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Tuesday  
February 4, 1997

# federal register

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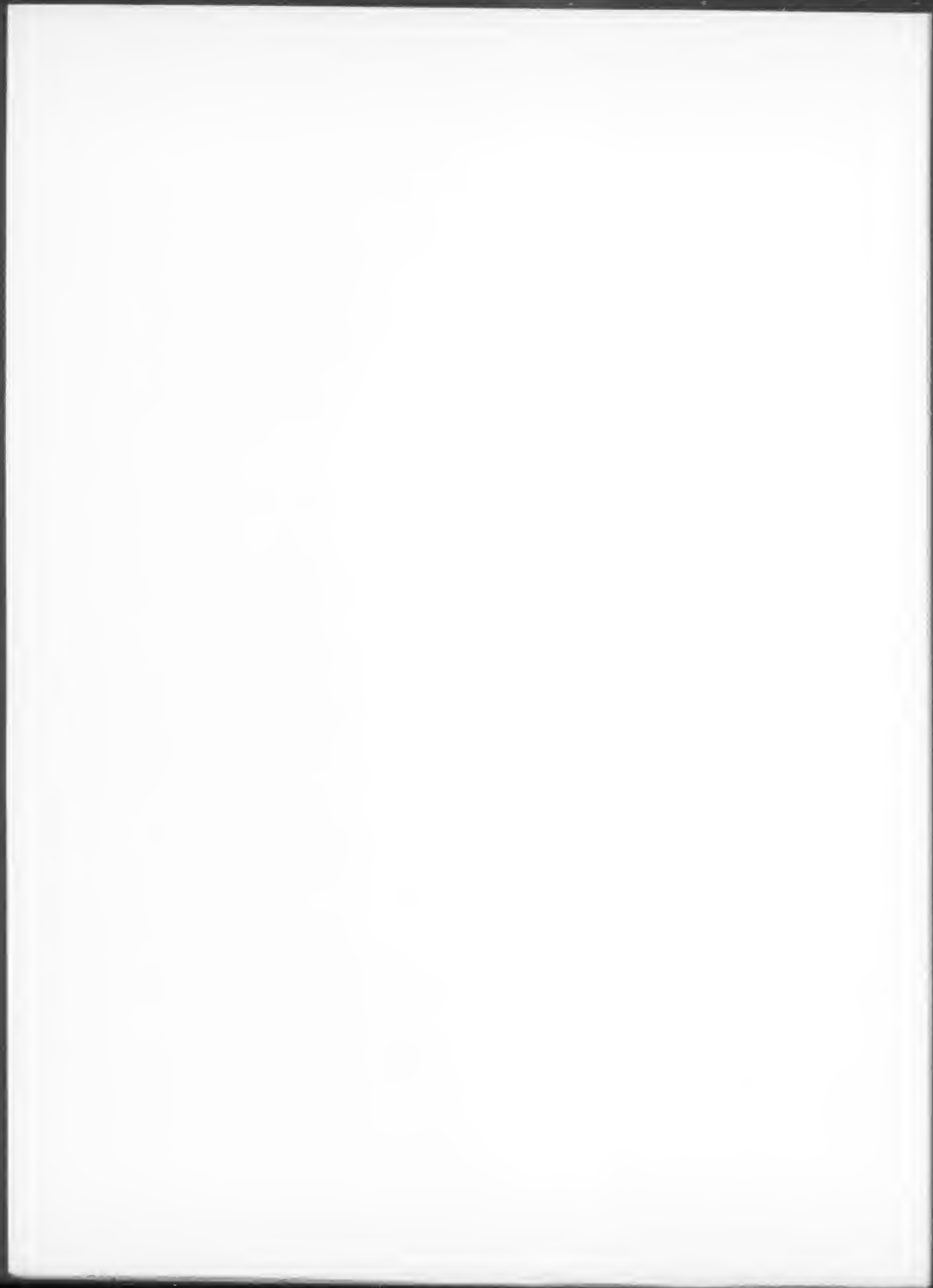
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Tuesday  
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# Federal Register

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Federal Register

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### DEPARTMENT OF AGRICULTURE

#### Food Safety and Inspection Service

##### 9 CFR Part 381

[Docket No. 94-016F]

RIN 0583-AC25

#### Poultry Inspection: Revision of Finished Product Standards With Respect to Fecal Contamination

**AGENCY:** Food Safety and Inspection Service, USDA.

**ACTION:** Final rule; Request for comments.

**SUMMARY:** The Food Safety and Inspection Service (FSIS) is amending the poultry products inspection regulations to clarify and strengthen the enforcement of FSIS's zero-tolerance policy regarding visible fecal material on poultry carcasses. FSIS is amending its regulations to codify an existing standard that ensures poultry carcasses contaminated with fecal material do not enter the chilling tank. In order to clarify the enforcement of this policy, this rule removes "feces" as a nonconformance element in the finished product standards for poultry.

In addition, the Agency is seeking comments on the relationship between ingesta and the presence of microbial pathogens on raw poultry.

**DATES:** This rule is effective on May 5, 1997. There is no due date for comments requested on the relationship between ingesta and microbial pathogens on raw poultry.

**ADDRESSES:** Submit one original and two copies of written comments to: FSIS Docket Clerk, DOCKET #94-016F, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 3806 South Agriculture Building, 1400 Independence Ave., SW., Washington, DC 20250-3700. All comments submitted will be available for public

inspection in the Docket Clerk's Office between 8:30 a.m. and 1:00 p.m. and 2:00 p.m. and 4:30 p.m., Monday through Friday. To review the research and other background information used by FSIS in developing this document, interested persons may visit the Docket Clerk's office during the times listed above.

**FOR FURTHER INFORMATION CONTACT:** Dr. Isabel Arrington, Staff Officer, Slaughter Operations, Office of Field Operations; (202) 720-7905.

#### SUPPLEMENTARY INFORMATION:

##### Background

To enforce the "zero tolerance" policy regarding visible fecal contamination on poultry, FSIS program employees look at every carcass to ensure it is not contaminated by visible fecal contamination. This visual check of all carcasses occurs after evisceration but prior to the separation of the viscera from the carcass and prior to the final wash and entry of the carcass into the chilling tank. Should visible fecal contamination be observed, existing regulations permit establishments to reprocess contaminated carcasses by a number of approved methods, including washing and trimming on or off the line. Regardless of the method chosen, the end result must be removal of all visible specks of contamination prior to the carcasses' entering the chiller. This zero tolerance policy for visible fecal contamination is an important food safety standard because fecal contamination is a major vehicle for spreading pathogenic microorganisms, such as *Salmonella*, to raw poultry.

Under current rules, FSIS ensures removal of all visible fecal contamination subsequent to postmortem inspection through off-line reinspection, direct on-line observations by an inspector, and application of finished product standards (FPS). The FPS are applied to samples of product prior to its entering the chiller and after product has left the chiller as a means of measuring an establishment's performance in meeting organoleptic (detectable by the unaided senses) standards, including the removal of visible fecal contamination.

Under an FPS program, the poultry establishment checks carcasses entering and leaving the chiller for nonconformance to the FPS. If the incidence of nonconformances

determined by the FPS test indicates that the establishment's process is out of control, the establishment must take corrective action. Any bird in the sample taken found to be contaminated with feces is set aside for rework or condemnation. FSIS inspectors located before the chiller also evaluate performance by visually observing carcasses, checking quality control data, and sampling product. The establishment and FSIS apply a statistical method to determine if the establishment's processes are under control and producing consistently sound product. In the event an establishment does not meet statistical criteria, the establishment's process is determined to be out of control and corrective action is required. The application of FPS does not preclude the inspector's directing the establishment to take corrective action any time carcasses visibly contaminated with fecal matter are observed.

On July 13, 1994, FSIS published a proposed rule, "Enhanced Poultry Inspection," in the *Federal Register* (59 FR 35659) to clarify and strengthen substantially the Agency's zero-tolerance policy for visible fecal contamination. The proposed rule would have implemented a single system of postmortem inspection for all poultry species. Establishment personnel would have been required to pre-sort birds before inspection to exclude those with diseases and condemnable conditions. In addition, the inspection sequence would have been changed to permit inspectors to conduct on-line checks for contamination. The proposal would have required all reprocessed birds to be returned to the main processing line for inspection.

FSIS also proposed the mandatory use of antimicrobial rinses in all establishments, use of establishment employees to sort poultry, revision of the FPS, and addition of recordkeeping and verification procedures. The proposal included the removal of "feces" from the list of nonconformances in the FPS and a mandatory line speed reduction triggered by any finding of visible fecal contamination during an FPS review or at other times when such contamination was detected.

Since the proposed rule was published, FSIS has adopted a



comprehensive, preventive food safety strategy to reduce the incidence and prevalence of foodborne illness in the United States. The centerpiece of this strategy is the "Pathogen Reduction; Hazard Analysis and Critical Control Points (HACCP) Systems" final rule (61 FR 38805-38989, July 25, 1996). HACCP is a system of preventive controls designed to improve the safety of food products.

The Pathogen Reduction/HACCP regulations require each establishment to conduct a hazard analysis and develop a HACCP plan applicable to every product it produces. Fecal contamination is a reliable indicator of the likely presence of microbial pathogens, a food safety hazard which all slaughtering establishments will necessarily address in their HACCP plans. Poultry processing establishments must adopt HACCP controls that they can demonstrate are effective in reducing the occurrence of microbial pathogens; those controls include preventing the fecal contamination of carcasses and thus preventing fecally contaminated carcasses from entering the chilling tanks. They will be required to monitor, verify, and record results which demonstrate the effective operation of those controls on a continuing basis.

Under the Pathogen Reduction/HACCP rule, in addition to controls for reducing microbial pathogens, such as ensuring that all poultry carcasses are free of visible fecal contamination before entering the chiller, slaughtering establishments will verify their process controls by testing sampled carcasses for generic *Escherichia coli* (Biotype I). In addition, FSIS has established pathogen reduction performance standards based on *Salmonella* prevalence in raw product. These standards, which FSIS will enforce through its own *Salmonella* testing program, complement the process control performance criteria for visible fecal contamination and *E. coli* testing.

The Pathogen Reduction/HACCP rule establishes a more comprehensive framework for food safety protection than did the 1994 proposal, and therefore supersedes it. It couples HACCP-based process control to prevent visible fecal contamination (and other hazards) with microbial testing and pathogen reduction performance standards to scientifically verify the effectiveness of the HACCP plan. Some of the concepts in the July 1994 proposal, such as antimicrobial processes and the role of FSIS inspectors, may be addressed by future rulemakings if the concepts appear to

provide substantial food safety benefits in a HACCP context.

