. An employee benefit plan client may request that applicant review the plan's portfolio for compliance with the plan's investment objectives, compare a money manager's or mutual fund's performance with those of agreed upon market indices or benchmarks, and report material changes relating to a money manager. As part of its investment advisory services, applicant conducts educational seminars and provides its clients other educational tools, such as workshops, software and newsletters. Applicant, from time to time, provides independent fiduciary services for certain clients governed by the Employee Retirement Income Security Act of 1974. Neither applicant nor Arthur Andersen has custody of client assets in connection with the provision of investment advisory services. In addition, neither applicant nor Arthur Andersen manages client accounts on either a discretionary or a non-discretionary basis.

4. Since March 1995, applicant has been registered as an investment adviser with the SEC. Applicant provides investment advisory services from 51 offices located in 39 states (which includes the District of Columbia and the Commonwealth of Puerto Rico) to over 500 clients nationwide.

5. Applicant has established and maintains a strong centralized form of governance to supervise effectively these investment advisory services. Applicant is governed by an advisory board of Arthur Andersen partners and principals. Applicant has established policies regarding the scope and content of any investment advice rendered by applicant and is responsible for supervising compliance with these policies.

6. On October 11, 1996, the National Securities Markets Improvement Act of 1996 (''1996 Act'') was enacted. Title III of the 1996 act, the Investment Advisers Supervision Coordination Act (''Coordination Act''), added section 203A to the Advisers Act, which allocates regulatory responsibilities between federal and state securities regulators for the registration and oversight of investment advisers. Section 203A(a)(1) prohibits an investment adviser that is regulated or required to be regulated as an investment adviser in the state in which it maintains its principal office and place of business from registering with the SEC unless the investment adviser (i) has assets under management of $25 million or more or (ii) acts as an investment adviser to an investment company registered under section 8 of the Investment Company Act of 1940 (''1940 Act''). Section 203A(a)(2) defines the phrase ''assets under management'' as the securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services. The states may require registration of investment advisers that are not subject to SEC registration. The extent to which a state may require registration of such investment advisers, however, is subject to a national de minimus standard. The Coordination Act added section 222 to the Advisers Act, which, among other things, exempts investment advisers from the registration requirements of a state if they do not have a place of business[3] located in the state and have had fewer than six clients during the preceding 12 months who are residents of the state.

7. Applicant does not actively manage client securities portfolios, either on a discretionary or non-discretionary basis, and does not provide ''continuous and regular supervisory or management services'' with respect to customer accounts.[4] Nor does applicant act as an

[1] Arthur Andersen, Inc. was organized under Delaware corporate law for purposes of holding the Arthur Andersen name in Delaware. It is not an operating company, but merely holds some ownership interests in entities affiliated with Arthur Andersen.

[2] Arthur Andersen received a no-action letter from the Division of Investment Management in reliance upon which the applicant registered under the Advisers Act in connection with investment advisory services provided by Arthur Andersen partners and professional employees to the extent that these services are supervised by and in accordance with policies and procedures established by applicant. *See* Arthur Andersen & Co. (pub. avail. July 8, 1994) (''Arthur Andersen Letter'').

[3] Rule 222–1 defines ''place of business'' of an investment adviser to mean an office at which the investment adviser regularly provides investment advisory services, solicits, meets with, or otherwise communicates with clients and any other location that is held out to the general public as a location at which the investment adviser provides investment advisory services, solicits, meets with, or otherwise communicates with clients. 17 CFR 275.222–1.

[4] Instruction 8(c) to Form ADV–T states that accounts over which an adviser has discretionary authority and for which it provides ongoing supervisory or management services and accounts over which an adviser does not have discretionary

investment adviser to an investment company registered under the 1940 Act. Furthermore, applicant maintains its principal office and place of business in Illinois, which does regulate applicant as an investment adviser. Therefore, in the absence of exemptive relief, applicant believes section 203A(a)(1) would prohibit applicant from registering with the SEC as an investment adviser.

Applicant's Legal Analysis

1. Section 203A(c) authorizes the SEC to permit an investment adviser to register with the SEC if prohibiting registration would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A. For the reasons discussed below, applicant believes that it meets the standards for exemptive relief under section 203A(c).

2. Applicant believes Congress intended section 203A to streamline the registration and oversight of investment advisers by dividing responsibilities between the SEC and the states to make more efficient use of the limited resources of federal and state governments. To this end, applicant notes that Congress determined that the states should be responsible for regulating investment advisers ''whose activities are likely to be concentrated in their home state,'' but ''[l]arger advisers, with national businesses'' should be regulated by the SEC and be ''subject to national rules.'' [5] Applicant submits that Congress chose an assets-under-management requirement as a rough proxy that would divide responsibilities between the SEC and the states on the theory that investment advisers managing $25 million or more in assets are likely to be national investment advisers that should be subject to the national rules of the SEC, while investment advisers managing under $25 million are likely to be small investment advisers that should be subject to the local rules of the various states.

3. Applicant believes that Congress recognized that the assets-under-management requirement does not precisely differentiate national investment advisers from local investment advisers, and that some national investment advisers may not qualify for registration with the SEC under the test formulated by Congress. Applicant states that Congress noted that ''the definition 'assets under management' requires that there be continuous and regular supervisory or management services—a standard which may, in some cases, exclude firms with a national or multistate practice from being able to register with the [SEC].'' [6] To remedy any unfairness, burdens, or inconsistencies caused by the assets-under-management requirement, applicant notes that Congress directed the SEC to use its exemptive authority to ''permit, where appropriate, the registration of such firms'' with the SEC and to address situations in which investment advisers with a ''national or multistate practice'' were otherwise prohibited from registering with the SEC.[7]

4. Applicant asserts that it engages in a national, multistate practice and, therefore, is the type of investment adviser that Congress directed the SEC to consider exempting under section 203A(c). Applicant conducts its investment advisory services from 51 offices in 39 states to over 500 clients nationwide. Applicant claims that the extent of applicant's investment advisory services means that it does not qualify for the national de minimis standard, as set forth in section 222 of the Advisers Act, in 38 states (including the District of Columbia and the Commonwealth of Puerto Rico) because either it has a place of business in those states or has provided investment advisory services to more than five clients during the preceding 12 months who are residents of those states. Applicant also states that it qualifies for a state exemption from registration that is broader than the national de minimis standard in only one state. Consequently, applicant represents that it is legally obligated to register under the investment adviser statutes in 37 states (including the District of Columbia and the Commonwealth of Puerto Rico).[8]

5. Applicant asserts that prohibiting its continued registration with the SEC would be unfair because the applicant's investment advisory business is substantially similar to that of other national investment advisers that are eligible for SEC registration and oversight. Applicant notes that it and other national investment advisers provide investment advisory services to clients throughout the nation, and are registered as investment advisers with the SEC and multiple states. Applicant also notes that the primary difference between applicant and other national investment advisers is the manner in which client accounts are managed. Pursuant to the Arthur Andersen Letter, applicant submits that it was permitted to register as an investment adviser, in lieu of Arthur Andersen so registering, to supervise the activities of partners and professional employees of Arthur Andersen, but the investment advisory services of applicant were restricted so that it cannot exercise discretionary authority over client accounts or provide investment advice concerning specific securities or mutual funds. Applicant asserts that the fact that its business is restricted by the terms of the Arthur Andersen Letter does not diminish in any way the national stature of its business and that it should be able to continue under the registration and oversight of the SEC, just as other, similarly situated national investment advisers.

6. Applicant asserts that it would be a burden on interstate commerce if it is prohibited from being registered with and under the oversight of the SEC. Applicant believes that continued registration with and oversight by the SEC would promote the advisory board's uniform policies and procedures and facilitate centralized compliance standards.

7. Applicant also believes that it would be inconsistent with the purposes of section 203A if it is prohibited from being registered with the SEC. Applicant asserts that Congress intended that national investment advisers remain under SEC registration and oversight, in part, to focus SEC supervision and examination resources on investment advisers involved in interstate commerce. Applicant contends that the centralized nature of applicant's activities lends itself to supervision and examination by one regulatory body. Applicant also believes that Congress established a method, which was not intended as the sole method, to identify and divide investment advisers with a national presence and those with a local presence based upon assets under management. Applicant argues that Congress recognized the imprecision of this rough proxy and, therefore, directed the SEC to address those cases in which

authority, but has an ongoing responsibility to select or make recommendations, based upon the needs of the client, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the client, is responsible for arranging or effecting the purchase or sale are considered to be the subject of continuous and regular supervisory or management services within the meaning of section 203A(a)(2). Applicant states that it does not satisfy either of these provisions.

[5] S. Rep. No. 293, 104th Cong. 2d Sess. 4 (1996).

[6] *Id.* at 5.

[7] *Id.*

[8] Applicant explains that the determination of the states in which it is legally obligated to register as an investment adviser is based upon: (i) applicant's information about its current clients, and (ii) a review of generally available standard compilations of state securities laws and regulations commonly used for purposes of determining investment adviser registration.

national investment advisers do not satisfy the assets under management requirement.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16218 Filed 6–19–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IA–1638/803–108]

Ernst & Young Investment Advisers LLP; Notice of Application

June 16, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Exemption under the Investment Advisers Act of 1940 (''Advisers Act'').

APPLICANT: Ernst & Young Investment Advisers LLP (''EYIA'').

RELEVANT ADVISERS ACT SECTIONS: Exemption requested under section 203A(c) from section 203A(a).

SUMMARY OF APPLICATION: Applicant requests an order to permit it to continue to be registered with the SEC as an investment adviser.

FILING DATES: The application was filed on February 20, 1997, and amended on June 11, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 7, 1997, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 787 Seventh Avenue, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Jennifer S. Choi, Special Counsel, at 942–0725 (Division of Investment Management, Task Force on Investment Adviser Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a limited liability partnership formed under Delaware law and owned by Ernst & Young LLP (''Ernst & Young'') and Ernst & Young U.S. LLP. Since April 7, 1995, applicant has been registered as an investment adviser with the SEC.

2. Applicant is responsible for the investment advisory services provided by persons in the Personal Financial Counseling practice at Ernst & Young, which is a functional specialty within Ernst & Young's Tax Department.

3. Under applicant's supervision, Ernst & Young provides fee-only personal financial and investment counseling services. Clients of this practice area include (1) large employee groups, (2) affluent individuals, (3) business executives (primarily through company-sponsored programs), (4) closely-held business owners, (5) family offices, (6) private and public foundations, (7) educational and other not-for-profit endowments, (8) corporations, and (9) employer-sponsored welfare and retirement plans. As to certain of these clients, Ernst & Young personnel monitor the activities and performance of other investment advisers selected by the client. Ernst & Young does not have discretionary trading authority for any of its advisory clients.

4. Ernst & Young has 90 offices, which are located in 38 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

5. Applicant has determined that it is required under applicable state laws to register as an investment adviser in 36 states (which include Puerto Rico).

Applicant's Legal Analysis

1. In October 1996, Congress passed the National Securities Markets Improvement Act of 1996 (''1996 Act''). Title III of the 1996 Act, the Investment Advisers Supervision Coordination Act (''Coordination Act''), reallocates regulatory responsibilities for investment advisers between the SEC and the regulatory authorities of the several states. The Coordination Act added section 203A to the Advisers Act, which provides that the only advisers that may register with the SEC are those with assets under management of not less than $25,000,000 or such higher amount as the SEC may, by rule, deem appropriate in accordance with the purposes of the Coordination Act. Section 203A(a)(2) defines ''assets under management'' as the ''securities portfolios with respect to which an investment adviser provides continuous and regular supervisory or management services.'' Advisers that do not meet the $25 million threshold are prohibited from registering with the SEC; those advisers must register with the states in which they do business.

2. Instruction 8(c) to Form ADV–T provides that accounts over which an adviser has discretionary authority and for which it provides ongoing supervisory or management services are considered to be the subject to continuous and regular supervisory or management services within the meaning of section 203A(a)(2). Applicant states that it does not meet this test because Ernst & Young does not have discretionary authority over any of its clients' securities portfolios. Instruction 8(c) also provides that certain non-discretionary advisory arrangements may meet the section 203A(a)(2) test, but only if the adviser has an ongoing responsibility to select or make recommendations, based upon the needs of the client, as to specific securities or other investments the account may purchase or sell and, if such recommendations are accepted by the client, is responsible for arranging or effecting the purchase or sale. Applicant states that for certain of its clients' portfolios, Ernst & Young does, on a daily basis, reconcile and analyze securities trades made in clients' accounts to ensure that trades are being executed properly. Applicant believes that this is primarily a monitoring function; no investment recommendations are made with respect to the portfolios except on a quarterly or less-frequent basis. Accordingly, applicant concludes that Ernst & Young's services would not satisfy the $25 million of assets under management test.

3. Section 203A(c) provides that the SEC, by rule or regulation upon its own motion, or by order upon application, may permit the registration with the SEC of any person or class of persons to which the application of subsection (a) would be unfair, a burden on interstate commerce, or otherwise inconsistent with the purposes of section 203A.

4. Applicant states that Congress recognized that the definition of ''assets under management'' in the Coordination Act requires that there be ''continuous and regular supervisory or management services, a standard which may, in some cases, exclude firms with a national or multi-state practice from being able to register with the SEC.'' [1] Applicant further states that Congress intended the SEC to use its exemptive authority to

[1] S. Rep. No. 293, 104th Cong., 2d Sess. 4 (1996).

permit, where appropriate, the registration of such firms with the SEC.[2]

5. Applicant notes that the SEC's release adopting the rules implementing the Coordination Act also recognized that ''many large advisers operating nationally have been subject to the differing laws of many states'' and compliance with these ''overlapping, and in some cases, duplicative'' sets of laws has ''imposed significant regulatory burdens on these large advisers.''[3] Applicant further notes that the release stated that Congress recognized that some advisers that do not have $25 million in assets under management may still have national businesses. As a result, the SEC was given the authority to exempt advisers from the prohibition on SEC registration if the application of the prohibition would be unfair, a burden on interstate commerce or otherwise inconsistent with the purposes of Section 203A.

6. Applicant states that Ernst & Young, under its supervision, provides investment advisory services in offices located throughout the United States to several hundred clients.

7. Applicant asserts that the legislation history of the Coordination Act makes clear that it is precisely the type of entity for which national, rather than multi-state, registration is appropriate. Applicant notes that Congress believed that the ''states should play an important and logical role in regulating small investment advisers whose activities are likely to be concentrated in their home state,'' whereas ''[1]arger advisers, with national businesses, should be registered with the [SEC] and be subject to national rules.''[4] Applicant submits that it does not have a ''home state'' in which its activities are concentrated; rather, through Ernst & Young personnel, it operates throughout the United States as a national business.

8. Applicant notes that many states have de minimis exceptions from registration requirement, as does section 222(d) of the Advisers Act, which provides a national de minimis standard. Applicant represents that, notwithstanding these exceptions, applicant is currently required by applicant state laws to register as an investment adviser in 36 states. Applicant also submits that Ernst & Young is a national firm, with offices in 38 states and a client base of at least 20,000 clients, which provides the core for the firm's investment advisory practice.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–16217 Filed 6–19–97; 8:45 am]

BILLING CODE 8010–01–M

[2] *Id.*

[3] Rules Implementing Amendments to the Investment Advisers Act of 1940, Investment Advisers Act Rel. No. 1633 (May 15, 1997, 62 FR 28112 (May 22, 1997).

[4] S. Rep. No. 293, 104th Cong, 2d Sess. 4 (1996).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of reporting requirements submitted for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Comments should be submitted on or before July 21, 1997. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205–6629.

OMB Reviewer: Victoria Wassmer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Secondary Participation Guaranty and Certification Agreement.

Form No: SBA Form 1086.

Frequency: On Occasion.

Description of Respondents: SBA Participating Lenders.

Annual Responses: 12,500.

Annual Burden: 31,125.

Dated: June 13, 1997.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–16136 Filed 6–19–97; 8:45 am]

BILLING CODE 8025–01–M

SOCIAL SECURITY ADMINISTRATION

Information Collection Activities: Proposed Collection Requests and Comment Requests

This notice lists information collection packages that will require submission to the Office of Management and Budget (OMB), as well as information collection packages submitted to OMB for clearance, in compliance with Public Law 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995.

I. The information collection(s) listed below require(s) extension(s) of the current OMB approval(s) or are proposed new collection(s): Waiver of Benefit Payment—0960–0533. Form SSA–149 is required to document the fact that benefits due are not being paid, because the beneficiary, (for personal reasons) has requested nonreceipt. Personal reasons can range from religious, patriotic, or political beliefs to situations where continued receipt of payment causes some adverse effect. The respondents are beneficiaries who wish to waive entitlement to benefit payments.

Number of Respondents: 100.

Frequency of Response: 1.

Average Burden Per Response: 2 minutes.

Estimated Annual Burden: 3.

Written comments and recommendations regarding the information collection(s) should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments onthe need for the information; its practical utility; ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

II. The information collection(s) listed below have been submitted to OMB: Statement of Self-Employment Income—0960–0046. The information collected on form SSA–766 is needed to determine quarters of coverage for eligibility to Social Security benefits. The information will be used to expedite the payment of benefits to an individual who is self-employed and who is establishing insured status in the current year. The respondents are self-employed applicants for Social Security benefits.

Number of Respondents: 5,000.

Frequency of Response: 1.

Average Burden Per Response: 10 minutes.

Estimated Annual Burden: 417.

Written comments and recommendations regarding the information collection(s) should be sent within 30 days to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses: (OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503. (SSA) Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

To receive a copy of any of the forms or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed above.

Dated: June 13, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–16090 Filed 6–19–97; 8:45 am]

BILLING CODE 4190–29–P

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Request for Emergency Review by the Office of Management and Budget

The Social Security Administration publishes a list of information collection packages that will require clearance by OMB in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection listed below has been submitted to OMB for emergency clearance. OMB approval has been requested by June 27, 1997: 0960-NEW. Request to Resolve Questionable Quarters of Coverage (SSA–512); Request for Quarters of Coverage History Based on Relationship (SSA–513)—0960-NEW. The Personal Responsibility and Work Opportunity Reconciliation Act states that aliens admitted for lawful residence who have worked and earned 40 qualifying quarters of coverage (QC) for Social Security purposes can generally receive State benefits. QCs can also be allocated to a spouse and/or to a child under age 18, if needed to obtain 40 qualifying QCs for the alien. The form SSA–512 is used by the States to request clarification from SSA on questionable QC information. The form SSA–513 is used by States to request QC information for an alien's spouse or child in cases where the alien does not sign a consent form giving permission to access his/her social security records. The respondents are State agencies which require QC information in order to determine eligibility for benefits.