The zero-tolerance standard for visible fecal contamination, an indicator of likely microbial contamination, is one that must be achieved by processing control and therefore is consistent with the HACCP framework. The HACCP regulations require all establishments to identify all food safety hazards reasonably likely to occur in a specific process, and to identify critical control points adequate to prevent them. Fecal contamination is a food safety hazard because of its direct link to microbiological contamination and foodborne illness. Preventing carcasses with visible fecal contamination from entering the chiller is critical for preventing cross-contamination of other carcasses. The final carcass wash before the carcasses enter the chiller is a critical control point for preventing cross-contamination of other carcasses. Critical control points to eliminate visible fecal contamination are predictable and essential components of the HACCP plans for all slaughter establishments. For establishments' HACCP plans to be validated, they will have to achieve the zero tolerance for visible contamination at the point where carcasses enter the chiller.

Though the zero-tolerance policy has not been codified in the regulations until now, it is implicit in some of the regulations. For example, § 381.91(b), provides that poultry accidentally contaminated with digestive tract contents need not be condemned if promptly reprocessed under the supervision of an inspector and found not to be adulterated. The codification of the zero-tolerance policy for visible fecal contamination and removal of "feces" as a nonconformance element in the finished product standards for poultry provide a clear and unambiguous standard that poultry slaughtering establishments must meet today and, eventually, incorporate into their HACCP systems.

FSIS will continue to verify that establishments are meeting the zero-tolerance standard through visual observations, data collection, and sampling. However, consistent with the policy, any indication of visible fecal contamination will require establishments to take immediate corrective action after deviations occur, rather than after a certain statistical measure of control is exceeded over a period of time.

The bulk of the comments on the July 1994 proposal addressed provisions that are unrelated to this final rule. Of the 434 comments received, 64 addressed the zero-tolerance policy on fecal

contamination. Forty-eight commenters were clearly in favor of the policy; 16 expressed various reservations, such as: (1) Fecal material was undefined; (2) visible feces should be trimmed, not washed; (3) since FSIS has a zero tolerance policy for fecal contamination, a rule change is not necessary; and (4) a zero tolerance policy should also be established for ingesta and other intestinal tract contents.

In response to the commenters who stated that fecal material and/or feces should be defined, FSIS has developed guidelines for inspectors to use in identifying feces on carcasses. In these guidelines, three factors—color, consistency, and composition—are essential in positively identifying fecal contamination. In general, fecal material color ranges from varying shades of yellow to green, brown, and white; the consistency of feces is usually semi-solid to a paste; and the composition of feces may include plant material. Inspectors use the feces identification guidelines to verify that establishments prevent carcasses with visible fecal contamination from entering the chilling tanks.

Several commenters also felt that any contamination on the carcass should be trimmed, and that washing, including reprocessing, should not be permitted as an alternative to trimming. The regulations (9 CFR 381.91(b)) permit poultry contaminated during slaughter with digestive tract contents, such as feces, to be reprocessed in lieu of being condemned. These regulations were promulgated in 1978 and were based, in part, on an Agricultural Research Service (ARS) study, published in the *Journal of Food Science*, which concluded that effective washing of contaminated poultry carcasses produced carcasses with microbiological levels essentially equal to normally processed and inspected carcasses.<sup>1</sup> A subsequent ARS study supported this finding.<sup>2</sup>

Several commenters stated that FSIS has a zero tolerance policy for feces and, therefore, a change to the regulations was not needed. However, the apparent incompatibility between FSIS's zero tolerance policy for fecal material on individual poultry carcasses and the existence of a process measure that

<sup>1</sup> Blankenship LC, Cox NA, Craven SE, Mercuri AJ, and Wilson RL. Comparison of the Microbiological Quality of Inspection-Passed and Fecal Contamination-Condemned Broiler Carcasses. *J. Food Science* 1975; 40:1236-1238.

<sup>2</sup> Blankenship LC, Bailey JS, Cox NA, Musgrove MT, Berrang ME, Wilson RL, Rose MJ, and Dua SK. A Research Note: Broiler Carcass Reprocessing, A Further Explanation. *J. Food Prot.* 1993; 56:983-985.



includes a tolerance for "feces" in the finished product standards has continued to cause confusion. To clarify the zero tolerance policy, FSIS is amending the poultry products inspection regulations by removing "feces" as a nonconformance element from the finished product standards.

Several commenters stated that there should be a zero tolerance policy for ingesta and other digestive tract contents, in addition to feces. Ingesta are processing defects generally consisting of undigested feed remaining in a bird's crop, esophagus, and gizzard. Ingesta contamination and attached portions of the crop and esophagus are processing defects counted as FPS nonconformances. Ingesta contamination of poultry was not directly addressed in the July 1994 proposal.

A research report<sup>3</sup> recently identified the crop as a potential source of *Salmonella* contamination for broiler carcasses. The report noted that crops may be ruptured during processing, suggesting that the crop may serve as a source of carcass contamination if exposure to pathogenic microbes occurs during the last week before slaughter. The fact that birds are especially likely to pick up fecal droppings during the feed withdrawal period prior to slaughter could explain the presence of *Salmonella* in the crops.

Comments and information on ingesta contamination would be useful to the Agency in its consideration of the need for additional regulatory measures regarding ingesta. Such information would also be helpful to establishments in identifying hazards and determining critical control points in their HACCP systems. FSIS would like to have more information on how the presence of ingesta on dressed poultry carcasses relates to the presence of microbial pathogens and, consequently, the food safety profile of ready-to-cook raw poultry. Specific information is requested on (1) the capacity of current technology to prevent ingesta contamination, (2) the consumer perspective on the presence of ingesta on ready-to-cook raw poultry, (3) the tolerance level and defect categories in the current FPS program for ingesta, crop, and esophagus, and (4) the availability and cost of new technology and its capacity to prevent ingesta contamination.

<sup>3</sup> Hargis BM, Caldwell DJ, Brewer RL, Corrier DE, DeLoach JR, An Evaluation of the Chicken Crop as a Source of *Salmonella* Contamination for Broiler Carcasses. *Poult Sci* 1995; 74:1548-52.

### The Final Rule

In summary, this final rule amends the poultry products inspection regulations by explicitly prohibiting dressed poultry carcasses contaminated with feces from entering the chiller. It also removes "feces" from the list of nonconformance elements in the poultry finished product standards. Any visible fecal contamination found by the establishment during the finished product standards check means that the establishment has failed to meet the standard and that immediate corrective action is required, irrespective of the overall FPS results. Under this final rule, FSIS inspectors will continue their current practice of verifying the establishment's process control through visual observation of carcasses and off-line checks of sampled birds.

Additionally, beginning on the effective date of this rule and prior to HACCP implementation, FSIS inspectors will, during each shift in all poultry slaughtering operations, check at least two more 10-bird samples on each evisceration line for visible fecal contamination after the final wash, before the carcasses enter the chiller. Any amount of visible fecal contamination found by FSIS inspectors during these checks will be regarded as a lack of process control requiring immediate correction.

FSIS will continue to verify the effectiveness of the establishment's corrective actions and, if the actions prove ineffective, will prohibit birds on affected lines from entering the chilling tank directly until the establishment demonstrates, and FSIS verifies, that the zero-tolerance standard for visible fecal contamination is being met. This prohibition may result in slowing or stopping the line until the problem is solved. FSIS also will check carcasses on the affected lines after they exit the chilling tank.

After HACCP systems are implemented in slaughtering establishments, FSIS personnel will determine the effectiveness of preventive controls and corrective actions for visible fecal contamination as they verify HACCP system adequacy. They will continue close oversight of processor efforts to prevent visible fecal contamination, sampling birds at the same frequency as before HACCP implementation. The presence of visible fecal contamination on poultry carcasses entering the chiller will mean that controls to prevent such contamination have failed. The finding of fecal matter on carcasses entering the chiller even after corrective actions have been taken to prevent its recurrence will

constitute evidence of a HACCP system failure. FSIS will consider a documented pattern of repeated system failures to be evidence that the establishment's HACCP plan is inadequate. The Agency will take immediate action to ensure proper disposition of adulterated product, including its condemnation. Additionally, if appropriate, the Agency will undertake proceedings to withdraw inspection from the establishment.

FSIS plans to review the application of this standard during the implementation of HACCP in affected establishments. The Agency would certainly welcome input from interested parties on the application of this standard in a HACCP environment.

FSIS expects that its zero-fecal-contamination policy, together with the Pathogen Reduction/HACCP rule, will improve the safety of raw poultry products and help bring about measurable declines in foodborne illness attributable to poultry consumption.

### Executive Order 12866 and Effect on Small Entities

This final rule has been determined to be significant and was reviewed by OMB under Executive Order 12866.

This rule codifies as a standard the existing FSIS zero-tolerance policy for the presence of visible fecal contamination on poultry carcasses entering the chilling tank, and removes "feces" as a nonconformance element in the FPS for poultry. The rule does not require any facility changes nor does it stipulate what steps establishments must take to comply with the standard. Furthermore, this rule is compatible with the mandatory HACCP program for meat and poultry establishments.

The rule will affect about 520 poultry slaughtering establishments subject to inspection under the Poultry Products Inspection Act. Approximately 360 of these are inspected by FSIS, about 300 operating under inspection systems incorporating FPS; the other 60 or so—most processing low-consumption-volume species, such as ducks and geese—operating under "traditional" systems. In the "traditional" establishments, inspectors check outgoing product using lot acceptance plans from which entries for "feces" are being removed by Agency directive. The final rule will also affect about 160 poultry slaughtering establishments where States maintain inspection that is "at least equal to" Federal inspection.

### Alternatives Considered

As discussed in the preamble to the proposal, FSIS considered two

alternatives to the proposed regulatory amendments that would have met the objectives of strengthening poultry products inspection, reducing the occurrence of pathogens on raw product, and enforcing a "zero tolerance" for visible fecal contamination of raw product. The first of the alternatives would have required detaching the viscera from the carcass before post-mortem inspection and presenting the organs and the carcass for inspection at the same time, rather than sequentially. A separate belt or tray would have been provided to prevent the viscera from contaminating the carcass. However, preliminary estimates indicated that costs to the industry of equipment acquisition and installation and downtime for construction would have approached \$1 billion.

The second alternative would have involved retaining the current postmortem inspection procedures while positioning an additional inspector at the end of the evisceration line at a point after viscera removal to examine each carcass for fecal contamination. Under this alternative, the Government could have incurred an additional \$16 million per annum in personnel costs, which was unacceptable to FSIS, and production rates could have been slowed by 30 to 50 percent if fewer inspectors were assigned to perform the required tasks. The annual cost to the industry and consumers of slowed linespeeds could have been as high as \$5.2 billion. In the Agency's judgment, either of these alternatives would have posed unacceptable costs.

The alternative proposed by the Agency included a single postmortem inspection system for all kinds and classes of poultry, a requirement for the establishment to present for inspection birds that had been pre-sorted to exclude those with diseases and condemnable conditions, a change in the inspection sequence to include on-line checks for contamination, the return of all reprocessed birds to the main processing line for reinspection, and mandatory antimicrobial treatment of all dressed poultry. In addition, some establishments would have had to install adjustable inspection stands and enhanced lighting. A completely revised FPS, without a nonconformance element for feces, would have been applied to all poultry. An FSIS inspector would have been required to stop or slow the line upon finding any fecally contaminated bird. The Agency estimated the cost of the proposal to industry at about \$7 million. Cost estimates supplied by industry commenters indicated costs would

substantially exceed the Agency's estimate.

Since the proposal was published, the Agency has adopted a comprehensive food safety strategy based on mandatory HACCP systems for meat and poultry establishments. The Pathogen Reduction/HACCP rule implementing this policy supersedes the July 1994 proposal. Accordingly, FSIS has limited this final rule to the codification of the zero tolerance policy for visible fecal contamination and to the removal of the "feces" nonconformance element from the poultry FPS.

#### Costs

As mentioned, visible fecal contamination of poultry carcasses currently is addressed at postmortem inspection by off-line reprocessing of accidentally contaminated poultry, through pre-chill FPS checks, and at other times that visible fecal contamination is detected. FSIS estimates that the frequency of corrective actions required because establishments fail an FPS test due to visible fecal contamination nonconformances is, at most, 1 time a year per establishment. Normally, the presence of visible fecal contamination found during an FPS review is at a level such that it will cause an FPS failure and trigger immediate corrective action. A typical establishment may fail a pre-chill FPS test once a month or less because nonconformances other than visible fecal contamination, such as the presence of feathers or other dressing defects, have been observed. Such an establishment may fail a post-chill FPS test about six times a year, usually because extraneous matter is found on the carcass. Some establishments operate for 2 or 3 years without failing an FPS test.

The Agency will have to shift the allocation of Federal poultry inspection resources during the period after this rule becomes effective. Upon the effective date of this rule, FSIS inspectors will be sampling additional birds at pre-chill to examine them for visible fecal contamination, a task that will require as many as 10 staff-years to perform. This cost can be absorbed within FSIS's current resources.

As mentioned, this final rule removes the nonconformance element for "feces" from the current FPS for poultry and codifies the policy prohibiting poultry carcasses contaminated with visible feces from entering the chiller tank. As stated elsewhere in this preamble, this rule establishes a standard that is compatible with the Agency's Pathogen Reduction/HACCP regulations. It will take effect, however, before mandatory

HACCP plans are implemented in most federally inspected poultry products establishments.

When this final rule becomes effective, the detection of visible fecal contamination during the pre-chill FPS or at any other time that visible fecal contamination is detected on the carcasses before the carcasses enter the chiller will trigger corrective actions to prevent recurrence of the problem. The Agency foresees that initially, when this final rule goes into effect, there may be an increase in the frequency of corrective actions. Establishments may incur costs attributed to slowing or temporary stoppage of production lines, equipment adjustments, product rework, and the placing of additional personnel on the processing line, at a somewhat higher rate than previously.

These costs are likely to result from two primary causes. First, following the effective date, establishments will be placing increased emphasis on preventing carcasses with visible fecal contamination from entering chiller tanks. The increased vigilance of establishment personnel initially may cause some production slowdowns. Second, FSIS inspectors will be sampling birds at an increased rate to enforce the zero-tolerance policy. It is possible that a prevalence level of fecal contamination that had not been detected previously in FPS tests will now be shown to occur, and that processing lines may be slowed or stopped more often for corrective actions to be taken.

FSIS estimates that the industry-wide cost of stopping or slowing the processing line when fecal contamination is found on dressed poultry could be as high as \$15 million during the first year this final rule is in effect. This estimate is derived from data submitted by commenters on estimated efficiency losses—including losses due to stopping or slowing the processing lines—that the proposed rule might have caused. An assumption of the commenters, which FSIS does not share, was that the efficiency reduction costs would recur annually.

FSIS sees any such cost increases as short-term. Once establishments adjust to the new inspection procedures and adopt more stringent operating standards, the need for corrective action should be reduced, and there will be greater assurance that product entering chillers is free of visible fecal contamination.

#### Benefits

FSIS expects the net benefits to society from this rule will be in the form of fewer outbreaks of foodborne disease

attributable to poultry products. The rule will help ensure that raw poultry entering chiller tanks is free of contamination that may harbor pathogens and, thus, that there will be less cross-contamination in the chiller tanks. FSIS expects that this reduced cross-contamination will mean that raw poultry shipped in commerce will have fewer pathogens and that the risk of illness due to improper handling of raw product after it leaves the inspected establishment will be reduced.

The Administrator, FSIS, has determined that this final rule will not have a significant impact on a substantial number of small entities. The small entities affected by this rule are the approximately 220 small poultry slaughtering establishments that meet the Small Business Administration size standard of 500 or fewer employees. This is a significant number of small entities but, for reasons given above, costs to establishments, whether they be small or large entities, should not be significantly affected by this rule. Thus, the rule will not have a significant impact on a substantial number of small entities.

#### Executive Order 12988

This final 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.

#### Paperwork Requirements

The July 13, 1994, proposed rule required paperwork and recordkeeping activities that would have provided FSIS with information to ensure that establishments were in compliance with the proposed regulations. As noted above, however, FSIS is withdrawing the provisions of the proposal that would have required such paperwork and recordkeeping.

#### List of Subjects in 9 CFR Part 381

Poultry inspection, Poultry and poultry products.

For the reasons discussed in the preamble, FSIS is amending part 381 of the poultry products inspection regulations as set forth below:

#### PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

1. The authority citation for part 381 continues to read as follows:

**Authority:** 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

#### Subpart I—Operating Procedures

2. Section 381.65 is amended by adding a new paragraph (e) to read as follows:

##### § 381.65 Operations and procedures, generally.

(e) Poultry carcasses contaminated with visible fecal material shall be prevented from entering the chilling tank.

#### Subpart K—Post Mortem Inspection; Disposition of Carcasses and Parts

##### § 381.76 [Amended]

3. Section 381.76(b)(3)(vi), Table 1—Definitions of Nonconformances, is amended in paragraph A–1 by removing the word “feces,” by removing the end note from paragraph A–2 regarding feces, by removing paragraph A–8, “Feces  $\geq 1/8$ ,” and by renumbering paragraphs A–9 through A–20 as A–8 through A–19.

Done at Washington, DC, on January 30, 1997.

Thomas J. Billy,  
Administrator.

[FR Doc. 97–2736 Filed 1–30–97; 3:30 pm]

BILLING CODE 3410-DM-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95–NM–258–AD; Amendment 39–9913; AD 97–03–07]

RIN 2120-AA64

#### Airworthiness Directives; Raytheon Model Hawker 800 and 1000 and Model DH/BH/HS/BAe 125 Series Airplanes (Including Major Variants C29A, U125, and U125A Series Airplanes)

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Raytheon Model BAe 125–1A through –1000A series airplanes and Model Hawker 800 and 1000 airplanes, that currently requires repetitive inspections to detect fatigue cracking of the sidestay jack pivots of the main landing gear (MLG), and replacement of the sidestay jack pivot assemblies with new assemblies. This amendment adds a requirement to replace the sidestay jack pivot

assemblies with new, improved assemblies; when accomplished, this replacement would terminate the inspection requirements of the AD. This amendment also expands the applicability of the existing AD to include additional airplanes. The actions specified by this AD are intended to prevent fatigue fracturing of the sidestay jack pivots of the MLG, which could result in the inability of the MLG to deploy and a consequent wheels-up landing.

**DATES:** Effective March 11, 1997.

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

The incorporation by reference of Raytheon Corporate Jets Service Bulletin SB 32–233, dated June 24, 1994, listed in the regulations, was approved previously by the Director of the Federal Register as of February 3, 1995 (60 FR 330, January 4, 1995).

**ADDRESSES:** The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Tim Backman, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2797; fax (206) 227–1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 94–26–12, amendment 39–9107 (60 FR 330, January 4, 1995), which is applicable to certain Raytheon Model BAe 125–1A through –1000A series airplanes and Model Hawker 800 and 1000 airplanes, was published in the *Federal Register* on October 18, 1996 (61 FR 54359). The action proposed to expand the applicability of the existing AD to include additional airplanes. It also proposed to require installation of new, improved sidestay jack pivot assemblies, which would constitute terminating action for the inspection requirements of this AD.

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 550 Raytheon Model BAe 125-1 through 1000A series airplanes and Model Hawker 1000 airplanes of U.S. registry that will be affected by this proposed AD.

The actions that are currently required by AD 94-26-12 take approximately 6 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. The manufacturer is currently supplying required parts at no cost to the operators. Based on these figures, the cost impact of the previously required actions on U.S. operators is estimated to be \$198,000, or \$360 per airplane, per inspection cycle.

The new (replacement) actions that are required by this new AD will take approximately 4 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts will cost approximately \$1,200 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be \$792,000, or \$1,440 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 removing amendment 39-9107 (60 FR 330, January 4, 1995), and by adding a new airworthiness directive (AD), amendment 39-9913, to read as follows:

**97-03-07 Raytheon Aircraft Company (Formerly Beech, Raytheon Corporate Jets, British Aerospace, Hawker Siddley, et al.): Amendment 39-9913. Docket 95-NM-258-AD. Supersedes AD 94-26-12, Amendment 39-9107.**

**Applicability:** Model Hawker 800 and 1000 and Model DH/BH/HS/BAe 125 series airplanes (including major variants C29A, U125, and U125A series airplanes); equipped with main landing gear (MLG) sidestay assemblies on which Post-Mod 252091 steel jack pivots have been installed; certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been 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 (f) 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.

**Note 2:** Raytheon Model BAe 125 series 800B and BAe 125-1000B airplanes are similar in design to the airplanes that are subject to the requirements of this AD and, therefore, also may be subject to the unsafe condition addressed by this AD. However, as

of the effective date of this AD, those models are not type certificated for operation in the United States. Airworthiness authorities of countries in which the Model BAe 125 series 800B and BAe 125-1000B airplanes are approved for operation should consider adopting corrective action, applicable to those models, that is similar to the corrective action required by this AD.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent the inability of the MLG to deploy and a consequent wheels-up landing, accomplish the following:

**Note 3:** Paragraph (a) of this AD restates the requirements of AD 94-26-12. As allowed by the phrase, "unless accomplished previously," if the initial inspection required by that AD has been accomplished previously, paragraph (a) of this AD does not require that initial inspection to be repeated.