	SSA–512	SSA–513
Number of Responses	200,000	350,000.
Frequency of Response	1	1.
Average Burden Per Response	2 minutes	2 minutes.
Estimated Annual Burden	6,667 hours	11,667 hours.

To receive a copy of the form or clearance packages, call the SSA Reports Clearance Officer on (410) 965–4125 or write to him at the address listed below. Written comments and recommendations regarding the information collection(s) should be directed to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses: (OMB) Office of Management and Budget, OIRA, Attn: Laura Oliven, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503.(SSA) Social Security Administration, DCFAM, Attn: Nicholas E. Tagliareni, 6401 Security Blvd, 1–A–21 Operations Bldg., Baltimore, MD 21235.

Dated: June 13, 1997.

Nicholas E. Tagliareni,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 97–16091 Filed 6–19–97; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice 2559]

Office of Defense Trade Controls; Statutory Debarment Under the International Traffic in Arms Regulations

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has imposed statutory debarment pursuant to § 127.7(c) of the International Traffic in Arms Regulations (22 CFR Parts 120–130) (ITAR) for all export license applications and other requests for approval involving Robert Clyde Ivy.

EFFECTIVE DATE: April 24, 1997.

FOR FURTHER INFORMATION CONTACT: Philip S. Rhoads, Chief, Compliance and Enforcement Branch, Office of Defense Trade Controls, Department of State (703–875–6644).

SUPPLEMENTARY INFORMATION: Section 38(g)(4) of the Arms Export Control Act (22 U.S.C. 2778) (AECA) prohibits licenses and other requests for approval for the export of defense articles and the furnishing of defense services to be issued to a person, or any party to the export, convicted of violating or conspiring to violate the AECA. This notice is provided in order to make the public aware that the following person is prohibited from participating directly or indirectly in the export from the United States of defense articles, related technical data, or defense services for which a license or other approval is required from the Department of State under the AECA: Robert Clyde Ivy, a.k.a. Greenleaf, 3318 Cochran Drive, Lancaster, PA.

Ivy was a U.S. defendant in *U.S.* v. *The Armaments Corporation of South Africa, Ltd. (Armscor) et al.* (Armscor entered a plea of nolo contendere and is subject currently to statutory debarment; see 62 FR 13932, March 24, 1997). Ivy pleaded guilty on April 4, 1997, to conspiring to violate the AECA. Pursuant to Section 38(g)(4)(A) of the AECA and Section 127.7 of the ITAR, the Assistant Secretary of State for Political-Military Affairs has determined that Ivy is statutorily debarred from participating directly or indirectly in the export from the United States of defense articles, related technical data, or defense services for which a license or other approval is required from the Department of State under the AECA, or for which an exemption to the requirement for a license or other approval exists in the ITAR.

This notice involves a foreign affairs function of the United States encompassed within the meaning of the military and foreign affairs exclusion of the Administrative Procedure Act. Because the exercise of this foreign affairs function is discretionary, it is excluded from review under the Administrative Procedure Act.

Dated: June 9, 1997.

William J. Lowell,

Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, U.S. Department of State.

[FR Doc. 97–16139 Filed 6–19–97; 8:45 am]

BILLING CODE 4710–25–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Pakistan: Conclusion of WTO Dispute Settlement Proceeding Regarding Patent Protection for Pharmaceuticals and Agricultural Chemicals

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of termination and monitoring.

SUMMARY: On April 30, 1996, the United States Trade Representative initiated an investigation under section 302(b)(1) of the Trade Act of 1974 regarding the inadequate patent protection provided by the Government of Pakistan to United States individuals and firms involved in the development of innovative pharmaceutical and agricultural chemical products, in light of Pakistan's obligations under the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Following consultations between the United States and Pakistan, Pakistan issued Ordinance No. XXVI of 1997, establishing the framework for a filing system for patent applications drawn to such products and for the grant of exclusive marketing rights under certain circumstances. On February 28, 1997, the United States and Pakistan jointly notified the WTO Dispute Settlement Body (DSB) of the settlement of this matter in light of Pakistan's planned implementation of Ordinance No. XXVI. Having reached a satisfactory resolution of the issues under investigation, the USTR has terminated this section 302 investigation and will monitor implementation of the agreement under section 306 of the Trade Act.

EFFECTIVE DATES: This investigation was terminated on June 9, 1997.

ADDRESSES: Office of the U.S. Trade Representative, 600 17th Street NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Thomas Robertson, Associate General Counsel, Office of the United States Trade Representative (202) 395–6800.

SUPPLEMENTARY INFORMATION: On April 30, 1996, the United States Trade Representative (USTR) initiated an investigation under section 302(b)(1) of the Trade Act of 1974 (Trade Act) regarding the inadequate patent protection provided by the Government of Pakistan to United States individuals and firms involved in the development of innovative pharmaceutical and agricultural chemical products. 61 FR 19971 (May 3, 1996). The investigation specifically considered whether Pakistan failed to meet its TRIPS Agreement obligations by failing either to provide patent protection for pharmaceutical and agricultural chemical inventions as specified in Article 27, or to establish systems for the acceptance of applications for patents on such inventions and the grant of exclusive marketing rights in accordance with Article 70.8 and 70.9. See 61 FR 19771 for further details. Pursuant to section 303(a) of the Trade Act, the USTR requested consultations with the Government of Pakistan under the procedures of the WTO Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) and Article 64 of the TRIPS Agreement.

Resolution of Dispute

After consultation between the Governments of the United States of America and Pakistan in accordance with DSU procedures, Pakistan formally agreed to the United States' interpretation that Pakistan is required to establish mailbox and exclusive marketing rights systems under the TRIPS Agreement. On February 4, 1997, Pakistan President Farooq Ahmad Khan Leghari issued Ordinance No. XXVI of 1997, to establish these systems. In a February 28, 1997, notification to the WTO DSB, the United States and Pakistan notified the WTO that Pakistan would implement the ordinance in accordance with the TRIPS Agreement.

Under the Ordinance, Pakistan will implement regulations which establish a system by which WTO Members' nationals can file with Pakistan's patent authorities a product patent application for a pharmaceutical or agricultural chemical product invention until January 1, 2000, preserving as the filing date the date the application was received by the authorities. After January 1, 2000, Pakistan will implement the priority filing benefits provisions in Article 4 of the Paris Convention on the Protection of Industrial Property, thus allowing Members nationals who file patent applications with Pakistan's patent authorities to claim up to one year priority. Those Members' nationals who would have submitted applications between January 1, 1995, and the date the Ordinance issued, but were unable to do so because Pakistan had no ''mailbox'' filing system in place, will be able to file such applications for one year after the date the ordinance was issued, and will receive the filing date of the original application filed in another WTO Member.

In addition, the Ordinance provides that exclusive marketing rights will be granted if the applicant has been granted a patent and marketing approval on the product that is subject of the application in another WTO Member and the applicant is granted marketing approval in Pakistan. The period of marketing approval shall be for a period of five years after these conditions are met or until a product patent is granted or rejected in Pakistan, whichever term is shorter. In accordance with the Article 70.9 requirement that such marketing right be ''exclusive,'' the Government of Pakistan will implement the Ordinance so that under no circumstances will exclusive marketing rights be subject to any limitation or exception, including the imposition of a compulsory license. No party may be granted marketing approval for a product that is the subject of exclusive marketing rights without the express consent of the holder for such exclusive marketing rights.

Based on the developments of the formal consultations and the measures Pakistan has undertaken to implement its obligations under the TRIPS Agreement, the United States and Pakistan jointly notified the WTO DSB that they have reached a mutually satisfactory solution to the matter, and that the United States has formerly withdrawn this matter from further consideration by the DSB. On the basis of the measures Pakistan has undertaken to provide a satisfactory resolution to the matter under investigation, the USTR has decided to terminate this section 302 investigation. Pursuant to section 306 of the Trade Act, the USTR will monitor Pakistan's implementation of its TRIPS Agreement obligations in accordance with the Ordinance and the

terms of the U.S.-Pakistan joint notifications to the DSB.

Irving Williamson,

Chairman, Section 301 Committee.

[FR Doc. 97–16129 Filed 6–19–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending June 13, 1997

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–97–2607.

Date Filed: June 10, 1997.

Parties: Members of the International Air Transport Association.

Subject: PAC/Reso/393 dated June 2, 1997, Expedited Resolutions, r–1–808 r–2–808e r–3–898a, Intended effective date: August 1, 1997.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–16223 Filed 6–19–97; 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 June 13, 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–97–2615.

Date Filed June 13, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 11, 1997.

Description

Application of Aerochago, S.A., pursuant to 49 U.S.C. Section 41301 and Subpart Q of the Regulations, requests a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of property and mail, as follows:

A. Between a point or points in the Dominican Republic, and Miami, Florida.

B. Between a point or points in the Dominican Republic, and New York, New York.

C. Between a point or points in the Dominican Republic, and Puerto Rico.

The holder also seeks Department authority to engage in charter trips of property only in foreign air transportation, subject to the terms, conditions and limitations prescribed by the Department's regulations.

Docket Number: OST–97–2608.

Date Filed June 10, 1997.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: July 8, 1997.

Description

Application of Austrian Airlines, Osterreichische Luftverkehrs AG, pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Regulations, applies for an amended foreign air carrier permit authorizing it to engage in (a) scheduled foreign air transportation of persons, property and mail ''from points behind Austria via Austria and intermediate points to a point or points in the United States and beyond,'' as provided in Annex 1 of the Open Skies Agreement, together with all of the operational rights provided for in that Annex; and (b) charter service in foreign air transportation for (1) passengers (and their accompanying baggage), and/or (ii) cargo, to the full extent permitted by Annex II of the Open Skies Agreement.

Paulette V. Twine,

Chief, Documentary Services.

[FR Doc. 97–16224 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–33]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before July 11, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 28792, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC on June 16, 1997.

Michael E. Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28792.

Petitioner: H+S Aviation Limited.

Sections of the FAR Affected: 14 CFR 145.51(d).

Description of Relief Sought: To permit the petitioner to continue to operate its three permanent repair station sites under one foreign repair station certificate.

[FR Doc. 97–16220 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Weather Enhancement Advisory Subgroup Meeting on Alaska Aviation Weather Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of a meeting of the FAA Weather Enhancement Advisory Subgroup to discuss Alaska Aviation Weather Requirements.

DATES: The meeting will be held July 14, 1997, from 1:00 p.m. to 4:00 p.m. Arrange for presentations by July 3, 1997.

ADDRESSES: The meeting will be held at the FAA Air Traffic Division, Federal Building Annex, 222 W 7th Avenue, Anchorage, AK 99513.

FOR FURTHER INFORMATION CONTACT: Mr. Clarence E. Goward, Federal Aviation Administration, Air Traffic Division, 222 W 7th Avenue, Anchorage, AK 99513; telephone (907) 271–5883, fax (907) 271–2850.

SUPPLEMENTARY INFORMATION: Pursuant to § 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App II), notice is hereby given of a meeting of the Weather Enhancement Advisory Subgroup to be held on July 14, 1997, from 1:00 p.m. to 4:00 p.m., at the FAA Air Traffic Division, Federal Building Annex, 222 W 7th Avenue, Anchorage, AK 99513.

The agenda will include:

1. Opening remarks;
2. Committee Administration;
3. Programs Status: Automated Weather and Automated Surface Observing Systems, Contract Weather, Remote Video Cameras;
4. New Business: Aviation weather services evaluation criteria Weather requirements;
5. Future meeting dates, locations, activities, and plans.

Attendance is open to the interested public. However, to assure that no prospective bidder is given unfair advantage over another, no person or groups intending to submit a bid on an FAA contract to provide aviation weather services in Alaska may participate as a member of the advisory subgroup; nor may any such person or groups participate in subgroup meetings, except to present an oral or written statement as a member of the public.

The public must make arrangements by July 8, 1997, to present oral statements at the meeting. The public may present written statements to the committee at any time by providing 12 copies to the person listed under the heading **FOR FURTHER INFORMATION CONTACT:** or by bringing the copies to the meeting.

Issued in Washington, DC, June 16, 1997.

William H. Brodie, Jr.,

Special Assistant to Program Director, Aviation Weather Directorate, ARW–1.

[FR Doc. 97–16186 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In May 1997, there were 15 applications approved. Additionally, 12 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Application Approved

Public Agency: Bert Mooney Airport Authority, Butte, Montana.

Application Number: 97–03–C–00–BTM.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $53,260.

Earliest Charge Effective Date: May 1, 2001.

Estimated Charge Expiration Date: July 1, 2001.

Class of Air Carriers Not Required to Collect PFC's: On demand non-scheduled air taxi/commercial operators.

Determination: Approved. Based on information submitted by the public agency, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at the Bert Mooney Airport-Butte Silver Bow County.

Brief Description of Project Approved for Collection and Use: Taxiway A rehabilitation.

Brief Description of Projects Approved for Use: Air carrier apron rehabilitation, Runway 15/33 rehabilitation.

Decision Date: May 2, 1997.

For Further Information Contact: David P. Gabbert, Helena Airports District Office, (406) 449–5271.

Public Agency: City of Oklahoma City, Department of Airports, Oklahoma City, Oklahoma.

Application Number: 97–01–C–00–OKC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $10,446,875.

Earliest Charge Effective Date: July 1, 1997.

Estimated Charge Expiration Date: July 1, 1999.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information submitted in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Will Rogers World Airport.

Brief Description of Projects Approved for Collection and Use: Terminal improvements, Concourse security doors, Security access system upgrade, Terminal apron joint rehabilitation and runway 13/31 pavement sealing, Taxiway C extension, By-pass taxiways, runways 17L and 17R, Airport lighting control system, Runway 35R touchdown zone lights, Aircraft rescue and firefighting (ARFF) vehicles, Storm water detention, Air cargo road reconstruction, Taxiway B reconstruction and rehabilitation, Security fencing, Noise study update, Surface movement guidance system, Surface monitoring sensor upgrade.

Brief Description of Project Approved: Runway 13/31 extension (Phase 1).

Determination: Disapproved. The FAA has reviewed the traffic forecasts and has concluded that the forecasts do not support a need for this project at this time, therefore, the public agency has failed for provide adequate justification. In addition, the public agency has not obtained a final FAA finding under the National Environmental Policy Act of 1969 and the project does not meet the requirements of § 158.25(c)(1)(ii)(B).

Decision Date: May 2, 1997.

For Further Information Contact: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Birmingham Airport Authority, Birmingham, Alabama.

Application Number: 97–01–C–00–BHM.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $7,657,558.

Earliest Charge Effective Date: August 1, 1997.

Estimated Charge Expiration Date: February 1, 2000.

Class of Air Carriers Not Required to Collect PFC's:

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Birmingham International Airport.

Brief Description of Projects Approved for Collection and Use: Taxiway/holding apron improvements (design only), PFC administration.

Brief Description of Project Approved in Part for Collection and Use: Reconstruct/rehabilitate runway 5/23 (design only).

Determination: Approved in part. The public agency indicated, in a letter dated April 18, 1997, that the total cost for this project, as submitted in the PFC application, included the cost for design of the reconstruction/rehabilitation of the runway 5/23 parallel taxiway. This element is not discussed in the project description, justification, or objective of the application attachment B for this project. Therefore, the cost for the design of the taxiway work is disapproved and the approved amount reduced from that requested accordingly.

Brief Description of Project Approved in Part for Collection: Reconstruct/rehabilitate runway 5/23 (construction).

Determination: Approved in part. The public agency indicated, in a letter dated April 18, 1997, that the total cost for this project as submitted included the cost for the reconstruction/rehabilitation of the runway 5/23 parallel taxiway. This element is not discussed in the project description, justification, or objective of the application attachment B for this project. Therefore, the cost for the taxiway work is disapproved and the approved amount reduced from that requested accordingly.

Decision Date: May 8, 1997.

For Further Information Contact: David Shumate, Jackson Airports District Office, (601) 965–4628.

Public Agency: Rapid City Regional Airport, Rapid City, South Dakota.

Application Number: 97–01–C–00–RAP.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $1,087,206.

Earliest Charge Effective Date: August 1, 1997.

Estimated Charge Expiration Date: March 1, 2000.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Rapid City Regional Airport.

Brief Description of Projects Approved for Collection and Use: Airport master plan update, PRC application, Pavement rehabilitation, Taxiway rehabilitation, Runway plows, Passenger lift, Runway sweeper, Airport beacon, Security panel, Land acquisition for runway 5 runway protection zone, Pilot controlled lighting, Runway safety project, Security fence, Airfield signs, Sand storage building, Exit road rehabilitation, Overlay general aviation apron, Apron sweeper, Security panel, Emergency power system, Snow removal equipment, Airport planning.

Brief Description of Withdrawn Project: Overlay ramp.

Determination: This project was withdrawn by the public agency by letter dated March 11, 1997. Therefore, the FAA will not rule on this project in this decision.

Decision Date: May 13, 1997.

For Further Information Contact: Irene R. Porter, Bismarck Airports District Officer, (701) 250–4385.

Public Agency: Metropolitan Nashville Airport Authority, Nashville, Tennessee.

Application Number: 97–04–C–00–BNA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PRC Revenue Approved in This Decision: $19,500,000.

Earliest Charge Effective Date: April 1, 2002.

Estimated Charge Expiration Date: March 1, 2006.

Class of Air Carriers Not Reqired To Collect PFC'S: Part 135 (air taxi) operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Nashville International Airport.

Brief Description of Project Approved for Collection and Use: Curbside expansion.

Decision Date: May 13, 1997.

For Further Information Contact: Charles L. Harris, Memphis Airports District Office, (901) 544–3495.

Public Agency: Athens-Clarke County Unified Government, Athens, Georgia.

Application Number: 97–01–C–00–AHN.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $187,628.

Earliest Charge Effective Date: August 1, 1997.

Estimated Charge Expiration Date: January 1, 2002.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection and Use: Preparation of PFC application, Expand east general aviation ramp.

Decision Date: May 14, 1997.

For Further Information Contact: Daniel Gaetan, Atlanta Airports District Office, (404) 305–7146.

Public Agency: Charlottesville-Albemarle Airport Authority, Charlottesville, Virginia.

Application Number: 97–10–C–00–CHO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $1,023,120.

Earliest Charge Effective Date: April 1, 2002.

Estimated Charge Expiration Date: June 1, 2004.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Charlottesville-Albermarle Airport.

Brief Description of Project Approved for Collection and Use: Reconstruct general aviation ramp.

Brief Description of Projects Approved for Use: Expand air carrier ramp, Rehabilitate taxiway A.

Brief Description of Projects Approved for Collection Only: Air carrier terminal access road and non-revenue producing parking area.

Decision Date: May 16, 1997.

For Further Information Contact: Terry Page, Washington Airports District Office, (703) 285–2570.

Public Agency: Pellston Regional Airport of Emmet County, Pellston, Michigan.

Application Number: 97–05–I–00–PLN.

Application Type: Impose a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $17,500.

Earliest Charge Effective Date: June 1, 1997.

Estimated Charge Expiration Date: September 1, 1997.

Class of Air Carriers Not Required To Collect PFC's: Part 135 air taxi operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of Pellston Regional Airport's total annual enplanements.

Brief Description of Project Approved for Collection Only: Replace ARFF vehicle.

Decision Date: May 19, 1997.

For Further Information Contact: Jon B. Gilbert, Detroit Airports District Office, (313) 487–7281.

Public Agency: Yellowstone Regional Airport Joint Powers Board, Cody, Wyoming.

Application Number: 97–01–C–00–COD.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $102,662.

Earliest Charge Effective Date: August 1, 1997.

Estimated Charge Expiration Date: October 1, 1999.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: ARFF vehicle, Install Part 139 signs, Master plan update, ARFF maintenance hall, Rehabilitate/overlay terminal apron area, Snow removal equipment.

Decision Date: May 19, 1997.

For Further Information Contact: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: Meridian Airport Authority, Meridian, Mississippi.

Application Number: 97–04–C–00–MEI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $32,500.

Earliest Charge Effective Date: June 1, 2000.

Estimated Charge Expiration Date: December 1, 2000.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Design, inspection, and testing cost for rehabilitation of runway 1/19, Rehabilitation of airfield lighting cabling.

Decision Date: May 22, 1997.

For Further Information Contact: David Shumate, Jackson Airports District Office, (601) 965–4628.

Public Agency: City of La Crosse, Wisconsin.

Application Number: 97–03–C–00–LSE.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $315,000.

Earliest Charge Effective Date: October 1, 1999.

Estimated Charge Expiration Date: December 1, 2000.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Acquire snow removal equipment, Pavement evaluation and management system, Airport layout plan update, PFC administration cost.

Decision Date: May 22, 1997.

For Further Information Contact: Sandra E. DePottey, Minneapolis Airports District Office, (612) 713–4363.

Public Agency: New Hanover County Airport Authority, Wilmington, North Carolina.

Application Number: 97–02–U–00–ILM.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue Approved for Use in This Decision: $244,198.

Charge Effective Date: February 1, 1994.

Charge Expiration Date: September 1, 1996.

Class of Air Carriers Not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use: Medium intensity taxiway lights rehabilitation, Ramp sweeper, Precision approach path indicator—runway 35, Reconstruct/widen taxiways A and H, construct exit taxiways for runway 6/24, Install fencing and security road.

Decision Date: May 27, 1997.

For Further Information Contact: Terry R. Washington, Atlanta Airports District Office, (404) 305–7143.

Public Agency: Huntsville-Madison County Airport Authority, Huntsville, Alabama.

Application Number: 97–07–U–00–HSV.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue Approved for Use in This Decision: $5,530,790.

Charge Effective Date: June 1, 1992.

Estimated Charge Expiration Date: May 1, 2008.

Class of Air Carriers Not Required To Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use: Land acquisition (Tract 6), Directional signage, General aviation apron overlay, 18R/36L runway/taxiway system overlay.

Decision Date: May 28, 1997.

For Further Information Contact: Roderick T. Nicholson, Jackson Airports District Office, (601) 965–4628.

Public Agency: County of Oneida, Utica, New York.

Application Number: 96–01–C–00–UCA.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $1,298,631.

Earliest Charge Effective Date: August 1, 1997.

Estimated Charge Expiration Date: June 1, 2010.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of Oneida County Airport's total annual enplanements.

Brief Description of Projects Approved for Collection and Use: PFC application, Terminal building improvements.

Decision Date: May 28, 1997.

For Further Information Contact: Philip Brito, New York Airports District Office, (516) 227–3800.

Public Agency: Western Reserve Port Authority, Youngstown, Ohio.

Application Number: 97–02–C–00–YNG.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total Net PFC Revenue Approved in This Decision: $734,078.

Earliest Charge Effective Date: August 1, 1997.

Estimated Charge Expiration Date: July 1, 2002.

Class of Air Carriers Not Required To Collect PFC'S: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public

agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of Youngstown-Warren Regional Airport's total annual enplanements.

Brief Description of Projects Approved for Collection and Use: Terminal area access road rehabilitation and signage, Airline terminal roof reconstruction, Americans with Disabilities Act improvements, Prepare PFC application.

Brief Description of Project Approved for Collection Only: Purchase snow removal equipment.

Decision Date: May 29, 1997.

For Further Information Contact: Robert L. Conrad, Detroit Airports District Office, (313) 487–7295.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amendment approved net PFC revenue	Original estimated charge exp. date	Amendment estimated charge exp. date
92–01–I–03–OAK, Oakland, California	1/31/97	$16,343,000	$18,503,000	5/1/97	7/1/97
92–01–I–01–VLD, Valdosta, Georgia	2/18/97	260,526	307,746	10/1/97	10/1/97
93–01–C–01–CHA, Chattanooga, Tennessee	4/25/97	7,177,253	8,568,925	10/1/02	7/1/05
92–01–I–04–CMH, Columbus, Ohio	4/29/97	12,001,042	24,227,812	11/1/97	1/1/02
93–02–I–02–CMH, Columbus, Ohio	4/29/97	19,573,899	49,603,302	11/1/97	1/1/02
93–03–U–02–CMH, Columbus, Ohio	4/29/97	0	0	.....	.....
95–04–C–01–CMH, Columbus, Ohio	4/29/97	0	0	.....	.....
96–05–C–01–CMH, Columbus, Ohio	4/29/97	9,437,955	13,291,770	11/1/97	1/1/02
92–01–I–04–MEM, Memphis, Tennessee	5/7/97	62,529,000	10,359,000	1/1/97	12/1/94
93–02–C–03–MEM, Memphis, Tennessee	5/7/97	75,963,000	65,966,000	10/1/99	1/1/97
95–03–U–01–MEM, Memphis, Tennessee	5/7/97	0	0	.....	.....
96–04–C–01–MEM, Memphis, Tennessee	5/7/97	1,735,000	15,847,000	2/1/05	1/1/97

Issued in Washington, DC, on June 13, 1997.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 97–16222 Filed 6–19–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 550X)]

CSX Transportation, Inc.—Abandonment Exemption—in Clinton County, MI

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR 1152 subpart F—Exempt Abandonments to abandon 1.32 miles of its line of railroad between milepost CHC–2.11, near Grand Ledge, and milepost CHC–3.43, at the end of track at Eagle, in Clinton County, MI. The line traverses United States Postal Service Zip Code 48822.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (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 of 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 July 20, 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 30, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 10, 1997, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

CSXT 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 June 25, 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 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), CSXT 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

[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.

CSXT's filing of a notice of consummation by June 20, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: June 13, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–16194 Filed 6–19–97; 8:45 am]

BILLING CODE 4915–00–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 10, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

U.S. Customs Service (CUS)

OMB Number: 1515–0056.

Form Number: CF 19.

Type of Review: Extension.

Title: Protest.

Description: This collection is used by an importer, filer, or any party at interest to petition the Customs Service, or Protest, any action or charge, made by the port director on or against any; imported merchandise, merchandise excluded from entry, or merchandise entered into or withdrawn from a Customs bonded warehouse.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions.

Estimated Number of Respondents: 3,750.

Estimated Burden Hours Per Respondent: 1 hour, 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 67,995 hours.

OMB Number: 1515–0158.

Form Number: CF 349 and CF 350.

Type of Review: Extension.

Title: Harbor Maintenance Fee.

Description: The Harbor Maintenance Fee, established by the Water Resources Development Act of 1986 (Act) (26 U.S.C. 4461, *et seq.*), is collected by Customs and used to contribute to the operation and maintenance by the Army Corps of Engineers of certain United States channels and harbors.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 755,865.

Estimated Burden Hours Per Respondent: 26 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,515,564 hours.

Clearance Officer: J. Edgar Nichols (202) 927–1426, U.S. Customs Service, Printing and Records Management Branch, Room 6216, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–16182 Filed 6–19–97; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

June 12, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1257.

Form Number: IRS Form 8827.

Type of Review: Extension.

Title: Credit for Prior Year Minimum Tax—Corporations.

Description: Section 53(d), as revised, allows corporations a minimum tax credit based on the full amount of alternative minimum tax incurred in tax years beginning after 1989, or a carryforward for use in a future year.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 25,000.

Estimated Burden Hours Per Respondent: 1 hour.

Estimated Total Reporting Burden: 25,000 hours.

OMB Number: 1545–1438.

Regulation Project Number: CO–8–91 Final.

Type of Review: Extension.

Title: Distributions of Stock and Stock Rights.

Description: The requested information is required to notify the Service that a holder of preferred stock callable at a premium by the issuer has made a determination regarding the likelihood of exercise of the right to call that is different from the issuer's determination.

Respondents: Business or other for-profit, Individuals or households.

Estimated Number of Respondents: 10 minutes.

Estimated Burden Hours Per Respondent: 333 hours.

Estimated Total Reporting Burden: 7 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–16183 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 16, 1997.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to begin the survey described below in early July 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by June 27, 1997. To obtain a copy of this study, please contact the Internal

Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.
Project Number: SOI–30.
Type of Review: Revision.
Title: 1997 Second Quarter Form 941 TeleFile System Customer Service Satisfaction Survey.
Description: The 941 TeleFile system will be pilot tested at the Tennessee Computing Center during July–August 1997. During the test, a selected group of businesses filing their second quarter Federal tax returns (Form 941) will be invited to use the 941 TeleFile system.
The 941 TeleFile automated customer satisfaction survey is part of the 941 TeleFile Quality Measurement Plan and is designed as one means of evaluating the effectiveness of the TeleFile system.
The survey requests information about satisfaction and whether the business filer would be willing to use the TeleFile system again. Data collected during the surveys will be kept confidential and will only be used to make recommendations and improvements to the 941TeleFile system.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 2,125.
Estimated Burden Hours Per Response: 1 minute.
Frequency of Response: Quarterly.
Estimated Total Reporting Burden: 36 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–16184 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

June 16, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Reduction Paperwork Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0182.
Form Number: IRS Form 4782.
Type of Review: Extension.
Title: Employee Moving Expense Information.
Description: 26 CFR 31.6051–1(e) requires employers to give employees a statement showing a detailed breakdown of reimbursements or payments of moving expenses. The information is used by employees to figure their moving expense deduction on their income tax return.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 1,039,500.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—3 hr., 21 min.
Learning about the form—6 min.
Preparing the form—10 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: hours.

OMB Number: 1545–0238.
Form Number: IRS Form W–2G.
Type of Review: Extension.
Title: Certain Gambling Winnings.
Description: Internal Revenue Code (IRC) section 6041 requires payers of certain gambling winnings to report them to IRS. If applicable, section 3402(g) and section 3406 require tax withholding on these winnings. We use the information to ensure taxpayer income reporting compliance.
Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.
Estimated Number of Respondents: 6,400.
Estimated Burden Hours Per Respondent: 19 minutes.
Frequency of Response: Annually.
Estimated Total Reporting Burden: 729,231 hours.

OMB Number: 1545–0675.
Form Number: IRS Form 1040EZ.
Type of Review: Extension.
Title: Income Tax Return for Single and Joint Filers With No Dependents.
Description: This form is used by certain individuals to report their income subject to income tax and to figure their correct tax liability. The data is also used to verify that the items reported on the form are correct and are also for general statistical use.
Respondents: Individuals or households.
Estimated Number of Respondents/Recordkeepers: 14,100,000.
Estimated Burden Hours Per Respondent/Recordkeeper:
Recordkeeping—5 min.
Learning about the law or the form—57 min.
Preparing the form—1 hr., 24 min.
Copying, assembling, and sending the form to the IRS—20 min.
Frequency of Response: Annually.
Estimated Total Reporting/Recordkeeping Burden: 29,124,010 hours.
Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–16185 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Financial Management Service; Senior Executive Service; Financial Management Service Performance Review Board (PRB)

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the appointment of members to the Financial Management Service (FMS) Performance Review Board (PRB).

DATES: This notice is effective on June 20, 1997.

FOR FURTHER INFORMATION CONTACT: Michael T. Smokovich, Deputy Commissioner, Financial Management Service, 401 14th St., S.W., Washington, D.C. telephone (202) 874–7000.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. 4314(c)(4), this notice is given of the appointment of individuals to serve as members of the Financial Management Service (FMS) Performance Review Board (PRB). This Board reviews the performance appraisals of career senior executives below the Assistant Commissioner level and makes recommendations regarding ratings, bonuses, and other personnel actions. Three voting members constitute a quorum. The names and

titles of the FMS PRB members are as follows:

Primary Members

Michael T. Smokovich, Deputy Commissioner
Constance E. Craig, Assistant Commissioner, Information Resources
Walter L. Jordan, Assistant Commissioner, Agency Services
Virginia B. Harter, Assistant Commissioner, Debt Management Services

Alternate Members

Bland T. Brockenborough, Assistant Commissioner, Regional Operations
Mitchell A. Levine, Assistant Commissioner, Management
Diane E. Clark, Assistant Commissioner, Financial Information
Larry D. Stout, Assistant Commissioner, Federal Finance

Dated: June 16, 1997.

Russell D. Morris,

Commissioner.

[FR Doc. 97–16164 Filed 6–19–97; 8:45 am]

BILLING CODE 4810–34–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040NR

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 1040NR, U.S. Nonresident Alien Income Tax Return.

DATES: Written comments should be received on or before August 19, 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. Nonresident Alien Income Tax Return.

OMB Number: 1545–0089.

Form Number: 1040NR.

Abstract: Form 1040NR is used by nonresident alien individuals and foreign estates and trusts to report their income subject to tax and compute the correct tax liability. The information on the return is used to determine whether income, deductions, credits, payments, etc., are correctly reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 135,500.

Estimated Time Per Respondent: 12 hr., 46 min.

Estimated Total Annual Burden Hours: 1,729,335.

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: June 12, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–16239 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 8839

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 8839, qualified Adoption Expenses.

DATES: Written comments should be received on or before August 19, 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 Brinson, (202) 622–3869, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Qualified Adoption Expenses.

OMB Number: To be assigned later.

Form Number: Form 8839.

Abstract: Section 23 of the Internal Revenue Code allows taxpayers to claim a nonrefundable tax credit for qualified adoption expenses paid or incurred by the taxpayer. Code Section 137 allows taxpayers to exclude amounts paid or expenses incurred by an employer for the qualified adoption expenses of the employee which are paid under an adoption assistance program. Form 8839 helps respondents to correctly figure their credit and/or exclusion.

Current Actions: This is a new collection of information.

Type of Review: New OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 2 hours, 53 minutes.

Estimated Total Annual Burden Hours: 144,000.

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: June 12, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–16240 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form W–4S

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 W–4S, Request for Federal Income Tax Withholding From Sick Pay.

DATES: Written comments should be received on or before August 19, 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: Request for Federal Income Tax Withholding From Sick Pay.

OMB Number: 1545–0717.

Form Number: W–4S.

Abstract: Section 3402(o) of the Internal Revenue Code allows income tax withholding on sick pay payments made by third parties upon request of the payee. The information is used by payers to determine how much to withhold from each sick pay payment.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 500,000.

Estimated Time Per Respondent: 1hr., 22 min.

Estimated Total Annual Burden Hours: 685,000.

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: June 12, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–16241 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Form 11212

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 11212, Statement of Amendment of Employee Benefit Plan.

DATES: Written comments should be received on or before August 19, 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 Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Statement of Amendment of Employee Benefit Plan.

OMB Number: 1545–1544.

Form Number: Form 11212.

Abstract: The Tax Reform Act of 1986, the Unemployment Compensation Amendments of 1992, and the Omnibus Budget Reconciliation Act of 1993 made significant changes to the rules applying to employee retirement plans. Form 11212 is part of a voluntary outreach program designed to ensure that retirement and pension plans are amended to conform to the requirements of these Acts.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, and business or other for-profit organizations.

Estimated Number of Respondents: 10,900.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 2,725.

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: June 13, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–16242 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1045

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 1045, Application for Tentative Refund.

DATES: Written comments should be received on or before August 19, 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: Application for Tentative Refund.

OMB Number: 1545–0098.

Form Number: 1045.

Abstract: Form 1045 is used by individuals, estates, and trusts to apply for a quick refund of taxes due to carryback of a net operating loss, unused general business credit, or claim of right adjustment under Internal Revenue Code section 1341(b). The information obtained is used to determine the validity of the application.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, and farms.

Estimated Number of Respondents: 65,220.

Estimated Time Per Respondent: 8 hr., 50 min.

Estimated Total Annual Burden Hours: 575,893.

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: June 13, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–16243 Filed 6–19–97; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES INSTITUTE OF PEACE

Announcement of the Fall Unsolicited Grant Program

AGENCY: United States Institute of Peace.

ACTION: Notice.

SUMMARY: The Agency Announces its *Upcoming Deadline* for the Fall Unsolicited Grant Competition.

DEADLINE: October 1.

DATES: Application Material Available Upon Request, Receipt Date for Return of Application: October 1, 1997,

Notification of Awards: Late January, 1998.