(a) For Raytheon Model Hawker 800 and 1000 and Model DH/BH/HS/BAe 125-1A through -1000A series airplanes equipped with MLG sidestay assemblies on which Post-Mod 252091 steel jack pivots have been installed, except for airplanes as specified in paragraph (d) of this AD: Perform a detailed visual inspection, using a 10X magnifier, to detect cracking of the sidestay assembly jack pivot of the left and right MLG, in accordance with Raytheon Corporate Jets Service Bulletin SB 32-233, dated June 24, 1994; Revision 1, dated July 8, 1994; or Revision 2, dated July 28, 1995; at the latest of the times specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD.

(1) Within 28 days after February 3, 1995 (the effective date of AD 94-26-12, Amendment 39-9107); or

(2) Prior to the accumulation of 3,000 total landings on the sidestay assembly since new; or

(3) Prior to the accumulation of 1,000 total landings since overhaul of the sidestay assembly.

(b) For Raytheon Model Hawker 800 and 1000 and Model DH/BH/HS/BAe 125-1A through -1000A series airplanes equipped with MLG sidestay assemblies on which Post-Mod 252091 steel jack pivots (part numbers 25UM1199A, 25UM1229A, and 258UM87-1A) have been installed prior to June 24, 1994, except for airplanes as specified in paragraph (d) of this AD:

(1) If no cracks are found during the inspection required by paragraph (a) of this AD, and the sidestay assembly has been overhauled prior to the accomplishment of the inspection, accomplish the requirements of paragraphs (b)(1) and (b)(2) of this AD at the times specified.

(i) Repeat the inspection specified in paragraph (a) of this AD within 1,000 landings after accomplishing the initial inspection, and thereafter at intervals not to exceed 1,000 landings, in accordance with Raytheon Corporate Jets Service Bulletin SB 32-233, dated June 24, 1994; Revision 1, dated July 8, 1994; or Revision 2, dated July 28, 1995.

(ii) Prior to the accumulation of 4,000 total landings on the jack pivot assembly since the sidestay assembly was new or last overhauled, or within 300 landings after the effective date of this AD, whichever occurs



later: Replace the jack pivot assembly with a new, improved assembly, in accordance with Raytheon Corporate Jets Service Bulletin SB.32-233-3597A, dated July 28, 1995. Accomplishment of this replacement constitutes terminating action for the inspection requirements of this AD.

(2) If no cracks are found during the inspection required by paragraph (a) of this AD, and the sidestay assembly has not been overhauled prior to accomplishment of that inspection: Prior to the accumulation of 4,000 total landings on the jack pivot assembly, or within 300 landings after the effective date of this AD, whichever occurs later, replace the jack pivot assembly with a new, improved assembly, in accordance with Raytheon Corporate Jets Service Bulletin SB 32-233, Revision 2, dated July 28, 1995. Accomplishment of this replacement constitutes terminating action for the inspection requirements of this AD.

(c) For Raytheon Model Hawker 800 and 1000 and Model DH/BH/HS/BAe 125-1A through -1000A series airplanes equipped with MLG sidestay assemblies on which Post-Mod 252091 steel jack pivots (part numbers 25UM1199A, 25UM1229A, and 258UM87-1A) have been installed on June 24, 1994, or later, except for airplanes as specified in paragraph (d) of this AD: Replace the jack pivot assembly with a new, improved assembly in accordance with Raytheon Corporate Jets Service Bulletin SB.32-233-3597A, dated July 28, 1995, at the later of the times specified in paragraph (c)(1) or (c)(2) of this AD. Accomplishment of this replacement constitutes terminating action for the inspection requirements of this AD.

(1) Prior to the accumulation of 2,000 total landings since installation of Post Mod 252091 steel jack pivots. Or  
(2) Within 1,000 landings after the effective date of this AD.

(d) For all Raytheon Model BAe 125 Series 800A C29A, U125, and Hawker 800 U125A

airplanes on which Post Mod 252091 steel jack pivots (part numbers 25UM1199A, 25UM1229A, and 258UM87-1A) have been installed: Accomplish paragraphs (d)(1) and (d)(2) of this AD at the times specified in those paragraphs.

(1) Perform a detailed visual inspection, using a 10X magnifier, to detect cracking of the sidestay assembly jack pivot of the left- and right-hand MLG, in accordance with Raytheon Corporate Jets Service Bulletin SB 32-233, Revision 2, dated July 28, 1995, at the later of the times specified in paragraph (d)(1)(i) or (d)(1)(ii) of this AD. Thereafter, repeat this inspection at intervals not to exceed 200 landings, until the requirements of paragraph (d)(2) of this AD are accomplished.

(i) Prior to the accumulation of 1,200 total landings since the installation of a steel jack pivot (Post Mod 252091). Or

(ii) Within 56 days or within 200 landings after the effective date of this AD, whichever occurs first.

(2) Prior to the accumulation of 2,000 total landings on the jack pivot, or within 300 landings after the effective date of this AD, whichever occurs later: Replace the sidestay jack pivot assembly with a new, improved assembly (part numbers 25UM1335-1A and 25-8UM173-1A) in accordance with Raytheon Corporate Jets Service Bulletin SB.32-233-3597A, dated July 28, 1995. Accomplishment of this replacement constitutes terminating action for the inspection requirements of this AD.

(e) If any crack is detected during any inspection required by this AD, replace the sidestay jack pivot assembly with a new, improved assembly (part numbers 25UM1335-1A and 25-8UM173-1A) in accordance with Raytheon Corporate Jets Service Bulletin SB.32-233-3597A, dated July 28, 1995, at the time specified in paragraph (e)(1) or (e)(2) of this AD, as applicable. Accomplishment of this

replacement constitutes terminating action for the inspection requirements of this AD.

(1) For airplanes on which a crack is detected that does not exceed the limits specified in the service bulletin, replace the assembly at the later of the times specified in paragraph (e)(1)(i) or (e)(1)(ii) of this AD.

(i) Within 100 landings after the effective date of this AD. Or;

(ii) Within 100 landings after the initial detection of the cracking.

(2) For airplanes on which a crack is detected that exceeds the limits specified in the service bulletin, prior to further flight, replace the assembly in accordance with the service bulletin.

(f) 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, Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM-113.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

(g) 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.

(h) The actions shall be done in accordance with the following Raytheon Corporate Jets service bulletins, which contain the specified list of effective pages:

Service bulletin referenced and date	Page No.	Revision level shown on page	Date shown on page
SB 32-233, June 24, 1994	1-10	Original	June 24, 1994.
SB 32-233 Revision 1, July 8, 1994	1, 2, 5	1	July 8, 1994.
	3, 4, 6-10	Original	June 24, 1994.
SB 32-233 Revision 2, July 28, 1995	1-4, 6, 7, 9	2	July 28, 1995.
	5	1	July 8, 1994.
	8, 10	Original	June 24, 1994.
SB.32-233-3597A, July 28, 1995	1-8	Original	July 28, 1995.

The incorporation by reference of Raytheon Corporate Jets Service Bulletin SB 32-233, dated June 24, 1994, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of February 3, 1995 (60 FR 330, January 4, 1995). The incorporation by reference of the remainder of the service documents listed above is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Raytheon Aircraft Company, Manager Service Engineering, Hawker Customer Support Department, P.O. Box 85, Wichita, Kansas 67201-0085. 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.

(i) This amendment becomes effective on March 11, 1997.

Issued in Renton, Washington, on January 27, 1997.

**Darrell M. Pederson,**  
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.  
[FR Doc. 97-2518 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-13-U

**14 CFR Part 39**

[Docket No. 96-NM-86-AD; Amendment 39-9914; AD 97-03-08]

RIN 2120-AA64

**Airworthiness Directives; Jetstream Model 4101 Airplanes**

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Jetstream Model

4101 airplanes, that requires repetitive inspections to detect cracking of the offset lightening hole on the drag brace of the left and right main landing gear (MLG); and replacement of these braces with braces having a centralized lightening hole. This replacement terminates the repetitive inspections. This amendment is prompted by a report indicating that fatigue cracking was detected on the upper link of a drag brace. The actions specified by this AD are intended to prevent fatigue cracking of the drag braces of the MLG, which, if not corrected, could cause the MLG to fail and, consequently, result in reduced controllability of the airplane during takeoff, landing, and taxiing.

**DATES:** Effective March 11, 1997.

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

**ADDRESSES:** The service information referenced in this AD may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. 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:** William Schroeder, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2148; fax (206) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Jetstream Model 4101 airplanes was published in the *Federal Register* on November 12, 1996 (61 FR 58016). That action proposed to require repetitive detailed visual inspections of the offset lightening hole on the drag brace of the left and right MLG to detect cracking. That action also proposed to require, prior to further flight, the replacement of any cracked brace with a brace having a centralized lightening hole. Such replacement would constitute terminating action for the repetitive detailed visual inspections.

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

#### Conclusion

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

#### Cost Impact

The FAA estimates that 1 Jetstream Model 4101 airplane of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the required inspection, at an average labor rate of \$60 per work hour. Based on these figures, the cost impact of the required inspection on the single U.S. operator is estimated to be \$60 per inspection cycle.

It will take approximately 2 work hours per airplane to accomplish the required replacement, at an average labor rate of \$60 per work hour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the required replacement on the single U.S. operator is estimated to be \$120.

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:

**97-03-08 Jetstream Aircraft Limited:**  
Amendment 39-9914. Docket 96-NM-86-AD.

**Applicability:** Model 4101 airplanes having constructors numbers 41004 through 41009 inclusive, and 41017; equipped with a main landing gear (MLG) on which drag braces having Jetstream part numbers (P/N) AIR84352-0 through AIR84352-4, inclusive, and having offset lightening holes, are installed; certificated in any category.

**Note 1:** Drag braces having Jetstream part numbers (P/N) AIR84352-0 through AIR84352-4 inclusive, can have either offset or centralized lightening holes. This AD applies only to those airplanes equipped with those drag braces that have the offset lightening holes.

**Note 2:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

**Compliance:** Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the drag brace of the left and right MLG which, if not corrected, could cause the MLG to fail and, consequently, lead reduced controllability of the airplane during takeoff, landing, and taxiing, accomplish the following:

(a) Within 50 hours time-in-service after the effective date of this AD, perform a detailed visual inspection to detect cracking at the offset lightening hole on the drag brace of the left and right MLG, in accordance with

Part 1 of Jetstream Service Bulletin J41-32-049, Revision 1, dated January 15, 1996.

**Note 3:** Accomplishment of the visual inspection in accordance with Part 1 of Jetstream Service Bulletin J41-32-049, dated November 21, 1995, is considered acceptable for compliance with this paragraph.