ADDRESSES: For Application Package: United States Institute of Peace, Grant Program, 1550 M Street, NW, Suite 700, Washington, DC 20005–1708, (202) 429–6063 (fax), (202) 457–1719 (TTY), Email: grant—program@usip.org.

FOR FURTHER INFORMATION CONTACT: The Grant Program, Phone (202) 429–3842.

Dated: June 11, 1997.

Bernice J. Carney,

Director Office of Administration.

[FR Doc. 97–16130 Filed 6–19–97; 8:45 am]

BILLING CODE 3155–01–M

federal register

Friday
June 20, 1997

Part II

Department of the Interior

National Park Service

The Secretary of the Interior's Historic Preservation Professional Qualification Standards; Notice

DEPARTMENT OF THE INTERIOR

National Park Service

The Secretary of the Interior's Historic Preservation Professional Qualification Standards

AGENCY: National Park Service, DOI.

ACTION: Proposed renaming of and revisions to ''the Secretary of the Interior's Professional Qualification Standards.''

SUMMARY: The National Park Service (NPS) proposes to rename and revise ''the Secretary of the Interior's Professional Qualification Standards'' which are part of the larger ''Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.'' The statutory authority for the Secretary's development of these can be found in sections 101(g), 101(h), 101(i), and 101(j)(2)(A) of the National Historic Preservation Act, as amended (16 U.S.C. 470 *et seq.*). These Standards and Guidelines (including the Professional Qualification Standards) were published in the **Federal Register** in 1983 (48 FR 44716, September 29) as the Secretary's best guidance for historic preservation practice nationally. This remains their preeminent function.

The Standards are renamed ''the Secretary of the Interior's Historic Preservation Professional Qualification Standards.'' This change reflects the fact that the Standards are designed to apply to each discipline as it is practiced in historic preservation; e.g., in the identification, evaluation, documentation, registration, and treatment of historic properties.

The proposed revisions update the standards for the five disciplines included in the 1983 publication and add standards for seven other disciplines mentioned in the National Historic Preservation Act as being important to historic preservation. The proposed revisions also provide (for the first time) published guidance on how to use and interpret the Standards.

These revisions are necessary because the old professional qualification standards had become out-of-date, did not include many disciplines important in the practice of historic preservation, and provided no guidance on their use and interpretation. This absence of national guidance led to confusion and inconsistency in the application of the Standards by Federal, State, Tribal, and local government agencies and other organizations and individuals. The Standards are designed to be a tool to help recognize the minimum expertise generally necessary for performing professionally credible historic preservation work.

The Standards are not designed to identify the best or ideal person for any position. The effective application of any of these national Standards will require the development of a detailed job description containing additional information to suit a particular situation and need. These Standards do not apply to ''entry-level'' applicants or to preeminent professionals in the field. Rather, they outline the minimum education and experience and products that together provide an assurance that the applicant, employee, consultant, or advisor will be able to perform competently on the job and be respected within the larger historic preservation community.

All responses to this notice will be summarized as part of the publication of the official issuance of the ''Secretary's Historic Preservation Professional Qualification Standards.'' All comments will also become a matter of public record.

DATES: Comments on this notice must be received by August 19, 1997 to be assured of consideration.

ADDRESSES: Send comments to: Mr. Joe Wallis, Chief, Branch of State, Tribal, and Local Programs, Heritage Preservation Services, National Center for Cultural Resource Stewardship and Partnership Programs, National Park Service, U.S. Department of the Interior, 1849 C Street, NW., Washington, DC 20240. Comments may be hand-delivered or overnight mailed to 800 North Capitol Street, NW., Suite 200, Washington, DC 20002. Comments may be sent by fax to 202–343–6004 or by E-mail to John__Renaud@nps.gov.

FOR FURTHER INFORMATION CONTACT: Mr. John Renaud, Branch of State, Tribal, and Local Programs, Heritage Preservation Services Division, National Center for Cultural Resource Stewardship and Partnership Programs, National Park Service, 202–343–1055, FAX 202–343–6004, or John__Renaud@nps.gov (E-mail).

SUPPLEMENTARY INFORMATION:

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Introduction

Background

The identification, evaluation, protection, and preservation of America's important historic and cultural properties depends upon the participation of all citizens; however, certain decisions must involve individuals who meet nationally accepted professional standards in order to assure credibility in the practice of historic preservation at the Federal, State, and local levels, as well as in the private sector.

The Secretary of the Interior is responsible for establishing standards for all programs under Departmental authority. In accordance with this responsibility, ''the Secretary of the Interior's Professional Qualification Standards'' were developed by the National Park Service (NPS) 20 years ago to ensure that a consistent level of expertise would be applied nationally to the identification, evaluation, documentation, registration, treatment, and interpretation of historic and archeological resources.

The National Historic Preservation Act of 1966 (Pub. L. 89–665) gave the Secretary authority to set criteria for State grants, surveys, and plans. The National Park Service administratively required State Historic Preservation Officers (SHPOs) to maintain professionally qualified staff (in 1976), and to appoint qualified individuals as advisors to serve on State Review Boards (in 1977). The professional qualification standards have not changed since then. The 1980 Amendments to the National Historic Preservation Act (Pub. L. 96–515) statutorily affirmed the previous regulatory requirement for professionally qualified staff. Congress also reiterated the regulation's requirement that State Review Boards include a majority of members qualified in one of the professional disciplines which met minimum Professional

Qualification Standards defined in regulation in 36 CFR part 61 (Architecture, Architectural History, Prehistoric Archeology or Historic Archeology, and History). In addition, the 1980 amendments created the Certified Local Government (CLG) program to recognize the role of local governments in the national partnership, and stipulated that the CLG Review Commission membership needed to be adequate and qualified. The Congressional Committee Report for the 1980 amendments (H.R. Rept. 96–1457) called for ''professional bodies which can objectively evaluate the historic significance of properties and provide professional advice on historic preservation matters.'' Finally, States, local governments, Federal agencies, and the private sector often require that proposals from historic preservation contractors or work submitted by them meet these same professional practice Standards.

How To use the Historic preservation professional qualification standards provides background and general information in a question and answer format about the three basic components of each Standard: academic or comparable training; professional experience; and products and activities that demonstrate proficiency in the field of historic preservation.

Discipline and historic preservation proficiencies consists of a series of general proficiencies (knowledge, skills, and abilities) that are needed by historic preservation program applicants, employees, consultants, and advisors. The first set of proficiencies is related to disciplines; the second, to historic preservation.

Following the standard for each discipline is guidance about meeting the standard for that specific discipline, including a list of some of the most common ''closely related fields'' within academic degree programs; information on documenting professional experience; and a list of typical products and activities that may be used to document acquired proficiencies in the field of historic preservation.

Finally, a list of Professional Organizations is included to assist users in obtaining additional information about the disciplines, college and university departments, and publications on the practice of each discipline.

Program Evolution/Current Changes

In its 1992 amendments to the Act (Pub. L. 102–575), Congress recognized the evolution and growth of the professional practice of historic preservation, and an expanded role for Indian tribes in implementing the National Historic Preservation Act. Accordingly, the number of disciplines acknowledged as key to the responsible practice of historic preservation has been increased by the Act and therefore by the National Park Service from the five identified almost 20 years earlier to 12, now including Archeology (Prehistoric and Historic), Architectural History, Conservation, Cultural Anthropology, Curation, Engineering, Folklore, Historic Architecture, Historic Landscape Architecture, Historic Preservation, Historic Preservation Planning, and History.

As a result, NPS consulted at length with Federal agencies, SHPOs, CLGs, and professional societies involved in historic preservation about issuing updated and expanded Professional Qualification Standards that recognize the evolution and development of the disciplines in the field.

''The Secretary of the Interior's Historic Preservation Professional Qualification Standards'' are designed to be national measures for determining minimum requirements for professionals practicing in the field of historic preservation. The format for the Standards provides a consistent, yet flexible, framework for establishing sound professionalism in the twelve disciplines. There is one Standard for each of the disciplines.

Each Standard defines:

- Academic degrees or comparable training
- Professional experience; and
- Products and activities that demonstrate proficiency in historic preservation.

These Standards do not apply to ''entry-level'' applicants or to preeminent professionals in the field. Rather, they outline the minimum education and experience and products that together provide an assurance that the applicant, employee, consultant, or advisor will be able to perform competently on the job and be respected within the larger historic preservation community. The effective application of any of these national Standards will require the development of a detailed job description containing additional information to suit a particular situation and need.

Note: In each discipline, the most common method of meeting that Professional Qualifications Standard is discussed first. Less common alternatives follow. Typically, a graduate degree or professional license is listed first.

Applicability

It should be emphasized that the ''Historic Preservation Professional Qualification Standards'' that follow are, in most instances, advisory in nature and may thus be used by anyone hiring personnel or consultants or appointing advisory boards or commissions. Because use of the Standards can help ensure appropriate, informed decisions about protecting and preserving our nation's historic and archeological resources, NPS strongly encourages their adoption and implementation.

However, under well-defined circumstances discussed below, ''the Secretary's Historic Preservation Professional Qualification Standards'' are requirements by statute and regulation. In those instances, a note is added at the end of the required Standard.

First, the National Historic Preservation Act, Section 101, requires that a professionally qualified staff be appointed or employed by State Historic Preservation Offices. Indian tribes that have executed a Memorandum of Agreement with NPS and assumed responsibilities pursuant to Section 101(d) of the Act also must employ or consult with professionally qualified individuals in carrying out those responsibilities. The performance and supervision of Historic Preservation Fund grant-assisted work must be performed and/or supervised by professionally qualified staff and/or contractors. In accordance with 36 CFR part 61 and NPS policy, three of twelve disciplines are required for State program staff and for staff of Tribes with Section 101(d) status: History, Archeology, and Architectural History. States and Tribes with 101(d) status may propose an alternative minimum staff composition for NPS concurrence if their historic resources, needs, or circumstances would be better served or met. States and Tribes with 101(d) status are expected to obtain the services of other qualified professionals as needed for different types of resources.

Second, section 101(b)(1)(B) and section 301(12) of the Act requires that a majority of State Review Board members be professionally qualified. As specified in 36 CFR part 61, this majority must include, but need not be limited, to the required disciplines of History, Archeology, and Architectural History. One person may meet the Standards for more than one required discipline.

Third, section 101(c)(1)(B) and section 301(13) of the Act requires that State programs encourage CLG Review Commissions to include individuals who are professionally qualified, to the extent that such individuals are

available in the community. The State may specify the minimum number of Commission members that must meet the Standards and decide which, if any, of the disciplines listed in the Standards need to be represented on the Commission.

An accompanying guidance section, Applying the Historic Preservation Professional Qualification Standards, has been prepared to assist the consistent application of the ''Historic Preservation Professional Qualification Standards'' when selecting an employee, consultant, or advisor. As such, the guidance provides additional information and recommendations, but never constitutes a requirement.

How To Use the Historic Preservation Professional Qualification Standards

There are three basic components of each Historic Preservation Professional Qualification Standard: academic degrees or comparable training; professional experience; and products and activities that demonstrate proficiency in the field of historic preservation. A number of commonly asked questions about the design and content of the Standards, as well as their application and implementation, are answered below in order to assist anyone applying for a position or anyone charged with obtaining the services of a professional in the field of historic preservation.

1. *Under what authority are these Standards developed?* ''The Secretary of the Interior's Historic Preservation Professional Qualification Standards and Guidance'' are part of the larger ''Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.'' The statutory authority for the Secretary's development of these can be found in sections 101(g), 101(h), 101(i), and 101(j)(2)(A) of the National Historic Preservation Act, as amended. These Standards and Guidance (including the Professional Qualification Standards) were published in the **Federal Register** in 1983 as the Secretary's best guidance for historic preservation practice nationally. This remains their preeminent function.

2. *What about the requirements in Section 112 of the National Historic Preservation Act?* Section 112 is not the statutory authority for the ''Secretary of the Interior's Historic Preservation Professional Qualification Standards and Guidance'' (see the preceding paragraph). Section 112 splits Federal agency requirements for meeting ''professional standards'' into two parts. Section 112(a)(1)(A) mandates that Federal ''actions'' meet professional standards; it is not directed at establishing professional qualification requirements. It is section 112(a)(1)(B) that requires the Federal Office of Personnel Management (OPM) to devise professional qualification requirements for Federal employees and contractors in seven disciplines. OPM is required by statute to consult with the National Park Service (NPS) and others in creating these requirements. When completed, NPS will offer the Professional Qualification Standards and Guidance as its best advice to OPM for their use.

3. *Are the Standards regulatory or are they advisory?* The Standards are not in and of themselves regulatory. A separate regulation or other official action which references or otherwise adopts part or all of them is necessary to give any force to any language in the Standards. In a number of instances, this has occurred. For example, the Standards for Rehabilitation are regulatory in the Federal Preservation Tax Incentives program through 36 CFR part 67. Likewise, the Professional Qualification Standards are regulatory for States, local historic preservation programs, and participating tribes through 36 CFR part 61. The guidance (''Academic Background'' and ''Documenting Professional Experience'') accompanying the Professional Qualification Standards is intended to assist users in the application of the Standards; the guidance is not regulatory.

4. *How were these Standards developed? Who was consulted?* Consultation has been extensive over the four years of this project. The wide range of constituents that use the Standards dictates a broad consultation process, which, not surprisingly, results in widely varying opinions and recommendations. To date, NPS has consulted with: (1) Federal, tribal, State, and local government historic preservation programs as well as related organizations; (2) professional societies and organizations of professional societies; (3) academic programs in historic preservation and organizations of such programs; (4) individuals and companies in the private practice of historic preservation as well as related organizations; and, (5) individuals working in the public sector as well as organizations of such people.

5. *Why did the National Park Service choose the disciplines it did?* These disciplines were selected because each is specifically mentioned in the National Historic Preservation Act. [See sections 112(a)(1)(A), 112(a)(1)(B), 201(a)(9), 301(12)(B), 301(13), and 401(c)(3).]

6. *How are these Standards to be used?* The Standards are designed to be a tool to help recognize the minimum expertise generally necessary for performing professionally credible historic preservation work. The Standards are not designed to identify the best or ideal person for any position or the preeminent practitioners in any discipline, nor are they developed to qualify apprentice or entry level workers. The Standards are designed to describe the typical expertise held by credible mid-level journeymen working in historic preservation.

7. *Do the Standards apply to ''entry level'' or ''technician'' level positions?* Although the work of ''entry-level'' or ''technician-level'' personnel is critical to the success of historic preservation projects, these professional levels are not addressed in the Secretary's Standards. The Standards apply only to the ''journeyman'' professional and define the minimum level of expertise necessary to provide reliable technical opinions relating to historic properties (without in-depth oversight or review by another professional in the discipline).

8. *Do Federal agencies have to meet these Professional Qualification Standards?* For Federal employees and Federal contractors, the Historic Preservation Professional Qualification Standards are regulatory only if they are specifically adopted by: (1) The Federal Office of Personnel Management (OPM) pursuant to its responsibility under Section 112(a)(1)(B) of the Act; (2) a Federal agency in its own agency-wide regulations, requirements, or policy; or (3) a Federal agency as part of a program or project agreement with another party.

9. *How are general Standards applied in specific situations?* General standards are intended to define minimum professional qualifications for identifying, evaluating, registering, treating, and interpreting historic properties nationwide; however, the best historic preservation professional for a particular office, program, project, or property depends upon the situation. Different skills and expertise are needed for different geographical areas and resource types. In most cases where the Standards are applied in hiring or contracting, job descriptions and qualifications will have to be tailored to specific situations and locations so that experience and training are relevant to the needs of the resources and the work to be done. Where there is a need for specialized expertise in a project, application of the Standards will necessarily focus upon specialized training and demonstrated experience and products. For example, a person may be highly skilled in restoring a

particular kind of resource (such as covered bridges), but that person would not be an appropriate choice to work on other types of resources.

10. *Do all staff, consultants, and appointed advisors need to meet the Standards?* SHPOs, CLGs, and tribes hire staff, select consultants, and appoint advisors to perform historic preservation work. However, it is NPS policy that historic preservation activity supported by the Historic Preservation Fund must be conducted, supervised, overseen, evaluated, or signed off by someone who meets the appropriate Professional Qualification Standard. Therefore, NPS requires the use of some of these Standards in certain circumstances by State Historic Preservation Offices, State Review Boards, and Certified Local Government Commissions (see 36 CFR part 61). Consequently, in some offices there could be no staff meeting the Professional Qualification Standards as long as there is access somewhere along the line to the appropriate expertise. For offices (e.g., States) required to have professionally qualified staff and Review Board membership, the requirement is usually to have at least one qualified individual in the three specified core disciplines. States and Tribes with 101(d) status are expected to obtain the services of professionals qualified in other disciplines as needed. It is possible that an individual may meet the Professional Qualification Standards for more than one discipline. Other staff members working in the discipline do not have to meet the Standards.

11. *What about professionals who were hired under the old Standards?* For programs administered by the National Park Service, each State staff, State Review Board member and Certified Local Government Commission member approved by the Secretary as meeting the Professional Qualification Standards will retain that status, regardless of any subsequent changes in the Standards, until such time as that individual no longer is employed by the State office, serves on the State Review Board, or serves on the Certified Local Government Commission with which that individual was affiliated as of the date of that individual's approval. Contractors qualified in a specified discipline under the old requirements will be deemed qualified in that discipline by NPS under the new rules as long as the contract, cooperative agreement, or other third-party agreement remains in effect. New contractual agreements would apply the new standards. Other organizations using the Professional Qualification Standards are encouraged to adopt a similar approach.

12. *Why aren't the Standards for each discipline exactly the same?* Because each discipline is different and makes its own distinct contribution to historic preservation, the Professional Qualification Standards differ somewhat according to discipline. Each set of Standards includes educational and experience equivalencies to assure fairness in hiring practices; thus, a graduate or undergraduate degree, or other certification, registration, or professional license or training is given full consideration, when combined with differing periods of full-time professional experience. Documenting a record of high quality products and activities during past employment is required in every Standard; however, the type of products and activities will necessarily differ within each discipline.

13. *Why does one have to demonstrate proficiency in a specific discipline as well as in historic preservation?* When decision makers lack the expertise required to make informed decisions, historic and cultural resources can be overlooked, mis-identified, mis-evaluated, damaged, or lost. Partial expertise can be just as harmful, whether a person is well-grounded in historic preservation, but lacks professional discipline skills, or, alternatively, is an expert in a professional discipline, but fails to understand its important connection to historic preservation. Involvement of people with expertise in both a professional discipline and historic preservation will greatly improve the reliability of decisions affecting our nation's heritage.

14. *What constitutes full-time professional experience?* Full-time professional experience generally refers to experience received after the degree was awarded or education was completed. Full-time professional experience can be acquired in blocks of time that, together, add up to the number of years called for in the Standard. In some disciplines, a portion of this experience must have been earned under the direct supervision of a recognized professional. It is possible that some education and experience received outside the United States is relevant to the identification, evaluation, documentation, registration, treatment, and interpretation of United States historic and cultural properties.

15. *Does the required experience have to occur subsequent to obtaining the requisite educational or licensing credentials?* Although it is preferable to have the practical experience after obtaining the academic training in a particular discipline, there is no such national requirement. The hiring, choosing, selecting, or contracting office must determine for itself how much experience, of what sort, and in what sequence, is appropriate for the job or position.

16. *How many and what types of products and activities are routinely used to document the quality of professional experience?* The applicant, employee, consultant, or advisor may cite products such as peer-reviewed articles and publications, audio-visual materials, awards, and National Register documentation. Activities could include teaching the theory or practices of a specific discipline; administrative, project review, or supervisory experience in a historic preservation program or office; and field or laboratory work. In any event, products and activities should demonstrate the appropriate use of the applicable ''Secretary of the Interior's Standards for Archeology and Historic Preservation.'' Examples are provided in the Documenting Professional Experience section of the guidance for Applying the Standard for each discipline.

17. *In determining academic qualifications, what is a ''closely related field of study?''* To provide flexibility in determining academic credentials, the Standards recognize that a graduate or undergraduate degree may have been attained in either the identified discipline or in a related discipline. Thus a candidate for the position of Architectural Historian may have an undergraduate degree in a closely related field of study, such as Art History or Historic Preservation.

Merely having a degree in a closely related field does not automatically meet the Standard. The course work taken to earn a degree in a related field should be weighed against the course requirements in the Standard's ''main'' discipline. For example, a degree in Art History does not necessarily, on its own, meet the Standard for Architectural History, unless course work relevant to the Standard can be documented, such as American architectural history. (See the Academic Background guidance given after each Standard, which discusses the typical closely related fields of study for each historic preservation discipline.)

18. *How much and what kind of course work in a ''closely related field'' is required to meet the Professional Qualifications Standards?* There is no set amount of credit hours. The office hiring or selecting must make a determination that the person with course work in a closely related field has enough relevant education to be

equivalent to that necessary for the standard degree in that discipline, and to enable that person to make judgments about the identification, evaluation, documentation, registration, or treatment of historic or archeological properties in the United States and its Territories.

19. *When is ''exceptional experience'' a factor?* In general, an applicant, employee, consultant, contractor, or advisor who does not possess a combination of education or training, experience, and products would not meet the Standards. However, in some cases, a person's experience and contributions have been so exceptional that he or she demonstrates the level of expertise that meets the Standards. In particular, this may apply in those situations where persons embarked upon their careers before recognized academic programs were established, and their education or training was thus attained in alternative ways. In such instances, exceptional experience would be substituted for an academic degree or other training. It is up to the organization with administrative oversight responsibility for the program or project to determine whether the individual meets the Standards. For example, in a program under the purview of 36 CFR part 61, the State Historic Preservation Office would request an exception from the National Park Service for the person under consideration for a ''professional'' position on the State staff or Review Board. Otherwise, the organization doing the hiring or selecting of personnel would determine whether the individual meets the Standards.

Discipline and Historic Preservation Proficiencies

The Historic Preservation Professional Qualification Standards call for an understanding of the general principles, procedures, and practices in the discipline as they are applied to historic preservation. This type of expertise is necessary for historic preservation programs in which the employee, consultant, or advisor is expected to deal with a range of historic resources and issues. Proficiencies in the disciplines and in the practice of historic preservation are outlined below.

Recommended Discipline Proficiencies

The following discipline proficiencies (knowledge, skills, and abilities) should be possessed by applicants, employees, consultants, and advisors:

- Knowledge of the history of the discipline.
- Knowledge of current theories, principles, practices, methods, and techniques of the discipline.
- Familiarity with diverse specializations within the discipline.
- Skills in applying the discipline's techniques of practice, including critical analysis skills.
- Understanding of the discipline's relationships with other disciplines and the ability to design and carry out interdisciplinary projects.
- Understanding of complex research questions.
- Ability to place a specific project in a broader context.
- Knowledge of current scholarly research and its applicability to a given issue.
- Familiarity with the process of rigorous professional peer review that occurs before work is published.

Recommended Historic Preservation Proficiencies

The following historic preservation proficiencies (knowledge, skills, and abilities) should be possessed by applicants, employees, consultants, and advisors:

- Familiarity with the origins and development of the historic preservation movement.
- Knowledge of the field of historic preservation as it is practiced in the United States, including its philosophies, theories, practices, laws, regulations, policies, and standards, and relationship to the discipline as a whole.
- Ability to apply Federal and relevant State and local historic preservation laws, regulations, policies, and standards in the public and private sectors, including Federal, State, and local government agencies, and private organizations.
- Ability to apply the appropriate set(s) of the ''Secretary of the Interior's Standards for Archeology and Historic Preservation,'' and/or the National Register of Historic Places criteria.

In consideration of the foregoing, the ''Secretary of the Interior's Professional Qualification Standards'' are proposed to read as follows:

Historic Preservation Professional Qualification Standards

Archeology
(A) Prehistoric Archeology
(B) Historic Archeology
Architectural History
Conservation
Cultural Anthropology
Curation
Engineering
Folklore
Historic Architecture
Historic Landscape Architecture
Historic Preservation Planning
Historic Preservation
History

Archeology; Historic Preservation Professional Qualification Standards

Archeology is the study of past human lifeways through the systematic observation, analysis, and protection of the material remains of human activities.

Standard for Archeologist

(A) Prehistoric

The applicant, employee, consultant, or advisor will have a graduate degree in Anthropology with a specialization in Prehistoric Archeology, or a graduate degree in Archeology with a specialization in Prehistoric Archeology, or a graduate degree in a closely related field (see Academic Background for Archeology), PLUS a minimum of two and one-half (2½) years of full-time professional experience in applying the theories, methods, and practices of Archeology that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of prehistoric archeological properties in the United States and its Territories (at least six months of experience must have been acquired in the performance of field and analytical activities under the supervision of a professional prehistoric archeologist, and one year of experience in the study of the archeological resources of the prehistoric period must have been at a supervisory level); and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Archeologists).

(B) Historical

The applicant, employee, consultant, or advisor will have a graduate degree in Anthropology with a specialization in Historical Archeology, or a graduate degree in Archeology with a specialization in Historical Archeology, or a graduate degree in a closely related field (see Academic Background for Archeology), plus a minimum of two and one-half (2½) years of full-time professional experience applying the theories, methods, and practices of Archeology that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic archeological properties in the United States and its Territories (at least six months of experience must have been acquired in

the performance of field and analytical activities under the supervision of a professional Historical Archeologist, and one year of experience in the study of the archeological resources of the historic period must have been at a supervisory level); and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Archeologists).

(**Note:** Pursuant to 36 CFR part 61, a person meeting this Standard (either Prehistoric or Historic Archeology) is required as part of the core staff for each State Historic Preservation Office (SHPO) and as part of each State Review Board. Expertise described by this standard is also needed for Tribal Preservation Office staff or consultants of tribes that have executed a Memorandum of Agreement to implement Section 101(d) of the National Historic Preservation Act. It also may be needed for consultants hired with HPF grant funds and for members of Certified Local Government Commissions.)

Archeology—Academic Background

Closely related fields: Anthropology, with a specialization in Archeology, is the typical degree discipline for archeologists practicing in the United States. One of the usual requirements for receiving the degree is completion of an archeological field school in which the student learns about techniques of survey, excavation, and laboratory processing. However, degree programs have also been established in Archeology, Cultural Resources Management, Historical Archeology, and Public Archeology. Some Historical Archeology programs are housed in History, Public History, or American Studies Departments. For these degrees, a list of courses taken should be reviewed to determine if the program is equivalent to that typically provided for a degree in Anthropology with a specialization in Archeology, including course work in archeological methods and theory, archeology of a geographic region (e.g., North America), and the field school.

Discipline specializations: The most prevalent specializations in Archeology include Historical Archeology or Prehistoric Archeology, i.e., the specialization in resources of either the prehistoric period or the historic period. These specializations necessarily require expertise in different types of sites and different sources of information about past human activities. For example, a prehistoric archeologist usually requires a knowledge of environmental sciences, while a historical archeologist needs to understand the techniques of archival research. Additional specialized training and experience is also required for those specializing in, for example, underwater archeology, physical anthropology (human bones and burials), forensic archeology, or zooarcheology (non-human bones). In addition, archeologists typically specialize in the archeological resources of a particular time period, geographic region, resource type, or research subject.

Applying the Standard for Archeologist—Documenting Professional Experience

A professional archeologist typically has experience in field survey, site testing, site excavation, artifact identification and analysis, documents research, and report preparation. Supervised field experience as a graduate student may be counted as part of the overall 2½ year professional experience requirement.

A Prehistoric Archeologist meeting this Standard would document one year of supervisory experience in the study of prehistoric archeological sites; a Historical Archeologist would document one year of supervisory experience in the study of sites of the historic period.

The two archeologist specializations of Prehistoric Archeology and Historic Archeology are not interchangeable. Documentation to show that someone qualifies in both Prehistoric and Historic Archeology should include a minimum of one additional year of supervisory experience on resources of the other specialty, for a total of 3½ years of experience, with products and activities in both specializations.

Products and Activities.

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary Standards for Archeology and Historic Preservation may include:

- Survey and excavation reports of cultural resource management or Section 106 (or other compliance) projects. These reports are typically called ''grey literature;'' they often have multiple authors and are usually produced in limited quantities by consulting firms.
- National Register documentation resulting in property listings or Determinations of Eligibility.
- Materials such as presentations, booklets, brochures, lesson plans, or videos that interpret the results of archeological investigation for the general public.
- Publications including articles in professional journals, monographs, books, or chapters in edited books, related to the preservation of historic or archeological properties.
- Presentations at regional, national, or international professional conferences related to the preservation of historic or archeological properties.
- Professional service on boards or committees of regional, national, or international professional organizations concerned with the preservation of historic or archeological properties.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Furthermore, it is not expected that all of these products and activities will need to be documented in order to meet the Standard; rather, a combination of several of these products and activities would be more typical. However, if the applicant were documenting professional experience in one of the specializations, the majority of products and activities should reflect that specialization.

Architectural History; Historic Preservation Professional Qualification Standards

Architectural History is the study of the development of building practices through written records and design and the examination of structures, sites, and objects in order to determine their relationship to preceding, contemporary, and subsequent architecture and events.

Standard for Architectural Historian

(a) The applicant, employee, consultant, or advisor will have a graduate degree in Architectural History or a closely related field of study (see Academic Background for Architectural History), plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Architectural History that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Architectural Historians); or * * *

(b) An undergraduate degree in Architectural History or a closely

related field of study (see Academic Background for Architectural History), plus a minimum of four (4) years of full-time professional experience applying the theories, methods, and practices of Architectural History that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historians).

(**Note:** Pursuant to 36 CFR part 61, a person meeting this Standard is required as part of the core staff for each State Historic Preservation Office (SHPO) and as part of each State Review Board. Expertise described by this standard is also needed for Tribal Preservation Office staff or consultants of tribes that have executed a Memorandum of Agreement to implement Section 101(d) of the National Historic Preservation Act. It also may be needed for consultants hired with HPF grant funds and for members of Certified Local Government Commissions.)

Architectural History—Academic Background

Closely related fields: Professional Architectural Historians typically receive their formal training through Architectural History, Art History, or Historic Preservation programs, which include course work in American Architectural History. Other fields of study may offer relevant training, provided that course work in American Architectural History is taken. These other fields may include American Studies, American Civilization, Architecture, Landscape Architecture, Urban and Regional Planning, American History, Historic Preservation, and Public History.

Discipline specializations: Architectural Historians tend to be generalists, although specializations within Architectural History are typically based on time periods (such as 18th century), on a particular architectural style (such as Georgian or vernacular), or a combination of these (such as plantation architecture in the antebellum South).

Applying the Standard for Architectural Historian—Documenting Professional Experience

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' A professional Architectural Historian typically has expertise in research, survey, documentation, and evaluation, of architectural resources, including buildings, structures, objects, and districts. Documentation of such experience is desirable. Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- Survey reports assessing the significance of historic properties.
- Historic structure reports.
- National Register documentation resulting in property listings or Determinations of Eligibility.
- Documentation that meets HABS/HAER standards for recording historic properties.
- Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books, related to the preservation of historic structures.
- Presentations at regional, national, or international professional conferences related to the preservation of historic structures.
- Professional service on boards or committees of regional, national, or international professional organizations concerned with the preservation of historic structures.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the majority of products and activities would naturally reflect that specialization.

Conservation; Historic Preservation Professional Qualification Standards

Conservation is the practice of prolonging the physical and aesthetic life of prehistoric and historic material culture through documentation, preventive care, treatment, and research.

Standard for Conservator

(a) The applicant, employee, consultant, or advisor will have a graduate degree in Conservation or a graduate degree in a closely related field of study with a certificate in Conservation (see Academic Background for Conservation), plus a minimum of three (3) years of full-time professional experience applying the theories, methods, and practices of Conservation that enables professional judgments to be made about the identification, evaluation, documentation or treatment of objects associated with historic and prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Conservators); or * * *

(b) An undergraduate degree in Art History, or Natural or Physical Science, or another closely related field to Conservation (see Academic Background for Conservation), with an additional (3) years of full-time enrollment in an apprenticeship program equivalent to graduate studies in Conservation and supervised by a professional Conservator; plus a minimum of three (3) years full-time professional experience applying the theories, methods, and practices of Conservation that enables professional judgments to be made about the identification, evaluation, documentation, or treatment of objects associated with historic and prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Conservators).

Conservation—Academic Background

Closely related fields: Since Conservators tend to specialize in a particular class of objects, closely related fields will be diverse, and could include Art, Art Conservation, Art History, Architecture, Historic Preservation, Museum Studies, Chemistry, Physics, Engineering (or a related scientific field), Archeology, Anthropology, or other fields related to the conservation specialization. If a closely related field is being claimed, the degree in the closely related field should be accompanied by a certificate in Conservation, or the completion of course work equivalent to that typically offered in graduate Conservation programs. This course work should include examination, documentation, and treatment of objects; history and technology of objects; and conservation science. In addition, such a program should include the completion of a two-semester internship.

Discipline specializations: Professional conservators specialize in the treatment and maintenance of a

specific class of objects or materials, such as archeological artifacts, architectural elements or fragments, or collections, books, ceramics, glass, decorative arts, ethnographic objects, furniture, metals, paintings, paper, photographs, sculpture, and textiles. Some conservators have studied more than one specialty, and have accumulated experience which allows them to practice in several of these specialties (although they are often closely related, such as books, drawings, prints or paper; decorative arts and furniture; sculpture and archeological artifacts). In these cases, the time period that distinguishes the materials is often the specialty. Each of these specialties requires focused training and experience, since each represents unique problems which are not always necessarily shared with other materials or time periods. Hence, a professional conservator should be able to perform according to professional standards of practice within the claimed area of specialty and should be both capable and willing to recognize his or her limitations. The professional conservator, moreover, should be generally knowledgeable about the issues of other specialties and the benefit of effective communication among the specialties. A broad understanding of the general principles of the conservation discipline is paramount as well, particularly in the area of technological and philosophical concerns that govern the ethics of the profession.

A note on Conservation education: Many professional Conservators received their training by serving apprenticeships with professional Conservators. For some time, however, graduate conservation programs have been established in academic institutions; these require an internship in recognition of the critical importance of hands-on training and experience in preparing students for professional practice.

Applying the Standard for Conservator—Documenting Professional Experience

A professional Conservator typically possesses specialized technical skills and has experience in the examination, analysis, documentation, treatment, and preventive care of a specific class, or classes, of objects.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- A portfolio of current and past conservation work, including written and photographic documentation.
- Reports of examination, condition, or treatment of objects.
- Publications, which might include articles in professional journals, monographs, books, or chapters in edited books, related to the care and treatment of objects.
- Presentations at regional, national, or international professional conferences, workshops or other educational venues related to the care and treatment of objects.
- Professional service on boards or committees of regional, national, or international professional organizations concerned with the conservation of objects.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Futhermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the majority of products and activities would naturally reflect that specialization.

Cultural Anthropology; Historic Preservation Professional Qualification Standards

Cultural anthropology is the description and analysis of cultural systems, which include systems of behaviors (economic, religious, social), values, ideologies, and social arrangements.

Standard for Cultural Anthropologist

(a) The applicant, employee, consultant, or advisor will have a graduate degree in Anthropology with a specialization in Applied Cultural Anthropology, or a closely related field (see Academic Background for Cultural Anthropology), plus a minimum of two (2) years of full-time professional experience (including at least six months of field work supervised by a professional Cultural Anthropologist) applying the theories, methods, and practices of Cultural Anthropology that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic, prehistoric, or traditional cultural properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Cultural Anthropologists); or * * *

(b) An undergraduate degree in Anthropology or a closely related field (see Academic Background for Cultural Anthropology), with a specialization in Applied Cultural Anthropology, plus a minimum of four (4) years of full-time professional experience (including at least twelve months of field work supervised by a professional Cultural Anthropologist) applying the theories, methods, and practices of Cultural Anthropology that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic, prehistoric, or traditional cultural properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (See Documenting Professional Experience for Cultural Anthropologists).

Cultural Anthropology—Academic Background

Closely related fields: A degree in Anthropology with a specialization in Applied Cultural Anthropology is the typical degree discipline for Cultural Anthropologists practicing in the United States. Closely related fields of study may include Sociology, Cultural Geography, Folklife, History, and American Studies.