(1) If no cracking is detected, repeat this inspection thereafter at intervals not to exceed 50 hours time-in-service until the requirements of paragraph (b) of this AD have been accomplished.

(2) If any cracking is detected, prior to further flight, replace the drag brace with a drag brace that has Jetstream part number (P/N) AIR84352-4 and a centralized lightning hole, in accordance with Part 2 of Jetstream Service Bulletin J41-32-049, Revision 1, dated January 15, 1996. This replacement constitutes terminating action for the repetitive inspections and replacement of that brace required by paragraphs (a) and (b), respectively, of this AD.

**Note 4:** Accomplishment of the replacement in accordance with Part 2 of Jetstream Service Bulletin J41-32-049, dated November 21, 1995, is considered acceptable for compliance with paragraphs (a)(2) and (b) of this AD.

(b) Within two years after the effective date of this AD, replace any MLG drag brace that has P/N AIR84352-0 through AIR84352-4, inclusive, and an offset lightning hole, with a drag brace that has Jetstream P/N AIR84352-4 and a centralized lightning hole, in accordance with Part 2 of Jetstream Service Bulletin J41-32-049, Revision 1, dated January 15, 1996. This replacement constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

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

**Note 5:** 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 replacements shall be done in accordance with Jetstream Service Bulletin J41-32-049, Revision 1, dated January 15, 1996, which contains the following list of effective pages:

Page No.	Revision level shown on page	Date shown on page
1, 3 .....	1 .....	Jan. 15, 1996.

Page No.	Revision level shown on page	Date shown on page
2, 4-9 .....	Original ....	Nov. 21, 1995.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Jetstream Aircraft, Inc., P.O. Box 16029, Dulles International Airport, Washington, DC 20041-6029. 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 March 11, 1997.

Issued in Renton, Washington, on January 28, 1997.

**Darrell M. Pederson,**  
Acting Manager, Transport Airplane  
Directorate, Aircraft Certification Service.  
[FR Doc. 97-2609 Filed 2-3-97; 8:45 am]

**BILLING CODE 4910-13-U**

#### 14 CFR Part 71

[Airspace Docket No. 97-ASO-2]

#### Amendment to Class D Airspace; Homestead, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment removes the Class D reference to effective days and times, and revokes the Class E2 airspace at Homestead, FL. The control tower is open continuously at the airport. Therefore, the reference to effective days and times, and the Class E2 airspace is not necessary. This amendment also reflects the current name of the airport. The name of the airport has changed from Homestead AFB to Dade County-Homestead Regional Airport.

**EFFECTIVE DATE:** 0901 UTC, March 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5570.

#### SUPPLEMENTARY INFORMATION:

##### History

The control tower at Homestead, FL, is open continuously. Therefore, the reference to days and times in the Class D airspace description can be deleted. As a result, the Class D airspace becomes continuous and the Class E2 airspace can be removed. The former

Homestead AFB has been redesignated Dade County-Homestead Regional Airport. This action will have no impact on the users of the airspace in the vicinity of the airport. This rule will become effective on the date specified in the DATES section. Since this action only makes a technical amendment to the Class D airspace and eliminates the requirement for Class E2 airspace, which has no impact on users of the airspace in the vicinity of the airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

#### The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies the Class D airspace description at Homestead, FL, to reflect that the airspace is continuous, removes the Class E2 airspace and corrects the name of the airport from Homestead AFB to Dade County-Homestead Regional Airport.

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

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

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

#### PART 71—[AMENDED]

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

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

##### § 71.1 [Amended]

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

September 16, 1996, is amended as follows:

*Paragraph 5000 Class D airspace.*

**ASO FL D Homestead, FL [Revised]**

Dade County-Homestead Regional Airport, FL

(Lat. 25°29'18" N, long. 80°23'01" W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 5.5-mile radius of Dade County-Homestead Regional Airport.

**ASO FL E2 Homestead, FL [Removed]**

Issued in College Park, Georgia, on January 23, 1997.

**Benny L. McGlamery,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 97-2744 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket No. 97-ASO-1]

**Amendment to Class D Airspace; Miami Opa Locka Airport, FL**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment modifies the Class D airspace description at Miami Opa Locka Airport, FL. As a result of an amendment to Class D airspace at Hollywood, FL, effective March 27, 1997, a technical amendment to the Miami Opa Locka Airport, FL, Class D airspace is necessary to reflect the modification to the Class D airspace at Hollywood, FL.

**EFFECTIVE DATE:** 0901 UTC, March 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5570.

**SUPPLEMENTARY INFORMATION:**

**History**

The Class D airspace at Hollywood, FL, is amended effective March 27, 1997, to accommodate a GPS RWY 9R Standard Instrument Approach Procedure (SIAP) at North Perry Airport. The radius of the Class D airspace at Hollywood, FL, is a reference point in the Class D airspace description for Miami Opa Locka Airport, FL. Therefore, a technical amendment to the Class D airspace description for the Miami Opa Locka Airport, FL, is

necessary. This action will have no impact on the users of the airspace in the vicinity of the airport. This rule will become effective on the date specified in the DATES section. Since this action only makes a technical amendment to the Class D airspace, which has no impact on users of the airspace in the vicinity of the Miami Opa Locka Airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

**The Rule**

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) modified the Class D airspace description at Miami Opa Locka Airport, FL, to reflect the amendment to the Class D airspace at Hollywood, FL.

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

**PART 71—[AMENDED]**

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

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

**§ 71.1 [Amended]**

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

*Paragraph 5000 Class D airspace.*

\* \* \* \* \*

**ASO FL D Miami Opa Locka Airport, FL [Revised]**

Miami, Opa Locka Airport, FL

(Lat. 25°54'26" N, long. 80°16'48" W)

Miami VORTAC

(Lat. 25°57'48" N, long. 80°27'38" W)

North Perry Airport

(Lat. 26°00'05" N, long. 80°14'26" W)

That airspace extending upward from the surface to and including 2,500 feet MSL within a 3.5-mile radius of Opa Locka Airport and within 1.6 miles each side of the Miami VORTAC 108° radial, extending from the 3.5-mile radius to 5 miles east of the VORTAC; excluding that airspace south of 25°52'03" N, and that portion north of a line connecting the 2 points of intersection with a 3.5-mile radius centered on the North Perry Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

Issued in College Park, Georgia, on January 23, 1997.

**Benny L. McGlamery,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 97-2743 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Docket No. 96-ACE-17]

**Amendment to Class E Airspace, Knob Noster, MO**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This rule amends the Class E airspace area at Whiteman AFB, Knob Noster, MO. A review of Class E airspace revealed a need to increase the airspace area to contain Instrument Flight Rules (IFR) operations at Whiteman AFB. The effect of this rule is to provide additional controlled airspace for aircraft executing the Standard Instrument Approach Procedures (SIAP).

**EFFECTIVE DATE:** 0901 UTC March 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Operations Branch, ACE-530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (816) 426-3408.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the Federal Register on November 8, 1996, (61 FR 57772). The FAA uses the direct final rulemaking procedure for a non-



controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 27, 1997. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

Issued in Kansas City, MO on January 3, 1997.

**Christopher R. Blum,**  
*Acting Manager, Air Traffic Division, Central Region.*  
[FR Doc. 97-2645 Filed 2-3-97; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Docket No. 96-ACE-16]

#### Amendment to Class E Airspace, Hays, KS

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This rule amends the Class E airspace area at Hays Municipal Airport, Hays, KS. A review of Class E airspace revealed a need to increase the airspace area to contain Instrument Flight Rules (IFR) operations at Hays Municipal Airport. The effect of this rule is to provide additional controlled airspace for aircraft executing the Standard Instrument Approach Procedures (SIAP) and for departing aircraft to transition into controlled airspace.

**EFFECTIVE DATE:** 0901 UTC March 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Operations Branch, ACE-530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone Number (816) 426-3408.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the *Federal Register* on October 30, 1996, (61 FR 55882). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment or a written notice of intent to submit such an adverse comment, were received

within the comment period, the regulation would become effective on March 27, 1997. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

Issued in Kansas City, MO on January 3, 1997.

**Christopher R. Blum,**  
*Acting Manager, Air Traffic Division, Central Region.*  
[FR Doc. 97-2644 Filed 2-3-97; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Docket No. 96-ACE-15]

#### Amendment to Class E Airspace, Lee's Summit, MO

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Direct final rule; confirmation of effective date.

**SUMMARY:** This rule amends the Class E airspace area at Lee's Summit Municipal Airport, Lee's Summit, MO. A review of Class E airspace revealed a need to increase the airspace area to contain Instrument Flight Rules (IFR) operations at Lee's Summit Municipal Airport. The effect of this rule is to provide additional controlled airspace for aircraft executing the Standard Instrument Approach Procedures (SIAP).

**EFFECTIVE DATE:** 0901 UTC March 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Operations Branch, ACE-530C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone number: (801) 426-3408.

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the *Federal Register* on October 30, 1996, (61 FR 55882). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on March 27, 1997. No adverse comments were received, and thus this notice confirms that this final rule will become effective on that date.

Issued in Kansas City, MO on January 3, 1997.

**Christopher R. Blum,**  
*Acting Manager, Air Traffic Division, Central Region.*  
[FR Doc. 97-2643 Filed 2-3-97; 8:45 am]  
BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 96-ASO-32]

#### Amendment to Class E Airspace; Tampa, FL

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment modifies the Class E airspace area at Tampa, FL. A GPS RWY 16 Standard Instrument Approach Procedure (SIAP) has been developed for Clearwater Air Park, Clearwater, FL. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of the SIAP.

**EFFECTIVE DATE:** 0901, UTC, March 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Benny L. McGlamery, Operations Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5570.

#### SUPPLEMENTARY INFORMATION:

##### History

On November 27, 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by modifying Class E airspace at Tampa, FL (61 FR 60239). This action would provide adequate Class E airspace for IFR operations at Clearwater Air Park, Clearwater, FL.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Designations for Class E airspace extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996. The Class E airspace designation listed in this document will be published subsequently in the Order.

**The Rule**

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) modifies Class E airspace at Tampa, FL. A GPS RWY 16 SIAP has been developed for Clearwater Air Park, Clearwater, FL. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The operating status of the airport will change from VFR to include IFR operations concurrent with publication of the SIAP.

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

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

**PART 71—[AMENDED]**

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

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

**§ 71.1 [Amended]**

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

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

\* \* \* \* \*

ASO GA E5 Tampa, FL [Revised]  
Tampa International Airport, FL

- (Lat 27°58'32"N, long. 82°32'00"W)  
St. Petersburg-Clearwater International Airport
- (Lat 27°54'39"N, long. 82°41'15"W)  
MacDill AFB
- (Lat 27°50'57"N, long. 82°31'17"W)  
Peter O Knight Airport
- (Lat 27°54'56"N, long. 82°26'57"W)  
Albert-Whitted Airport
- (Lat 27°45'54"N, long. 82°37'37"W)  
Vandenberg Airport
- (Lat 28°00'31"N, long. 82°20'59"W)  
Clearwater Air Park
- (Lat 27°58'35"N, long. 82°45'31"W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Tampa International Airport, St. Petersburg-Clearwater International Airport, MacDill AFB and Peter O Knight Airport, and within a 6.3-mile radius of Albert-Whitted Airport, Vandenberg Airport and Clearwater Air Park, excluding that airspace within the Lakeland, FL, Class E airspace area.

\* \* \* \* \*

Issued in College Park, Georgia, on January 27, 1997.

**Benny L. McGlamery,**

*Acting Manager, Air Traffic Division, Southern Region.*

[FR Doc. 97-2642 Filed 2-3-97; 8:45 am]

**BILLING CODE 4910-13-M**

**14 CFR Part 71**

[Airspace Docket No. 96-ANM-022]

**Amendment of Class E Airspace; Cortez, Colorado**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Cortez, Colorado, Class E airspace to accommodate a new Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to the Cortez-Montezuma County Airport. **EFFECTIVE DATE:** 0901 UTC, May 22, 1997.

**FOR FURTHER INFORMATION CONTACT:** James C. Frala, Operations Branch, ANM-532.4, Federal Aviation Administration, Docket No. 96-ANM-022, 1601 Lind Avenue S.W., Renton, Washington 98055-4056; telephone number: (206) 227-2535.

**SUPPLEMENTARY INFORMATION:**

**History**

On November 29, 1996, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to amend Class E airspace at Cortez, Colorado, to accommodate a new GPS SIAP to the Cortez-Montezuma County Airport (61 FR 60659).

Interested parties were invited to participate in the rulemaking

proceeding by submitting written comments on the proposal. No comments were received.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace listed in this document will be published subsequently in the Order.

**The Rule**

This amendment to part 71 of Federal Aviation Regulations amends Class E airspace at Cortez, Colorado. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

**PART 71—[AMENDED]**

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

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

**§ 71.1 [Amended]**

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

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

\* \* \* \* \*

**ANM CO E5 Cortez, CO [Revised]**

Cortez-Montezuma County Airport, CO  
(lat. 37°18'11"N, long. 108°37'41"W)

**Cortez VOR/DME**

(lat. 37°23'23"N, long. 108°33'42"W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Cortez-Montezuma County Airport, and within 3.1 miles each side of the Cortez VOR/DME 184° and 004° radials extending from the 7-mile radius to 10.1 miles north of the VOR/DME; that airspace extending upward from 1,200 feet above the surface beginning at lat. 37°52'00"N, long. 108°52'00"W; to lat. 37°48'00"N, long. 108°29'00"W; to lat. 37°40'00"N, long. 108°22'00"W; to lat. 37°18'00"N, long. 108°22'00"W; to lat. 37°12'00"N, long. 108°31'30"W; to lat. 37°04'00"N, long. 108°37'00"W; to lat. 37°04'00"N, long. 108°57'00"W; to lat. 37°16'00"N, long. 108°50'00"W; to lat. 37°30'00"N, long. 109°03'00"W; to lat. 37°47'00"N, long. 109°03'00"W; thence to the point of beginning.

\* \* \* \* \*

Issued in Seattle, Washington, on January 16, 1997.

**Glenn A. Adams III,**

*Assistant Manager, Air Traffic Division,  
Northwest Mountain Region.*

[FR Doc. 97-2638 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 97**

[Docket No. 28786; Amdt. No. 1780]

RIN 2120-AA65

**Standard Instrument Approach  
Procedures; Miscellaneous  
Amendments**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule.

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

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

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

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

**For Examination:**

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

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

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

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

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

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

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

**FOR FURTHER INFORMATION CONTACT:** Paul J. Best, Flight Procedures Standards Branch (AFS-420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the

affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

**The Rule**

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

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

**Conclusion**

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

amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 97**

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on January 24, 1997.

**Thomas C. Accardi,**  
Director, Flight Standards Service.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, part 97 of the

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

**PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES**

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

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

2. Part 97 is amended to read as follows:

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

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

*Effective Upon Publication*

FDC date	State	City	Airport	FDC Number	SIAP
01/08/97	AZ	PHOENIX	WILLIAMS GATEWAY	FDC 7/0168	VOR OR TACAN OR GPS RWY 30C ORIG-B.
01/08/97	NC	RALEIGH-DURHAM	RALEIGH-DURHAM INTL	FDC 7/0178	ILS RWY 23I AMDT 5B.
01/08/97	NC	RALEIGH-DURHAM	RALEIGH-DURHAM INTL	FDC 7/0179	RADAR-1 AMDT 7A.
01/09/97	TX	AMARILLO	AMARILLO INTL	FDC 7/0196	ILS RWY 4 AMDT 21.
01/10/97	FL	PENSACOLA	PENSACOLA REGIONAL	FDC 7/0227	RADAR-1, AMDT 3.
01/13/97	AZ	CHANDLER	CHANDLER MUNI	FDC 7/0264	VOR OR GPS RWY 4L AMDT 5.
01/14/97	CA	CHINO	CHINO	FDC 7/0274	ILS RWY 26 AMDT 4.
01/14/97	CA	SANTA MONICA	SANTA MONICA MUNI	FDC 7/0272	VOR OR GPS-A AMDT 10.
01/14/97	MI	DETROIT	WILLOW RUN	FDC 7/0286	ILS RWY 23L AMDT 7.
01/15/97	AR	NEWPORT	NEWPORT MUNI	FDC 7/0319	GPS RWY 18, ORIG.
01/15/97	AR	NEWPORT	NEWPORT MUNI	FDC 7/0321	NDB RWY 36, AMDT 7.
01/15/97	IL	CHICAGO	CHICAGO O'HARE INTL	FDC 7/0303	ILS RWY 22R AMDT 6.
01/15/97	IL	CHICAGO	CHICAGO O'HARE INTL	FDC 7/0304	ILS RWY 22L AMDT 4.
01/15/97	IL	CHICAGO	CHICAGO O'HARE INTL	FDC 7/0305	ILS RWY 4R AMDT 6A.
01/15/97	MO	EXCELSIOR SPRINGS	EXCELSIOR SPRINGS MEMORIAL	FDC 7/0302	VOR OR GPS RWY 19, ORIG-A.
01/15/97	VT	RUTLAND	RUTLAND STATE	FDC 7/0317	LDA 1 RWY 19 AMDT 7A.
01/16/97	MO	MONROE CITY	MONROE CITY REGIONAL	FDC 7/0306	RNAV RWY 27, ORIG.
01/17/97	AR	NEWPORT	NEWPORT MUNI	FDC 7/0347	GPS RWY 36, ORIG.
01/21/97	MN	MINNEAPOLIS	ANOKA COUNTY-BLAINE ARPT (JANES FIELD).	FDC 7/0406	VOR/DME RWY 26 AMDT 3.
01/21/97	MN	MINNEAPOLIS	ANOKA COUNTY-BLAINE ARPT (JANES FIELD).	FDC 7/0407	VOR OR GPS RWY 8 AMDT 10.
01/21/97	MN	MINNEAPOLIS	ANOKA COUNTY-BLAINE ARPT (JANES FIELD).	FDC 7/0408	RNAV OR GPS RWY 17 AMDT 2.
01/22/97	MI	SAGINAW	HARRY W. BROWNE	FDC 7/0423	NDB OR GPS RWY 27 ORIG.
01/22/97	MI	SAGINAW	HARRY W. BROWNE	FDC 7/04223	VOR/DME OR GPS-A AMDT 3.
07/23/96	NY	SYRACUSE	SYRACUSE HANCOCK INTL	FDC 6/5160	VOR OR GPS RWY 14, AMDT 21.

Newport  
Newport Muni  
Arkansas

GPS RWY 18, ORIG . . .  
FDC Date: 1/15/97

FDC 7/0319/M19/FI/P Newport Muni,  
Newport, AR. GPS RWY 18, ORIG . . .  
S-18 MDA 660/HAT 421 ALL CATS.



VIS CAT C 1½. CIRCLING CATS A/B/C MDA 720/HAA 481. Batesville ALSTG MNMS S-18 MDA 760/HAT 521 ALL CATS. VIS CAT C 1½, CAT D 1¾. CIRCLING CATS A/B/C MDA 800/HAA 561. This is GPS RWY 18, ORIG-A.

#### Newport

Newport Muni  
Arkansas  
NDB RWY 36, AMDT 7 . . .  
FDC Date: 1/15/97

FDC 7/0321/M19/FI/P Newport Muni, Newport, AR. NDB RWY 36, AMDT 7 . . . S-36 MDA 760/HAT 521 ALL CATS. VIS CAT C 1½, VIS CAT D 1¾. CIRCLING CATS A/B/C MDA 760/HAA 521. Batesville ALSTG MNMS S-36 MDA 860/HAT 621 ALL CATS. VIS CAT C 1¾, CAT D 2. CIRCLING MDA 860/HAA 621 ALL CATS. VIS CAT C 1¾. This is NDB RWY 36, AMDT 7A.

#### Newport

Newport Muni  
Arkansas  
GPS RWY 36, ORIG . . .  
FDC Date: 01/17/97

FDC 7/0347/M19/FI/P Newport Muni, Newport, AR. GPS RWY 36, ORIG . . . S-36 MDA 660/HAT 421 ALL CATS, VIS CAT C 1¾. CIRCLING CATS A/B/C MDA 720/HAA 481. Batesville ALSTG MNMS S-36 MDA 760/HAT 521 ALL CATS. VIS CAT C 1½, CAT D 1¾, CIRCLING CATS A/B/C MDA 800/HAA 561. This is GPS RWY 36, ORIG-A.

#### Phoenix

Williams Gateway  
Arizona  
VOR OR TACAN OR GPS RWY 30C  
ORIG-B . . .  
FDC Date: 01/08/97

FDC 7/0168/IWA/FI/P Williams Gateway, Phoenix, AZ. VOR OR TACAN OR GPS RWY 30C ORIG-B . . . S-30C . . . VIS 1 CATS A/B. VIS 1½ CATS C/D, VIS CAT E 1¾. DME MNMS . . . S-30C VIS 1 CATS A/B/C/D; VIS 1¼ CAT E. CIRCLING CAT A MDA 1760/HAA 380. Delete note . . . Inop light table does not apply to S-30C CAT D. CAT E Add ¼ mile for inop ALSF. This is VOR OR TACAN OR GPS RWY 30C ORIG-C.