Discipline specializations: Specializations in this discipline include Applied Cultural Anthropology, and Social Anthropology (which may be considered the most closely related to Cultural Anthropology; some academic programs even combine them, referring to Sociocultural Anthropology). Departments of Anthropology typically provide training in Archeology, Physical Anthropology, Ethnography, and Sociocultural Anthropology, and they may offer Applied Anthropology concentrations in one or more of these fields. Professional Cultural Anthropologists tend to specialize geographically (such as in the Southwest United States, Micronesia or New England) or topically (such as Medical Anthropology or Urban Anthropology), or in working with particular cultural or linguistic groups (such as fishermen, Irish immigrants, or Northwest Coast Indians).

Applying the Standard for Cultural Anthropologist—Documenting Professional Experience

A professional Cultural Anthropologist typically has experience in the use of ethnohistoric and ethnographic techniques, including participant observation field work among one or more contemporary ethnic groups. The typical Cultural Anthropologist would also have performed field survey to identify and assess ethnographic resources, which can include, in addition to historic and cultural places of value, environmental features and places that have symbolic and other cultural value for Native American and/or other ethnic communities. A Cultural Anthropologist engaged in substantial ethnographic field work should demonstrate professional experience in the relevant geographic area and/or among the New World peoples, immigrant, ethnic, or minority communities with whom they will work.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- Ethnographic field studies and survey reports, oral histories, or social impact assessments.
- National Register documentation of ethnographic resources or traditional cultural properties resulting in property listings or Determinations of Eligibility.
- Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books, related to the documentation and preservation of historic and archeological resources, and/or traditional cultural properties.
- Presentations at regional, national, or international professional conferences, symposia, workshops or exhibits related to the documentation and preservation of historic and archeological resources, and/or traditional cultural properties.
- Professional service on boards or committees or regional, national, or international professional organizations concerned with the documentation and preservation of historic and archeological resources.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Futhermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the majority of products and activities would naturally reflect that specialization.

Curation; Historic Preservation Professional Qualification Standards

Curation is the practice of documenting, managing, preserving, and interpreting museum collections according to professional museum and archival practices.

Standard for Curator

(a) The applicant, employee, consultant, or advisor will have a graduate degree in Museum Studies or a closely related field of study (see Academic Background for Curation), plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Curation that enables professional judgments to be made about the identification, evaluation, documentation, preventive care, or interpretation of collections associated with historic and prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Curators); or * * *

(b) An undergraduate degree in Museum Studies or a closely related field of study (see Academic Background for Curation), plus a minimum of four (4) years of full-time professional experience applying the theories, methods, and practices of Curation that enables professional judgments to be made about the identification, evaluation, documentation, preventive care, or interpretation of collections associated with historic and prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Curator).

Curation—Academic Background

Closely related fields: A degree program called Museum Studies in one academic institution might be called Museum Science or Museology in another institution. Since Curators often specialize in particular disciplines, those fields of study would be relevant provided that theoretical as well as hands-on training was also obtained in museum methods and techniques, including collections care and management. Examples of relevant fields could include American Studies, Anthropology, Archeology, Art History, Archival or Library Science, History, Biology, Botany, Chemistry, Physics, Engineering, Geology, Zoology, and other similar fields of study, depending upon the nature of the collections to be curated.

Discipline specializations: Professional Curators tend to be specialists in a particular academic discipline relevant to the collections held by their institution or museum, which could include, for example, 19th-century Hudson Valley School paintings, Southwest Pueblo pottery, Civil War military uniforms, site-specific archeological materials, or natural history specimens.

Applying the Standard for Curator—Documenting Professional Experience

A professional Curator typically has experience in managing and preserving a collection according to professional museum and archival practices. Cultural training should involve experience with the chemical and physical properties of material culture, as well as practical and legal aspects of health and safety, an understanding of climate control systems, security, and conservation methods. The Curator is directly responsible for the care and academic interpretation of all objects, materials, and specimens belonging to or lent to the museum; recommendations for acquisition, de-accession, attribution and authentication; and research on the collections and the publication of the results of that research. The Curator also may have administrative and/or exhibition responsibilities.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- Exhibit catalogs and other scholarly reports.
- Field or laboratory work that demonstrates ability to conserve, document, or interpret archeological,

archival, or material culture objects or collections.

- Plans or finding aids for the preservation or documentation of museum collections.
- Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books, related to the care and treatment of archeological, archival, or material culture objects or collections.
- Presentations at regional, national, or international professional conferences, symposia, workshops, or exhibits related to the care and treatment of archeological, archival, or material cultural objects or collections.
- Professional service on boards or committees or regional, national, or international professional organizations concerned with the care and treatment of archeological, archival, or material culture objects or collections.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the majority of products and activities would naturally reflect that specialization.

Engineering; Historic Preservation Professional Qualification Standards

Engineering is the practice of applying scientific principles to the research, planning, design, and management of structures and machines such as roads, bridges, canals, dams, docks, locomotives, and buildings, including their structural, electrical, or mechanical systems. Historic Engineering involves specialized training in engineering principles, theories, concepts, methods, and technologies of the past, and appropriate methods of interpreting and preserving historic engineered structures or machinery.

Standard for Engineer

(a) The applicant, employee, consultant, or advisor will have a State Government-recognized license to practice civil or structural engineering, plus, a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of engineering that enables professional judgments to be made about the documentation or treatment of historic structures and machines in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Engineers); or * * *

(b) A Masters of Civil Engineering degree with demonstrable course work in Historic Preservation, for historic structures rehabilitation, plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Engineering that enables professional judgments to be made about the documentation or treatment of historic structures and machines in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Engineers); or * * *

(c) A Bachelors of Civil Engineering degree with at least one year of graduate study in History of Technology, Historic Preservation, Engineering History, or a closely related field (see Academic Background for Engineers), plus a minimum of two (2) years of full-time professional experience applying the theories, methods and practices of Engineering that enables professional judgments to be made about the documentation or treatment of historic structures and machines in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Engineers).

(**Note:** Only persons who are licensed to practice Engineering in that State may prepare and seal plans and specifications in order to obtain construction permits, authorize payments to contractors, and certify that the work is complete. However, State staff, State Review Board members, and CLG staff or Commission members who are not licensed, but who meet the Standard for Engineer under (b) or (c) above, can review proposed and completed work for compliance with the applicable Secretary's Standards for Tax Act, HPF Grant, or other related programs.)

Engineering—Academic Background

Closely related fields: The Bachelor of Civil Engineering degree is a five-year degree that is unlikely to include historic preservation course work. The same is true of a Masters of Civil Engineering degree. An Engineer with an Engineering degree is well grounded in all aspects of engineering practice, including design, planning, construction specifications, and contract administration. Although this background is essential, additional training is needed in order to understand and work with historic structures, sites, and machines, with their complex material evolution and treatment problems. Specialized training, to supplement that provided by the professional Engineering program, should be acquired in such areas as American Architectural and Engineering History, History of Technology, Architectural Preservation, Conservation, Historic Construction Technologies, Historic Building Materials, Historical Archeology, and Historic Preservation.

Discipline specializations: Civil Engineering, Electrical Engineering, Mechanical Engineering, and Structural Engineering are typical specializations within the broader discipline of Engineering. The two specializations most often used in historic preservation projects are Civil and Structural Engineering. Occasionally, there may be the need for a Mechanical Engineer to address issues concerning historic machinery such as locomotives, steam engines, water turbines, electric generators, and similar machines and equipment, or particularly complex mechanical systems in a historic structure.

Applying the Standard for Engineer—Documenting Professional Experience

To be licensed by a State Government as a professional Engineer, an individual must pass a written exam and successfully fulfill education, training, and experience requirements. In addition, a professional Historical Engineer has both theoretical knowledge and technical skill associated with preserving historic structures and machines, and with the application of Engineering theories, methods, and practices that enables professional judgments to be made about the evaluation, documentation, or treatment of historic structures and machines in the United States and its Territories. A professional Historical Engineer typically has gained experience on structural preservation projects, which have included research and detailed investigations of historic structures or mechanical artifacts and preparation of recommendations for the treatment of such properties in order to preserve them in accordance with the appropriate Secretary's Standards for Archeology and Historic Preservation (particularly the Secretary's Standards for the Treatment of Historic Properties).

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the Secretary Standards for Archeology and Historic Preservation may include:

- Plans and Specifications for the preservation, rehabilitation, or restoration of historic structures, such as bridges, dams, canal locks, and for the structural rehabilitation or seismic stabilization of buildings.
- Adaptive reuse or feasibility studies that make recommendations for preserving or structurally stabilizing historic structures, including bridges.
- Historic Structure Reports or Condition Assessments of historic structures or machines.
- Documentation that meets HABS/HAER standards for recording historic structures or machines.
- Experience applying the Secretary of the Interior's Standards for the Treatment of Historic Properties to the review of work on historic structures, sites or machines.
- Awards for historic structure preservation, rehabilitation, or restoration received from local, regional, national, or international professional organizations.
- Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books about the preservation of historic structures or machines.
- Presentations at regional, national, or international professional conferences, symposia, workshops, or exhibits about the preservation of historic structures or machines.
- Professional service on boards or committees or regional, national, or international professional organizations concerned with the preservation of historic structures or machines.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical.

Folklore; Historic Preservation Professional Qualification Standards

Folklore is the study and documentation of traditional, expressive culture shared within various ethnic, familial, occupational, religious, and regional groups.

Standard for Folklorist

(a) The applicant, employee, consultant, or advisor will have a graduate degree in Folklore, Folklife Studies, Anthropology or a closely related field of study (see Academic Experience for Folklore), with a specialization in Folklore or Folklife Studies, plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Folklore that enables professional judgments to be made about the identification, evaluation, or documentation of folk cultures or lifeways associated with historic or prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Folklorists); or * * *

(b) An undergraduate degree in Anthropology or a closely related field of study (see Academic Experience for Folklore), plus a minimum of four (4) years of full-time professional experience applying the theories, methods, and practices of Folklore that enables professional judgments to be made about the identification, evaluation, or documentation of folk cultures or lifeways associated with historic or prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation. (see Documenting Professional Experience for Folklorists).

Folklore—Academic Background

Closely related fields: Typically, a professional Folklorist has a graduate degree in Folklore or Folklife Studies, or from highly specialized study within other disciplines such as Anthropology, English, Linguistics, or Sociology, provided that such study included training in theory, research and fieldwork techniques, and in the diverse categories of expressive culture.

Discipline specializations: A graduate degree in Anthropology may be combined with a specialization in Folklore and Folklife Studies. Other specializations may include: English, Cultural Anthropology, Ethnohistory, Ethnobotany, Ethnozoology, Ethnoarcheology, Cultural Geography, Sociology, and Oral History.

A professional Folklore specialist, or Folklorist, may specialize in any of the categories of traditional expressive culture, such as music (ethnomusicology), spoken word traditions, material culture, customs, or religious and belief systems; or specialization may focus on the study of a particular contemporary group (such as the Pennsylvania Amish) or region of the United States (such as Appalachia).

Applying the Standard for Folklorist—Documenting Professional Experience

A professional Folklorist typically demonstrates professional knowledge and skills in established methods and techniques of folklore and folklife research in the collection, evaluation, documentation, analysis, and/or presentation of grassroots and traditional cultural expression, including folk music, spoken word, dance, craftsmanship and artistic traditions, folkways, customs, belief systems, traditional foodways, and regional and/or occupational groups and communities. Experience would typically include fieldwork, with on-site interviews, observation, and documentation of contemporary human cultural activities.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- Field studies and survey reports, oral histories, or assessments of the significance of historic properties.
- Publications, which might include articles in regional, national, or international professional journals; monographs, books, or chapters in edited books, related to assessing the significance of historic or traditional cultural properties.
- Presentations at regional, national, or international professional conferences, symposia, workshops, exhibitions, or other educational venues related to analyzing cultural traditions in evaluating the significance of historic or traditional cultural properties.
- Professional service on boards or committees of regional, national, or international professional organizations concerned with documenting and analyzing cultural traditions.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet

the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the majority of products and activities would naturally reflect that specialization.

Historic Architecture; Historic Preservation Professional Qualification Standards

Historic Architecture is the practice of applying artistic and scientific principles to the research, planning, design, and management of the built environment with specialized training in the principles, theories, concepts, methods, and techniques of preserving historic buildings and structures.

Standard for Historical Architect

(a) The applicant, employee, consultant, or advisor will have a State Government-recognized license to practice Architecture, plus, a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Architecture that enables professional judgments to be made about the evaluation, documentation, or treatment of historic structures in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historical Architects); or * * *

(b) A Masters of Architecture degree with demonstrable course work in Architectural Preservation, Architectural History, Historic Preservation, Historic Preservation Planning, or a closely related field (see Academic Background for Historic Architecture), plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Historic Architecture that enables professional judgments to be made about the evaluation, documentation, or treatment of historic structures in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historical Architects); or * * *

(c) A Bachelors of Architecture degree with at least one year of graduate study in Architectural Preservation, Architectural History, Historic Preservation, Historic Preservation Planning, or a closely related field (see Academic Experience for Historic Architecture), plus a minimum of two (2) years of full-time professional experience applying the theories, methods and practices of Historic Architecture that enables professional judgments to be made about the evaluation, documentation, or treatment of historic structures in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historical Architects).

(**Note:** Only persons who are licensed to practice Architecture in that State may prepare and seal plans and specifications in order to obtain construction permits, authorize payments to contractors, and certify that the work is completed. However, State staff, State Review Board members, and CLG staff or Commission members who are not licensed, but who meet the Standard for Historical Architect under (b) or (c) above, can review proposed and completed work for compliance with the applicable Secretary's Standards for Tax Act, HPF Grant, or other related programs.)

Historic Architecture—Academic Background

Closely related fields: The Bachelor of Architecture degree is a five-year degree that does not always include historic preservation course work. The same may be true of a Masters of Architecture degree. An Historical Architect is first an Architect and, as such, is well grounded in all aspects of architectural practice, including architectural design, planning, construction specifications, and contract administration. Although this background is essential, additional training is needed in order to understand and work with historic structures, with their complex material evolution and treatment problems. Specialized training, to supplement that provided by the professional Architecture program, should be acquired in such areas as American Architectural History, Architectural Preservation, Conservation, Historic Construction Technologies, Historic Building Materials, and Historic Preservation.

Discipline specialization: Historic Architecture is a specialization within the broader discipline of Architecture.

Applying the Standard for Historical Architect—Documenting Professional Experience

To be licensed by a State Government as a professional Architect, an individual must pass a written exam and successfully fulfill education, training, and experience requirements. In addition, a professional Historical Architect has both theoretical knowledge and technical skill associated with preserving historic structures, and with the application of Architecture theories, methods, and practices that enables professional judgments to be made about the evaluation, documentation, or treatment of historic properties in the United States and its Territories. A professional Historical Architect typically has gained experience on structural preservation projects, which have included research and detailed investigations of historic structures and preparation of recommendations for the treatment of properties in order to preserve them in accordance with the appropriate Secretary's Standards for Archeology and Historic Preservation (particularly the Secretary's Standards for the Treatment of Historic Properties).

Products and activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the Secretary Standards for Archeology and Historic Preservation may include:

- Plans and Specifications for the preservation, rehabilitation, or restoration of historic structures.
- Adaptive reuse or feasibility studies that make recommendations for preserving historic structures.
- Historic Structure Reports or Condition Assessments of historic structures.
- Documentation that meets HABS/HAER standards for recording historic structures.
- Experience applying the Secretary of the Interior's Standards for the Treatment of Historic Properties to the review of work on historic structures.
- Awards for historic structure preservation, rehabilitation, or restoration received from local, regional, national, or international professional organizations.
- Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books about the preservation of historic structures.
- Presentations at regional, national, or international professional conferences, symposia, workshops, or exhibits about the preservation of historic structures.
- Professional service on boards or committees or regional, national, or international professional organizations

concerned with the preservation of historic structures.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical.

Historic Landscape Architecture; Historic Preservation Professional Qualification Standards

Historic Landscape Architecture is the practice of applying artistic and scientific principles to the research, planning, design, and management of both natural and built environments with specialized training in the principles, theories, concepts, methods, and techniques of preserving cultural landscapes.

Standard for Historical Landscape Architect

(a) The applicant, employee, consultant, or advisor will have a State Government-recognized license to practice Landscape Architecture, plus, a minimum of two (2) years full-time professional experience applying the theories, methods, and practices of Landscape Architecture that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Landscape Architects); or

* * *

(b) A Masters degree in Landscape Architecture with demonstrable course work in the principles, theories, concepts, methods, and techniques of preserving cultural landscapes, plus a minimum or two (2) years of full-time professional experience applying the theories, methods, and practices of Landscape Architecture that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Landscape Architects); or

* * *

(c) A four-year or five-year Bachelors degree in Landscape Architecture, plus a minimum of three (3) years of full-time professional experience applying the theories, methods, and practices of Landscape Architecture that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Landscape Architects).

(**Note:** Only persons who are licensed to practice Landscape Architecture in that State may prepare and seal plans and specifications in order to obtain construction permits, authorize payments to contractors, and certify that the work is completed. However, State staff, State Review Board members, and CLG staff or commission members who are not licensed, but who meet the Standard for Historical Landscape Architect under (b) or (c) above, can review proposed and completed work for compliance with the applicable Secretary's Standards for Tax Act, HPF Grant, Grant, or other related programs.)

Historic Landscape Architecture—Academic Background

Closely related fields: Landscape Architecture is the typical professional Bachelors degree, which is awarded after successful completion of a four-year or five-year undergraduate program. However, the Bachelors or Masters in Landscape Architecture may not always include historic preservation course work. While the standard Landscape Architecture degree program addresses all general aspects of landscape architectural practice (including design, planning, construction specifications, and professional practice), additional training is needed for Historical Landscape Architects. They may need training in landscape research, documentation, analysis, evaluation, and treatment techniques. This additional training is achieved through additional course work and/or professional experience.

Graduate study: The Masters in Landscape Architecture degree is the typical graduate degree, which is awarded after successful completion of a two-year or three-year graduate program. This degree should include studies in the principles, theories, concepts, methods, and techniques of preserving cultural landscapes. Course work may include cultural geography; landscape history; archival research techniques; historic preservation theory, principles, and practice; and preservation technologies.

Discipline specialization: Historic Landscape Architecture is a specialization within the broader field of Landscape Architecture. Historical Landscape Architects should have completed training in the principles, theories, concepts, methods, and techniques of preserving cultural landscapes. Cultural landscape preservation focuses on preserving a landscape's physical attributes, biotic systems, and use (especially when that use contributes to its historical significance). Graduate study and/or professional experience provides the specialized training needed by the Historical Landscape Architect.

Applying the Standard for Historical Landscape Architect—Documenting Professional Experience

To be licensed by a State Government as a professional Landscape Architect, an individual typically must pass a written exam and successfully fulfill education, training, and experience requirements. In addition, an Historical Landscape Architect must have two years of experience in the application of Landscape Architecture theories, methods, and practices to the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories. A professional Historical Landscape Architect has both theoretical knowledge and technical skill associated with the preservation of cultural landscapes in accordance with the Secretary's Standards for Archeology and Historic Preservation. Cultural landscapes include historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- Surveys and inventories of cultural landscapes.
- Documentation of cultural landscapes that meets the Secretary's Standards for Documentation.
- National Register nominations or Determinations of Eligibility for cultural landscapes.
- Cultural Landscape treatment and maintenance plans.
- Cultural Landscape Reports.

• Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books about cultural landscape preservation.

• Presentations at regional, national, or international professional conferences, symposia, workshops, or exhibits about cultural landscape preservation.

• Professional service on boards or committees or regional, national, or international professional organizations concerned with cultural landscape preservation.

• Awards, research grants, research fellowships, or invitations to teaching posts associated with cultural landscape preservation.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical.

Historic Preservation Planning; Historic Preservation Professional Qualification Standards

Historic Preservation Planning, a specialization within Planning, is the practice of identifying and carrying out particular goals and strategies to protect historic and archeological resources at the local, regional, State, or national level.

Standard for Historic Preservation Planner

(a) The applicant, employee, consultant, or advisor will have a State Government-recognized certification or license in Land-use Planning, plus, minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Historic Preservation Planning that enables professional judgments to be made about the identification, evaluation, documentation, registration, protection, or treatment of historic and archeological properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Preservation Planner); or * * *.

(b) A graduate degree in Planning with demonstrable course work in Historic Preservation, or a graduate degree in a closely related field of study with demonstrable course work in Historic Preservation (see Academic Background for Historic Preservation Planning), plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Historic Preservation Planning that enables professional judgments to be made about the identification, evaluation, documentation, registration, protection, or treatment of historic and archeological properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Preservation Planner); or * * *.

(c) An undergraduate degree in Planning with demonstrable course work in Historic Preservation or an undergraduate degree in a closely related field of study with demonstrable course work in Historic Preservation (see Academic Background for Historic Preservation Planning), plus a minimum of four (4) years of full-time professional experience applying the theories, methods, and practices of Historic Preservation Planning that enables professional judgments to be made about the identification, evaluation, documentation, registration, protection, or treatment of historic and archeological properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Preservation Planner).

Historic Preservation Planning—Academic Background

Closely related fields: Professional Historic Preservation Planners typically receive their education through academic Planning programs, although increasingly Historic Preservation programs are offering Historic Preservation Planning as a concentration in which degrees are awarded. Other fields that may be closely related, provided that training relevant to Historic Preservation Planning is obtained, include Historical or Cultural Geography, Architecture, Urban Design, and Historic Preservation.

Discipline specializations: Historic Preservation Planning is a specialization within the broader discipline of Planning. Other specializations include Urban, City, Town, or Community Planning; Regional Planning; Land Use Planning; Environmental Planning; Recreation Planning; Transportation Planning; and Housing Planning.

Applying the Standard for Historic Preservation Planner—Documenting Professional Experience

In order to receive a license or be registered or certified as a professional Planner, an individual typically must pass a written exam and have completed a specified number of years of experience. A professional Historic Preservation Planner typically has gained experience in data collection and analysis; survey and evaluation of existing conditions; consultation with elected and appointed officials and the general public; identification of alternative strategies; enforcement or administration of relevant statutes and regulations; and the preparation of planning documents.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

• Preservation plans adopted by government officials; and/or results of preservation planning studies incorporated into the local comprehensive or master plan.

• Ordinances for the protection of historic and/or archeological resources.

• Economic Feasibility Studies that make recommendations for preserving historic or archeological properties.

• Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books, related to preservation planning.

• Presentations at regional, national, or international professional conferences, symposia, workshops, or exhibits related to preservation planning.

• Professional service on boards of committees or regional, national, or international professional organizations concerned with preservation planning.

• Planning awards received from local, regional, national, or international professional organizations.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the

majority of products and activities would naturally reflect that specialization.

Historic Preservation; Historic Preservation Professional Qualification Standards

Historic Preservation is the application of strategies that promote the identification, evaluation, documentation, registration, protection, treatment, continued use, and interpretation of prehistoric and historic resources.

Standard for Historic Preservationist

(a) The applicant, employee, consultant, or advisor will have a graduate degree in Historic Preservation or a closely related field of study (see Academic Background for the Historic Preservation discipline), plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of Historic Preservation that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic and prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Preservationists); or * * *.

(b) An undergraduate degree in Historic Preservation or a closely related field of study (see Academic Background for the Historic Preservation discipline), plus a minimum of four (4) years of full-time professional experience applying the theories, methods, and practices of Historic Preservation that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic and prehistoric properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historic Preservationists).

Historic Preservation—Academic Background

Closely related fields: Various fields of study may be considered closely related to Historic Preservation, such as American Studies, Architecture, Architectural History, Archeology, History, and Historical or Cultural Geography, provided that such programs of study include course work in the history of the designed environment, history and theory of preservation, historic preservation methods, techniques, and legislation (Federal, State and local), plus a formal supervised practicum or internship for hands-on application of knowledge and technical skills in the field.

Discipline specializations: While most Historic Preservationists tend to be generalists, many specialize in such areas as Architectural, Landscape, and Community Design, Historic Building Technology, Preservation Economics, Preservation Law, Historic Preservation Planning, and Site Interpretation and Management.

Applying the Standard for Historic Preservationist—Documenting Professional Experience

A professional Historic Preservationist typically has experience that demonstrates a well-grounded understanding of the principles, practices, laws and regulations, and diverse resources of historic preservation.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation of historic or archeological resources.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- National Register documentation that has resulted in property listings or Determinations of Eligibility.
- Survey reports assessing the significance of historic properties.
- Historic Structure Reports.
- Adaptive reuse plans or feasibility studies that make recommendations for preserving historic properties.
- Written opinions that have been accepted that assess the impact that an undertaking will have on historic or archeological properties.
- Historic District Ordinances that have been adopted by a local government.
- Documentation that meets HABS/HAER standards for recording historic properties.
- Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books, related to historic preservation.
- Presentations at regional, national, or international professional conferences, symposia, workshops, or exhibits related to historic preservation.
- Professional service on boards or committees or regional, national, or international professional organizations concerned with historic preservation.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the majority of products and activities would naturally reflect that specialization.

History; Historic Preservation Professional Qualification Standards

History is the study of the past through written records, oral history, and material culture and the examination of that evidence within a chronological or topical sequence in order to interpret its relationship to preceding, contemporary and subsequent events.

Standard for Historian

(a) The applicant, employee, consultant, or advisor will have a graduate degree in History or a closely related field of study (see Academic Background for History), plus a minimum of two (2) years of full-time professional experience applying the theories, methods, and practices of History that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation (see Documenting Professional Experience for Historians); or * * *

(b) An undergraduate degree in History or a closely related field of study (see Academic Background for History), plus a minimum of four (4) years of full-time professional experience applying the theories, methods, and practices of History that enables professional judgments to be made about the identification, evaluation, documentation, registration, or treatment of historic properties in the United States and its Territories; and products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the

practice of historic preservation (see Documenting Professional Experience for Historians).

(**Note:** Pursuant to 36 CFR part 61 a person meeting this Standard is required as part of the core staff for each State Historic Preservation Office (SHPO) and as part of each State Review Board. Expertise described by this standard is also needed for Tribal Preservation Office staff or consultants of tribes that have executed a Memorandum of Agreement to implement Section 101(d) of the National Historic Preservation Act. It also may be needed for consultants hired with HPF grant funds and for members of Certified Local Government Commissions.)

History—Academic Background

Closely related fields: For this Standard, the professional degree is typically awarded in History, American History, or Public History. Relevant training can be obtained in programs of American Studies, American Civilization, Historical or Cultural Geography, Anthropology, Ethnohistory, and Historic Preservation, providing that course work is offered in historical research methods and techniques. Education in the social and cultural history of countries other than North America may be relevant when dealing with the histories of immigrant, ethnic or minority groups in the United States.

Discipline specializations: Professional Historians tend to concentrate their education and experience in one of the many chronological, regional, and topical specializations within American History (such as colonial history, southern history, community history, women's history, military history, history of technology, or industrial history).

Applying the Standard for Historian—Documenting Professional Experience

A professional Historian has experience in archival and primary documents research, evaluating and synthesizing this information, and preparation of scholarly narrative histories. Historic research experience in countries other than North America may be relevant when researching the histories of immigrant, ethnic or minority groups in the United States of America.

Products and Activities

Professional experience and expertise must be documented through ''products and activities that demonstrate the successful application of acquired proficiencies in the discipline to the practice of historic preservation.'' Products and activities that meet the appropriate Secretary's Standards for Archeology and Historic Preservation may include:

- National Register documentation that has resulted in property listings or Determinations of Eligibility.
- Documentation that meets HABS/HAER standards for recording historic properties.
- Survey reports assessing the significance of historic properties.
- Publications, which might include articles in regional, national, or international professional journals, monographs, books, or chapters in edited books, related to documenting and evaluating the significance of historic properties.
- Presentations at regional, national or international professional conferences, symposia, workshops, or exhibits related to documenting and evaluating historic properties.
- Professional service on boards or committees of regional, national, or international professional organizations concerned with documenting and evaluating the significance of historic properties.
- Awards, research grants, research fellowships, or invitations to teaching posts.

This list is not comprehensive. Furthermore, it should be understood that not all of these products and activities are needed in order to meet the Standard; rather, a combination of several products and activities would be more typical. If the applicant were documenting professional experience in one of the specializations, however, the majority of products and activities would naturally reflect that specialization.

Sources of Additional Information—Professional Organizations

The following organizations may be contacted to request additional information about the specific disciplines, college and university departments, workshops, and conferences and publications about the practice of each discipline.

American Anthropological Association, 4350 North Fairfax Drive, Suite 630, Arlington, VA 22203–1621
American Association of Museums, P.O. Box 4002, Washington, D.C. 20042–4002
American Association for State Federal and Local History, 530 Church Street, Suite 600, Nashville, TN 37219–2325
American Cultural Resources Association, c/o New South Associates, 6150 Ponce de Leon Avenue, Stone Mountain, GA 30083
American Folklife Center, Library of Congress, Washington, D.C. 20540–8100
American Historical Association, 400 A Street, SE., Washington, D.C. 20003
American Institute for the Conservation of Historic & Artistic Works, 1717 K Street, NW., Suite 301, Washington, D.C. 20006
American Institute of Architects, 1735 New York Avenue, NW., Washington, D.C. 20006
American Institute of Certified Planners, 1776 Massachusetts Avenue, NW., Washington, D.C. 20036
American Planning Association, 122 S. Michigan Avenue, Suite 1200, Chicago, IL 60603–6107
American Society of Civil Engineers, 1801 Alexander Bell Drive, Reston, VA 20191–4400
American Society of Landscape Architects, 4401 Connecticut Avenue, NW.,Washington, D.C. 20008–2302
American Society of Mechanical Engineers, P.O. Box 2900, Fairfield, NJ 07007–2900
American Studies Association, 1120 19th Street, NW., Suite 301, Washington, D.C. 20036
Association for Preservation Technology, P.O. Box 3511, Williamsburg, VA 23187
Association of American Geographers, 1710 16th Street, NW., Washington, D.C. 20009
Center for Museum Studies, Smithsonian Institution, Arts and Industries Building, Suite 2235, MRC, 427, Washington, D.C. 20560
The Institute for Electrical and Electronic Engineers, 445 Hoes Lane, Piscataway, NJ 08855–1331
National Council on Preservation Education, c/o Center for Historic Architecture and Engineering, University of Delaware, Newark, DE 19716
National Council on Public History, 327 Cavanaugh Hall-IUPUI, 425 University Blvd., Indianapolis, IN 46202–5140
National Society of Professional Engineers, 1420 King Street, Alexandria, VA 22314–2794
National Trust for Historic Preservation, 1785 Massachusetts Avenue, NW., Washington, D.C. 20036
Organization of American Historians, 112 North Bryan Street, Bloomington, IN 47408–4199
Society for American Archaeology, 900 2nd Street, NE., Suite 12, Washington, D.C. 20002
Society for Applied Anthropology, P.O. Box 24083, Oklahoma City, OK 73124
Society of Architectural Historians, Charnley-Persky House, 1365 North Astor Street, Chicago, IL 60610–2144
Society for Historical Archeology, P.O. Box 30446, Tucson, AZ 85751
Society of Professional Archeologists, Department of Anthropology, Southern Methodist University, Dallas, TX 75275

Dated: June 12, 1997.

Katherine H. Stevenson,

Associate Director, Cultural Resource Stewardship and Partnerships, National Park Service.

[FR Doc. 97–16168 Filed 6–19–97; 8:45 am]

BILLING CODE 4310–70–P

federal register

Friday
June 20, 1997

Part III

Department of Education

National Center or Centers for Research in Vocational Education; Notice

DEPARTMENT OF EDUCATION

National Center or Centers for Research in Vocational Education

AGENCY: Department of Education

ACTION: Notice of proposed interpretation and proposed waivers.

SUMMARY: The Secretary of Education (Secretary) announces a proposed interpretation of the statute authorizing the National Center or Centers for Research in Vocational Education (National Center), section 404, Part A, Title IV of the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Act). Under the proposed interpretation the Secretary would have the authority to extend the five-year project period for the current National Center at the University of California at Berkeley. In addition, the Secretary proposes to waive the regulations in 34 CFR 75.250 of the Education Department General Administrative Regulations (EDGAR), which provide that the Secretary may approve a project period of up to 60 months and the regulations in 34 CFR 413.4(a), which provide that the Secretary designates a National Center or Centers once every five years. The Secretary invites the public, including entities that would be eligible to apply for grants under the National Center authority, to comment on the proposed interpretation of section 404 of the Perkins Act and on the proposal to waive § 75.250 of EDGAR and § 413.4(a) of the program regulations.

DATES: Comments must be received by the Department on or before July 21, 1997.

ADDRESSES: All comments concerning this notice should be addressed to Jackie Friederich, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education (Mary E. Switzer Building, Room 4526), 600 Independence Avenue, SW, Washington, DC 20202–7242. Telephone (202) 205–9071. Comments may also be sent through the Internet to: jackie__friederich@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jackie Friederich. Telephone (202) 205–9071. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: In December 1992, after a competition conducted under authority of section 404 of the Perkins Act and the implementing regulations at 34 CFR part 413, the Secretary awarded a grant to the University of California at Berkeley to operate the current National Center for Research in Vocational Education. At that time, the Secretary approved a five-year project period. The National Center has received annual grant awards since December 1992 for the purpose of conducting applied research and development activities in vocational education as well as annual awards for the purpose of conducting dissemination and training activities in vocational education. Section 3 of the Act, as amended by Pub. L. 101–392, authorized appropriations for Titles I through IV of the Act (including appropriations for the National Center) for Fiscal Years (FYs) 1991, 1992, 1993, 1994, and 1995. Calendar year 1997 will be the fifth year of the project period for which the University of California at Berkeley was selected and awarded grants in 1992. The funds awarded to the National Center in December of 1992 were utilized by the University of California at Berkeley to carry out activities in 1993. Since section 3 of the Act only authorized appropriations under Perkins Act programs through FY 1995, FY 1996 Perkins Act programs were extended under the authority of section 422 of the General Education Provisions Act (Pub. L. 103–382). In FY 1997, Perkins Act programs that are currently funded, including the National Center program, are operating by authority of annual congressional appropriations.

Proposed Interpretation and Waivers

The authorization of appropriations for the Perkins Act has expired and the National Center is being funded and administered on the basis of year-to-year congressional appropriations. There is no authorization of appropriation for the years that would be covered by new five-year National Center grants, were there to be a competition. The National Center authority in section 404 of the Perkins Act requires that the Secretary operate a National Center or Centers for a period of five years. December 31, 1997 will be the end of the five-year period for the current National Center and, therefore, the statutory requirement will have been met. The Secretary does not view the statute as requiring a new competition for a new five-year grant especially since there are no appropriations authorized. Accordingly, the Secretary proposes to interpret the statute as authorizing him to extend the current National Center.

In view of the uncertainties presented by the absence of appropriation authority, the Secretary seeks to avoid a situation where the current National Center ceases operations and a new National Center starts up operations the next year, very possibly resulting in a difficult transition period and a truncated project period during which essential research, development, dissemination and training activities will not be undertaken, causing a potentially serious disruption of services to the vocational education community. The Secretary also does not wish to place potential applicants in the position of expending resources applying for Federal funds without knowing the full amount of funds for which they are applying or the period of years for which they are seeking to be funded. And, the Secretary is generally reluctant to announce a competition whereby eligible entities would be expected to proceed through the application preparation and submission processes while lacking critical information, and does not think that it would be in the public interest to do so. The Secretary hereby proposes an appropriate and cost-effective way of implementing existing legislation while serving the interest of the education community.

If the Secretary adopts this interpretation and publishes it in final, the Secretary proposes to waive § 75.250 of EDGAR and § 413.4(a) of the program regulations. This interpretation and these waivers would authorize the Secretary to extend the grants to the University of California at Berkeley beyond the 60-month period provided for in § 75.250, with new work beginning under the grant in 1998. The Secretary would extend the grants if it is determined, based on information available, that Berkeley is making substantial progress and would likely continue to make substantial progress in performing all required activities.