#### Chandler

Chandler Muni  
Arizona  
VOR OR GPS RWY 4L AMDT 5 . . .  
FDC Date: 01/13/97

FDC 7/0264/CHD/FI/P Chandler Muni, Chandler, AZ. VOR OR GPS RWY 4L AMDT 5 . . . S-4L MDA 1680/HAT 446 CATS A/B/C. VIS CAT C 1¾.

CIRCLING CAT A MDA 1680/HAA 438 CAT A. Phoenix ALSTG MNMS . . . S-4L MDA 1760, HAT 526 CATS A/B/C, VIS 1. CAT C VIS 1½. CIRCLING MDA 1780, HAA 538 CATS A/B/C/. CAT A/B VIS 1, CAT C VIS 1½. This is VOR OR GPS RWY 4L AMDT 5A.

#### Santa Monica

Santa Monica Muni  
California  
VOR OR GPS-A AMDT 10 . . .  
FDC Date: 01/14/97

FDC 7/0272/SMO/FI/P Santa Monica Muni, Santa Monica, CA. VOR OR GPS-A AMDT 10 . . . Add ATTN symbol in profile view at culve \* and at 1120 \*. Also add ATTN symbol at end of stepdown MNMS title. CULVE DME/RADAR MINIMA \*—Add note with ATTN symbol in profile view . . . \* When control tower closed, DME required. This is VOR OR GPS-A AMDT 10A.

#### Chino

Chino  
California  
ILS RWY 26 AMDT 4 . . .  
FDC Date: 01/14/97

FDC 7/0274/CNO/FI/P Chino, Chino, CA. ILS RWY 26 AMDT 4 . . . Change all reference to RWY 08/26 TO 08L/26R. This is ILS RWY 26R AMDT 4A.

#### Pensacola

Pensacola Regional  
Florida  
RADAR-1, AMDT 3 . . .  
FDC Date: 01/10/97

FDC 7/0227/PNS/FI/P Pensacola Regional, Pensacola, FL. RADAR-1, AMDT 3 . . . S-8 MDA 880 HAT 780 ALL CATS. VIS CAT B 1¼, CAT C 2¼, CAT D 2½. S-17 MDA 640 HAT 519 ALL CATS. VIS CAT C 5000 RVR, CAT D 6000 RVR. S-26 MDA 580 HAT 468 ALL CATS. VIS CAT C 1¾, CAT D 1½. CIRCLING MDA 880 HAA 759 ALL CATS. VIS CAT B 1¼, CAT C 2¼, CAT D 2½. Delete note . . . CAT D ASR-17 VIS increased to RVR 6000 for inop SALSR. ALTN MINS . . . CAT C 800-2 ¼, CAT D 800-2½. This is RADAR-1 AMDT 3A.

#### Chicago

Chicago O'Hare Intl  
Illinois  
ILS RWY 22R AMDT 6 . . .  
FDC Date: 01/15/97

FDC 7/0303/ORD/FI/P Chicago O'Hare Intl, Chicago, IL. ILS RWY 22R AMDT 6 . . . S-ILS 22R VIS ALL CATS 2400; S-LOC 22R VIS CAT A, B 2400, CAT C 5000, CAT D 6000. DME MNMS . . . S-LOC 22R VIS CAT A, B & C 2400, CAT D 4000. This is ILS RWY 22R AMDT 6A.

#### Chicago

Chicago O'Hare Intl  
Illinois  
ILS RWY 22L AMDT 4 . . .  
FDC Date: 01/15/97

FDC 7/0304/ORD/FI/P Chicago O'Hare Intl, Chicago, IL. ILS RWY 22L AMDT 4 . . . S-ILS 22L VIS ALL CATS 2400; S-LOC 22L VIS CAT A, B & C 2400, CAT D 4000. This is ILS RWY 22L AMDT 4A.

#### Chicago

Chicago O'Hare Intl  
Illinois  
ILS RWY 4R AMDT 6A . . .  
FDC Date: 01/15/97

FDC 7/0305/ORD/FI/P Chicago O'Hare Intl, CHICAGO, IL. ILS RWY 4R AMDT 6A . . . S-ILS 4R VIS ALL CATS 2400; S-LOC 4R VIS CAT A, B 2400, CAT C 5000, CAT D 6000. This is ILS RWY 4R AMDT 6B.

#### Detroit

Willow Run  
Michigan  
ILS RWY 23L AMDT 7 . . .  
FDC Date: 01/14/97

FDC 7/0286/YIP/FI/P Willow Run, Detroit, MI. ILS RWY 23L AMDT 7 . . . S-ILS 23L DH 958/HAT 250 ALL CATS; FIX ¾ ALL CATS. S-LOC 23L VIS ¾ CAT A/B. Inop table does not apply to S-ILS 23L. For inop MALSR increase S-LOC 23L CATS A/B VIS TO 1 MILE. This is ILS RWY 23L AMDT 7a.

#### Saginaw

Harry W. Browne  
Michigan  
VOR/DME OR GPS-A AMDT 3 . . .  
FDC Date: 01/22/97

FDC 7/04223/3SG/FI/P Harry W. Browne, Saginaw, MI. VOR/DME OR GPS-A AMDT 3 . . . Delete CAAUTION note . . . Tall towers 2.2 miles north northeast of airport. Delete note . . . After 2200 LCL activate MIRL and REIL RWYS 5/23, 9-27 and VASI RWYS 9 AND 27—CTAF. This is VOR/DME OR GPS-A, AMDT 3A.

#### Saginaw

Harry W. Browne  
Michigan  
NDB OR GPS RWY 27 ORIG . . .  
FDC Date: 01/22/97

FDC 7/0423/3SG/FI/P Harry W. Browne, Saginaw, MI. NDB OR GPS RWY 27 ORIG . . . Change FAF to runway threshold distance to 5.78 NM. Delete CAAUTION note . . . Tall towers 2.2 miles north northeast of airport. Delete note . . . After 2200 LCL activate MIRL and REIL RWYS 5/23, 9-27 and VASI RWYS 9 AND 27—CTAF. This is NDB OR GPS RWY 27 ORIG-A.

**Minneapolis**

Anoka County-Blaine Arpt (Janes Field)  
Minnesota  
VOR/DME RWY 26 AMDT 3 . . .  
FDC Date: 01/21/97

FDC 7/0406/ANE/ FI/P Anoka County-Blaine Arpt (Janes Field), Minneapolis, MN. VOR/DME RWY 26 AMDT 3 . . . Delete note . . . Use Crystal ALSTG, when not avbl use Minneapolis ALSTG and increase all MDA'S 40 feet. Alternate MNMS—STANDARD. This is VOR/DME RWY 26 AMDT 3A.

**Minneapolis**

Anoka County-Blaine Arpt (Janes Field)  
Minnesota  
VOR OR GPS RWY 8 AMDT 10 . . .  
FDC Date: 01/21/97

FDC 7/0407/ANE/ FI/P Anoka County-Blaine Arpt (Janes Field), Minneapolis, MN VOR OR GPS RWY 8 AMDT 10 . . . Delete note . . . Use Crystal ALSTG, when not avbl use Minneapolis ALSTG and increase all MDA'S 40 feet. Alternate MNMS—STANDARD. This is VOR OR GPS RWY 8 AMDT 10A.

**Minneapolis**

Anoka County-Blaine Arpt (Janes Field)  
Minnesota  
RNAV OR GPS RWY 17 AMDT 2 . . .  
FDC Date: 01/21/97

FDC 7/0408/ANE/ FI/P Anoka County-Blaine Arpt (Janes Field), Minneapolis, MN. RNAV OR GPS RWY 17 AMDT 2 . . . Delete note . . . Use Crystal ALSTG, when not avbl use Minneapolis ALSTG and increase all MDA'S 40 feet. Alternate MNMS—STANDARD. This is RNAV OR GPS RWY 17 AMDT 2A.

**Excelsior Springs**

Excelsior Springs Memorial  
Missouri  
VOR OR GPS RWY 19, ORIG-A . . .  
FDC Date: 1/15/97

FDC 7/0302/3EX/ FI/P Excelsior Springs Memorial, Excelsior Springs, MO. VOR OR GPS RWY 19, ORIG-A . . . S-19 MDA 1580/HAT 583 CAT A and B; CAT C N/A. CIRCLING MDA 1580/HAA 583 CAT A AND B, CAT C N/A. This is VOR OR GPS RWY 19, ORIG-B.

**Monroe City**

Monroe City Regional  
Missouri  
RNAV RWY 27, ORIG . . .  
FDC Date: 1/16/97

FDC 7/0306/K52/ FI/P Monroe City Regional, Monroe City, MO. RNAV RWY 27, ORIG . . . TRML RTE ALT from MACON VOR/DME (MCM) to

Spring WP 2600. This is RNAV 27, ORIG-A.

**Raleigh-Durham**

Raleigh-Durham Intl  
North Carolina  
ILS RWY 23L AMDT 5B . . .  
FDC Date: 1/08/97

FDC 7/0178/RDU/ FI/P Raleigh-Durham Intl., Raleigh-Durham, NC. ILS RWY 23L AMDT 5B . . . S-LOC 23L MDA 920/HAT 484 ALL CATS, VIS CAT D 1. This is ILS RWY 23L AMDT 5C.

**Raleigh-Durham**

Raleigh-Durham Intl  
North Carolina  
RADAR-1 AMDT 7A . . .  
FDC Date: 01/08/97

FDC 7/0179/RDU/ FI/P Raleigh-Durham Intl, Raleigh-Durham NC. RADAR-1 AMDT 7A . . . S-23R MDA 920/HAT 510 ALL CATS. VIS CAT C RVR 5000. This is RADAR-1 AMDT 7B.

**Syracuse**

Syracuse Hancock Intl  
New York  
VOR OR GPS RWY 14, AMDT 21 . . .  
FDC Date: 07/23/96

FDC 6/5160/SYR/ FI/P Syracuse Hancock Intl, Syracuse, NY. VOR OR GPS RWY 14, AMDT 21 . . . MDA 880/HAA 463 ALL CATS, CAT D VIS 1/2. This is VOR OR GPS RWY 14 AMDT 21A.

**Amarillo**

Amarillo Intl  
Texas  
ILS RWY 4 AMDT 21 . . .  
FDC Date: 01/09/97

FDC 7/0196/AMA/ FI/P Amarillo Intl, Amarillo, TX. ILS RWY 4 AMDT 21 . . . Delete al ref to I-AMA DME. Delete profile note . . . Use I-AMA DMA when on loc course. Add note . . . ADF required. This is ILS RWY 4 AMDT 21A.