Assuming that Berkeley is making substantial progress in performing the required activities, the Secretary would extend the grants to Berkeley for one additional year (through December, 1998), by awarding them two grants totaling 4.5 million dollars under the authority of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, Pub. L. 104–208. However, additional extensions could be made if Congress makes further appropriations without underlying authorizing legislation. During the period of any extension, the Secretary

will review the activities of the National Center to ensure that Berkeley continues to make substantial progress in performing all required activities.

The Secretary does not interpret the waivers as exempting the grantee from the account closing provisions of Pub. L. 101–510, or as extending the availability of FY 1992, 1993, 1994, 1995, and 1996 funds awarded to the grantee. As a result of Pub. L. 101–510, appropriations available for a limited period may be used for payments of valid obligations for only five years after the expiration of their period of availability for Federal obligation. After that time, the unexpended balance of those funds is canceled and returned to the Treasury Department and is unavailable for restoration for any purpose.

The Secretary is interested in receiving public comment on the proposed interpretation of section 404 of the Perkins Act described in this notice and on the proposed waivers of §§ 75.250 and 413.4(a). The Secretary is particularly interested in hearing from institutions of higher education or consortia of institutions of higher education that would be eligible to compete for grants under the National Center authority—despite the uncertainties that currently exist regarding reauthorization and future funding for the National Center—were a competition to be held this year.

In this regard, the Secretary would like to alert any potential applicants that, were a new competition to be held this year, the Secretary would seek to increase the number of applicants and the variety of approaches undertaken by the National Center both in the areas of research and development and dissemination and training.

Regardless of whether a new competition is held, the Secretary would give special emphasis to several of the mandatory statutory and regulatory activities the National Center is required to carry out, which appear to be of particular concern to the education community, in the following areas:

(a) Integration of academic and vocational education.

(b) Accountability in vocational education, including the use of performance standards for program improvement.

(c) Education of students in all aspects of an industry.

(d) Development of effective methods for promoting literacy and communication skills in students.

(e) Use of technology to enhance learning and support the transference of knowledge.

(f) Teacher and administrator training and leadership development.

(g) Articulation of secondary and postsecondary instruction with high quality work-based learning.

(h) A study on the research conducted on approaches that lead to effective articulation of the education-to-work transition.

(i) Dissemination of exemplary practices and materials, including curriculum and instructional materials.

(j) Development and utilization of a national level dissemination network, including the broad dissemination of the results of research and development conducted by the National Center.

(k) Development and publication of curriculum materials.

(l) Development of processes for the synthesis of research.

The activities of the National Center provide valuable support to the Department's new initiatives that are geared toward preparing students for high skill jobs by providing them with the academic, technical, and related skills needed for the twenty-first century. These initiatives support the development of high levels of academic standards and occupational skills for all students by promoting education reform, improvements at the postsecondary level in the delivery of services to vocational education students and in teacher and administrator training and leadership development, and the development of school-to-work systems. Through research and dissemination initiatives in areas such as the integration of academic and vocational education and the education of students in all aspects of the industry, new findings can be identified and disseminated in areas such as linking secondary and postsecondary learning, and the formation of effective partnerships among schools, employers, parents, and community and labor organizations that enhance school-based and work-based learning. Other possible research, development and dissemination strategies that address these priorities could include the use of support services and supportive learning environments, the development and use of effective performance management systems for program improvement, and the integration of occupational skill standards and assessments with academic performance standards and assessments. Through the exploration, development, identification and dissemination of these strategies, the work of the National Center will have a significant impact on education policy and practice which will benefit the collaborative education and training efforts of institutions, educators, businesses, and students.

Authority: 20 U.S.C. 1221e–3; 20 U.S.C. 2404; 20 U.S.C. 3474.

Dated: June 17, 1997.

(Catalog of Federal Domestic Assistance Number 84.051 National Center for Research in Vocational Education)

Patricia W. McNeil,

Assistant Secretary, Office of Vocational and Adult Education.

[FR Doc. 97–16226 Filed 6–19–97; 8:45 am]

BILLING CODE 4000–01–P

federal register

Friday
June 20, 1997

Part IV

Department of Justice

Bureau of Prisons

28 CFR Part 501

Scope of Rules: National Security; Prevention of Acts of Violence and Terrorism; Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 501

[BOP–1046–F; BOP–1059–F]

RIN 1120–AA47; RIN 1120–AA54

Scope of Rules: National Security; Prevention of Acts of Violence and Terrorism

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: This document finalizes Bureau of Prisons interim rules on institutional management with respect to special administrative measures that may be necessary to prevent the disclosure of classified information that could endanger national security and to prevent acts of violence and terrorism, either of which may be caused by contacts with certain inmates. The affected inmate must be notified in writing as promptly as possible of the restrictions to be imposed. Restrictions may be imposed initially for up to 120 days, and may be extended in further increments of 120 days only upon additional written notification that the circumstances identified in the original certification continue to exist.

EFFECTIVE DATE: This rule shall take effect June 20, 1997.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons (''Bureau'') is finalizing its interim regulations on the correctional management of inmates whose contacts with other persons present the potential for disclosure of classified information that could endanger national security or for acts of violence and terrorism. An interim rule on preventing the disclosure of classified information was published in the **Federal Register** on October 13, 1995 (60 FR 53490). No public comment was received, and the interim rule is adopted, with only minor changes. In the second sentence of section 501.2(a), the word ''ordinarily'' is added, and the word ''housing'' is substituted for ''placing''. This sentence also adds the phrase, ''interviews with representatives of the news media'' as another example where privileges may be limited. The existing rule contained a listing that said, ''* * * limiting certain privileges, including, but not limited to, * * *'' In section 501.2(b), the phrase, ''as soon as practicable'' is substituted for ''as promptly as possible.'' None of these revisions change the intent of the rule.

An interim rule on preventing acts of violence and terrorism was published in the **Federal Register** on May 17, 1996 (61 FR 25120). Public comment was received on this rule and is responded to below.

Comments generally expressed concern that the regulation is violative of a person's First Amendment rights, with one commenter stating that the First Amendment ''prohibits governmental interference with freedom of speech and freedom of press.'' The commenter states that any such restriction must be based on substantial and controlling state interest and that the restriction be the least drastic method of accomplishing the state goal. The commenter believes this restriction may not pass the above test.

In response, the Bureau of Prisons notes that the U.S. Supreme Court in *Pell* v. *Procunier,* 417 U.S. 817, 822, 823 (1974), held that ''* * * a prison inmate retains those First Amendment rights that are not inconsistent with his status as a prisoner or with the legitimate penological objectives of the corrections system * * * An important function of the corrections system is the deterrence of crime * * * Finally, central to all other corrections goals is the institutional consideration of internal security within the corrections facilities themselves.'' We believe this regulation, with its concern of security and protection of the public, meets this test. Nor do we agree with the commenter's suggestion that the rule is unnecessary since it has not been needed in the past, and, the commenter believes, ''no death or injury has resulted from a federal prisoner[']s communication with unincarcerated individuals.'' It is not necessary to experience such an incident before regulations can be implemented to address the need.

Other commenters acknowledge that the regulation was promulgated in order to protect the safety of government officials and the general public, and, as stated by one of the commenters, do ''not dispute the legitimacy of the goals underlying the interim regulations.'' Notwithstanding this acknowledgment, these commenters also addressed the First Amendment issue. They viewed the regulation as overbroad, as more expansive than necessary, and as possibly indiscriminately barring expression of speech that does not pose any threat to Federal officials or those outside of prison. Other comments said that the regulation may prevent the press from fully reporting on the very people who ''may threaten society the most'', and that the regulation forecloses other avenues of obtaining information; that the ''complete ban suggested by the regulation * * * is legally impermissible'; and that the regulation is imposed ''without sufficient checks and balances to challenge government action.''

As noted by one commenter, the U.S. Supreme Court has held that the press has no constitutional right of access to prisons or their inmates beyond that afforded the general public. See *Pell* v. *Procunier,* 417 U.S. 817 (1974) and *Saxbe* v. *Washington Post Co.,* 417 U.S. 843 (1974). In this context, the Bureau of Prisons disagrees with the broad scope of comment that the public is the ultimate decider of what it wants to hear from the inmates. Where the issue is prevention of acts of violence and terrorism, it is appropriate for government officials, at the highest level and acting on the basis of their intelligence information, to impose restrictions on an inmate's public dissemination of information that may cause such acts. The rule, however, in no way is intended to prevent inmates, as suggested by commenters, from communicating about the prison system. In one sense, the government officials, as are the press, are operating on behalf of the public. As noted below, there are means by which disagreements can be addressed.

Further, as noted at the time of the interim rule's publication, the application of these measures is likely to affect only a minute portion of the inmate population; those inmates for whom there is an identified concern by a government official of the highest level that the inmate's communications with other persons could serve as an instrumentality for acts of violence and terrorism. These measures will be subject to strict controls, as their implementation may occur only upon written notification by the Attorney General, or at his or her direction, by the head of a federal law enforcement agency or the head of a member agency of the United States intelligence community, that there is a substantial risk that a prisoner's communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons. The Bureau of Prisons finds this standard consistent with the commenter who suggests, ''At a minimum, the standards for restrictive inmate privileges such as those described in the regulation should be

that there is clear and convincing evidence of a substantial risk to death or serious bodily injury.''

The regulation also addresses commenters' concern that the regulation is overbroad, and that it may indiscriminately bar expression of speech. It is not the intention of the Bureau of Prisons that the restrictions imposed in these special cases routinely include complete curtailment of privileges, including all means of access, but rather the regulation is directed to allowing the imposition of appropriate limitations, as needed to prevent acts of violence and terrorism. For example, it is possible, in response to one comment, that an inmate subject to the provisions of this regulation, would be allowed to be interviewed by the media, but with the necessary conditions imposed to meet what one commenter refers to as ''the legitimacy of the goals underlying the interim regulations.''

In addition, an inmate upon whom these special restrictions are imposed is entitled to notification in writing of the imposed restrictions and the basis for the restrictions. This ensures the inmate is aware of the rule's implementation. The affected inmate may appeal imposition of restrictions ordered under this section through the Bureau's Administrative Remedy Program, 28 CFR part 542.

A commenter correctly points out that the rule does not provide a formal administrative measure by which a non-inmate may challenge the restrictions on the inmate's privileges. Such an administrative mechanism is not considered necessary as the inmate is notified of the reasons and of the means to appeal the decision. Certainly, a non-inmate may contact the Bureau of Prisons, with the extent of information provided governed by the security concerns involved and the privacy rights of the inmate. Further, this regulation poses no restriction on an individual's right to initiate judicial action.

Contrary to one comment, the regulation as promulgated fully conforms to First Amendment requirements and provides an inmate with due process. The inmate is notified of any restrictions imposed and is given the opportunity to appeal those restrictions. It appears the commenter may believe the regulation allows an inmate to be placed in disciplinary segregation status (commenter refers to ''placing a prisoner in segregation without a due process hearing.'') That is not the case, as a disciplinary segregation placement would occur not on the basis of this regulation, but only as a result of an inmate being found, after a limited due process hearing, to have committed an infraction of an institution's prohibited act.

As previously noted, commenters' concerns appear to relate more to a misapplication of the rule rather than to the purpose of the rule. For example, one commenter stated there was no dispute of the legitimacy of the goals underlying the interim regulations, but saw the regulation as overbroad. Other comments expressed concern over the potential for a lack of accountability and/or abuse, including abuse by government officials who wish to deny the media access for illegitimate reasons, such as ''content-based suppression of speech.'' The Bureau of Prisons regulation is promulgated to alleviate such concerns. The rule provisions for implementation only at the direction of the Attorney General, or at her designation, the head of a federal law enforcement agency or head of a member agency of the United States intelligence community, coupled with the provision limiting its provisions to 120 days (unless specifically renewed) help ensure against such abuse. The Department's Standards of Professional Conduct also serve as a constraint. These provisions, in conjunction with other aspects discussed above, such as the inmate's opportunity to file an administrative appeal and the rule's intent to ordinarily not curtail all access, serve as ''checks and balances'' on the addressing of this very serious issue of preventing violence and acts of terrorism.

It is unclear as to what is being requested by a comment that the rule be revised to ''prohibit the unilateral involvement of federal law enforcement and intelligence agencies in access decisions.'' The scope of this rule is to prevent acts of violence and terrorism. The federal law enforcement and intelligence agencies are charged with this responsibility. The rule, as drafted, recognizes this aspect but carries constraints, such as approval by the Attorney General, re-approval every 120 days and the inmate's right to appeal, to help ensure that the rule is applied appropriately. The Bureau of Prisons is not aware of any further revision that may be made to more effectively achieve the intent of the rule without increasing the potential for acts of violence and terrorism.

A commenter suggested that the interim rule be amended to create guidelines specifying the referral of suspicious mails and communications to the appropriate investigatory agency. This comment is outside the scope of the current rule. However, it is an issue that the Bureau of Prisons is examining with respect to its internal procedures.

A commenter believes that the Bureau's rule sets a ''dangerous example for the state prison systems, which may be less appreciative of the constitutional restrictions on banning speech, and therefore may be less exacting.'' In response, the Bureau notes that its rule is limited to Federal prisons, and does not directly affect the state prison systems. The Bureau fully expects any state that would feel it appropriate to initiate such a procedure would do so with a full awareness of the applicable restrictions.

The one change made to this interim rule is in the first sentence of section 501.3(a), where the word ''measures'' is substituted for the word ''procedures.'' The intent of the section is unchanged.

Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no further response in the **Federal Register**.

The Bureau of Prisons has determined that this rule is not a significant regulatory action for the purpose of E.O. 12866, and accordingly this rule was not reviewed by the Office of Management and Budget. After review of the law and regulations, the Director, Bureau of Prisons, has certified that this rule, for the purpose of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), does not have a significant economic impact on a substantial number of small entities within the meaning of the Act. Because this rule pertains to the management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, its economic impact is limited to the Bureau's appropriated funds. This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of E.O. 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 28 CFR Part 501

Prisoners.

Kathleen M. Hawk,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, in 28 CFR 0.96(p), part 501 in

subchapter A of 28 CFR, chapter V is amended as set forth below:

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 501—SCOPE OF RULES

1. The authority citation for 28 CFR part 501 continues to read as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Sections 501.2 and 501.3 are revised to read as follows:

§ 501.2 National security cases.

(a) Upon direction of the Attorney General, the Director, Bureau of Prisons, may authorize the Warden to implement special administrative measures that are reasonably necessary to prevent disclosure of classified information upon written certification to the Attorney General by the head of a member agency of the United States intelligence community that the unauthorized disclosure of such information would pose a threat to the national security and that there is a danger that the inmate will disclose such information. These special administrative measures ordinarily may include housing the inmate in administrative detention and/or limiting certain privileges, including, but not limited to, correspondence, visiting, interviews with representatives of the news media, and use of the telephone, as is reasonably necessary to prevent the disclosure of classified information. The authority of the Director under this paragraph may not be delegated below the level of Acting Director.

(b) Designated staff shall provide to the affected inmate, as soon as practicable, written notification of the restrictions imposed and the basis for these restrictions. The notice's statement as to the basis may be limited in the interest of prison security or safety or national security. The inmate shall sign for and receive a copy of the notification.

(c) Initial placement of an inmate in administrative detention and/or any limitation of the inmate's privileges in accordance with paragraph (a) of this section may be imposed for up to 120 days. Special restrictions imposed in accordance with paragraph (a) of this section may be extended thereafter by the Director, Bureau of Prisons, in 120-day increments only upon receipt by the Attorney General of additional written certification from the head of a member agency of the United States intelligence community, that the circumstances identified in the original certification continue to exist. The authority of the Director under this paragraph may not be delegated below the level of Acting Director.

(d) The affected inmate may seek review of any special restrictions imposed in accordance with paragraph (a) of this section through the Administrative Remedy Program, 28 CFR part 542.

§ 501.3 Prevention of acts of violence and terrorism.

(a) Upon direction of the Attorney General, the Director, Bureau of Prisons, may authorize the Warden to implement special administrative measures that are reasonably necessary to protect persons against the risk of death or serious bodily injury. These procedures may be implemented upon written notification to the Director, Bureau of Prisons, by the Attorney General or, at the Attorney General's direction, by the head of a federal law enforcement agency, or the head of a member agency of the United States intelligence community, that there is a substantial risk that a prisoner's communications or contacts with persons could result in death or serious bodily injury to persons, or substantial damage to property that would entail the risk of death or serious bodily injury to persons. These special administrative measures ordinarily may include housing the inmate in administrative detention and/or limiting certain privileges, including, but not limited to, correspondence, visiting, interviews with representatives of the news media, and use of the telephone, as is reasonably necessary to protect persons against the risk of acts of violence or terrorism. The authority of the Director under this paragraph may not be delegated below the level of Acting Director.

(b) Designated staff shall provide to the affected inmate, as soon as practicable, written notification of the restrictions imposed and the basis for these restrictions. The notice's statement as to the basis may be limited in the interest of prison security or safety or to protect against acts of violence or terrorism. The inmate shall sign for and receive a copy of the notification.

(c) Initial placement of an inmate in administrative detention and/or any limitation of the inmate's privileges in accordance with paragraph (a) of this section may be imposed for up to 120 days. Special restrictions imposed in accordance with paragraph (a) of this section may be extended thereafter by the Director, Bureau of Prisons, in 120-day increments upon receipt by the Director of additional written notification from the Attorney General, or, at the Attorney General's direction, from the head of a federal law enforcement agency, or the head of a member agency of the United States intelligence community, that the circumstances identified in the original notification continue to exist. The authority of the Director under this paragraph may not be delegated below the level of Acting Director.

(d) The affected inmate may seek review of any special restrictions imposed in accordance with paragraph (a) of this section through the Administrative Remedy Program, 28 CFR part 542.

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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AGRICULTURE DEPARTMENT

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Commodity warehouse regulations; administrative changes; published 6-20-97

ENVIRONMENTAL PROTECTION AGENCY

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Air quality implementation plans; approval and promulgation; various States:

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/su_docs/. Some laws may not yet be available.

S. 543/P.L. 105–19

Volunteer Protection Act of 1997 (June 18, 1997; 111 Stat. 218)

Last List June 17, 1997