**Rutland**

Rutland State  
Vermont  
LDA 1 RWY 19 AMDT 7A . . .  
FDC Date: 01/15/97

FDC 7/0317/RUT/ FI/P Rutland State, Rutland, VT. LDA 1 RWY 19 AMDT 7A . . . Terminal route MISIN INT to IRA NDB . . . Add NOPT. This is LDA 1 RWY 19 AMDT 7B.

[FR Doc. 97-2641 Filed 2-3-97; 8:45 am]  
BILLING CODE 4910-13-M

**14 CFR Part 97**

[Docket No. 28785; Amdt. No. 1779]  
RIN 2120-AA65

**Standard Instrument Approach Procedures; Miscellaneous Amendments**

AGENCY: Federal Aviation Administration (FAA), DOT.  
ACTION: Final rule.

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

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

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

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

- For Examination—*
1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
  2. The FAA Regional Office of the region in which the affected airport is located; or
  3. The Flight Inspection Area Office which originated the SIAP.

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

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

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

#### The Rule

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

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

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

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

#### List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on January 24, 1997.

**Thomas C. Accardi,**  
*Director, Flight Standards Service.*

#### Adoption of the Amendment

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

#### PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

**\*\*\* Effective February 27, 1997**

Columbus, OH, Port Columbus Intl, LOC BC RWY 28R, Amdt 6 CANCELLED  
Salem, OH, Salem Airpark Inc, VOR or GPS-A, Amdt 1

**\*\*\* Effective March 27, 1997**

Hemet, CA, Hemet-Ryan, GPS RWY 5, Orig  
Deland, FL, Deland Muni-Sidney H. Taylor Field, NDB OR GPS RWY 30, Amdt 1  
Deland, FL, Deland Muni-Sidney H. Taylor Field, GPS RWY 5, Orig  
Deland, FL, Deland Muni-Sidney H. Taylor Field, GPS RWY 12, Orig  
Olathe, KS, Johnson County Executive, NDB RWY 36, Orig  
Somerset, KY, Somerset-Pulaski Co-J T Wilson Field, GPS RWY 22, Orig  
St Cloud, MN, St Cloud Regional, GPS RWY 5, Orig  
St Cloud, MN, St Cloud Regional, GPS RWY 23, Orig  
Lee's Summit, MO, Lee's Summit Muni, GPS RWY 29, Orig  
Great Falls, MT, Great Falls Intl, RADAR-1, Amdt 10, CANCELLED  
Rutherfordton, NC, Rutherford County, GPS RWY 1, Orig  
Newark, OH, Newark-Heath, GPS RWY 27, Orig  
Tiffin, OH, Seneca County, GPS RWY 24, Orig  
Wooster, OH, Wayne County, GPS RWY 28, Orig  
Aurora, OR, Aurora State, GPS RWY 17, Orig  
Aurora, OR, Aurora State, GPS RWY 35, Orig  
Bellingham, WA, Bellingham Intl, GPS RWY 16, Orig  
Bellingham, WA, Bellingham Intl, GPS RWY 34, Orig  
Friday Harbor, WA, Friday Harbor, RADAR-1, Amdt 1A, CANCELLED  
Kelso, WA, Kelso-Longview, GPS RWY 12, Orig

**Note:** The FAA published an amendment of the Federal Aviation Regulations (Vol 62, No. 15, page 3453, dated January 23, 1997) under Section 97.27, in Docket No. 28777, Amdt No. 1776 to Part 97, which is hereby amended as follows:

Change the effective date of publication from February 27, 1997 to March 27, 1997, for the following standard instrument approach procedure: Unalakleet, AK, Unalakleet, MLS RWY 14, Orig.

[FR Doc. 97-2640 Filed 2-3-97; 8:45 am]

**BILLING CODE 4910-13-M**

#### Coast Guard

#### 33 CFR Part 117

[CCGD08-96-062]

RIN 2115-AE47

#### Temporary Drawbridge Regulations: Mississippi River, Iowa and Illinois

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule.

**SUMMARY:** This document temporarily allows four drawbridges on the Upper

Mississippi River to change from the on-demand opening requirements governing drawbridges. This action is necessary in order for the bridges to undergo required maintenance. Winter conditions on the Upper Mississippi River, coupled with the closure of many Corps of Engineers' locks until March 1997, will preclude any significant navigation demands for bridge openings.

**DATES:** Section 117.35-T08-062 is effective from January 17 through March 1, 1997.

**FOR FURTHER INFORMATION CONTACT:** Roger K. Wiebusch, Bridge Administrator; Director, Western Rivers Operations, Eighth Coast Guard District, Bridge Branch, 1222 Spruce Street, St. Louis, MO 63103-2832, telephone 314-539-3900 extension 378.

**SUPPLEMENTARY INFORMATION:** This action promulgates temporary regulations for drawbridge closures due to required winter bridge maintenance work. In accordance with 5 U.S.C. 533, a notice of proposed rulemaking has not been published and good cause exists for making this rule effective in less than 30 days from publication. Delaying implementation of the regulation will not benefit navigation and would result in unnecessary additional operating costs to the bridge owners.

#### Discussion of Regulation

These drawbridge operation amendments have been coordinated with the commercial waterway industry by telephone. Director Western Rivers Operations, Bridge Administration, contacted the chairman of the River Industry Action Committee, an association of commercial towboat companies that operate on the Upper Mississippi River. The chairman of the committee reviewed these changes, and based on his knowledge of waterway traffic during the winter, and input from Committee member companies, was of the opinion that these amendments would not have a significant impact on commercial traffic. Fleeters operating in the vicinity of the bridges were contacted and they advised that these amendments would not have a significant impact on them because they plan their movements of single barges in advance and can give the notice required.

Locks impacted by these bridges close during winter conditions on the Upper Mississippi River because ice formation hinders navigation. The Clinton Railroad Drawbridge, Mile 518.0 Upper Mississippi River, is located between Lock 12 and 15 and those locks will be closed during this time period. Rock

Island Railroad and Highway Drawbridge, Mile 482.9 Upper Mississippi River, crosses Lock 15 and that lock is closed during this time period.

Burlington Railroad Drawbridge, Mile 403.1 Upper Mississippi River, is located between locks 19 and 22 and those locks will be closed during this time period. Keokuk Drawbridge, Mile 364.0 Upper Mississippi River, crosses lock 19 and that lock will be closed during this time period.

Performing maintenance on these bridges during the winter when no vessels are impacted is preferred to bridge closures or advance notification requirements during the commercial navigation season.

#### Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of the rule to be so minimal that a full Regulatory Evaluation under paragraph 10e is unnecessary.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. § 601 *et seq.*), the Coast Guard was required to consider whether this action will have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their field and (2) governmental jurisdictions with populations of less than 50,000. Because it expects the impact of this action to be minimal, the Coast Guard certifies under 5 U.S.C. § 605(b), that this action will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This action contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not raise sufficient

federalism concerns to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

This final rule has been thoroughly reviewed by the Coast Guard and determined to be categorically excluded from further environmental documentation in accordance with section 2.B.2.c of Commandant Instruction M16475.1B.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Regulation

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 117 continues to read as follows:

**Authority:** 33 U.S.C. § 499; 49 CFR 1.46; 33 CFR 1.05-1(g); section 117.255 also issued under the authority of Pub. L.

1. 102-587, 106 Stat. 5039.

2. A temporary section 117.35-T08-062 is added to read as follows:

#### § 117.35-T08-062 Upper Mississippi River.

(a) *Clinton Railroad Drawbridge Mile 518.0 Upper Mississippi River.* From January 17 through March 1, 1997 the drawspan may remain in the closed to navigation position. Bridge opening requests must be made 24 hours in advance by calling the Clinton Yardmaster's office at 319-244-3204 anytime; 319-244-3269 weekdays between 7 a.m. and 3:30 p.m.; or page Mr. Darrell Lott at 800-443-7243, PIN#009096.

(b) *Rock Island Railroad and Highway Drawbridge Mile 482.9 Upper Mississippi River.* From January 17 through March 1, 1997, the drawspan may remain in the closed to navigation position. The bridge cannot be opened for navigation during this period due to maintenance work.

(c) *Burlington Railroad Drawbridge Mile 403.1 Upper Mississippi River.* From January 17 through March 1, 1997, the drawspan may remain in the closed to navigation position. Bridge opening requests must be made 6 hours in advance by calling Mr. A.L. Poole at 309-345-6103 or Mr. Larry Moll at 319-752-5244.

(d) *Keokuk Drawbridge Mile 364.0 Upper Mississippi River.* From January 17 through March 1, 1997 the drawspan may remain in the closed to navigation position. Bridge opening requests must be made 24 hours in advance by calling the Bridge Manager or Work Foreman at 319-524-3553/2442 or by calling either Mr. Mark Forest at 319-524-5329 or Mr. Dick Sykes at 319-524-6180.



Dated: January 17, 1997.

T.W. Josiah,  
Rear Admiral, U.S. Coast Guard, Commander,  
Eighth Coast Guard District.

[FR Doc. 97-2635 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

[CGD 05-96-107]

#### Regulated Navigation Area: Chesapeake Bay Ice Navigation Season

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

**SUMMARY:** This document implements 33 CFR 165.503 effective from January 15, 1997 to March 15, 1997. Section 165.503 establishes a Regulated Navigation Area (RNA) for the northern portion of the Chesapeake Bay and its tributaries. Operators of specified vessels are required to contact Captain of the Port (COTP) Baltimore prior to entering or getting underway within the Regulated Navigation Area to determine if operating restrictions have been imposed due to ice conditions.

**DATES:** Section 165.503 of 33 CFR is effective from 12:01 a.m., January 15, 1997 to 12:01 a.m., March 15, 1997, unless sooner terminated by the COTP Baltimore by publication of a document in the *Federal Register*.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Brooks Minnick, U.S. Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226, (410) 576-2585.

**DRAFTING INFORMATION:** The drafters of this regulation are Lieutenant Commander Brooks Minnick, project officer, COTP Baltimore, Maryland, and Commander Greg Shelton, project attorney, Maintenance and Logistics Command Atlantic Legal Staff.

**SUPPLEMENTARY INFORMATION:** Ice conditions frequently exist during winter months on the northern portion of Chesapeake Bay and its tributaries. Severe ice conditions may threaten the safety of persons, vessels and the environment. COTP Baltimore may issue specific COTP orders imposing operating restrictions due to ice conditions, vessel construction, and cargo. Mariners are also encouraged to monitor Broadcast Notices to Mariners (BNM) to determine if ice conditions exist in a specific area.

Section 165.503 of 33 CFR establishes a Regulated Navigation Area (RNA). Operators of vessels carrying oil or hazardous materials in bulk as cargo or residue, power-driven vessels of three

hundred gross tons or more, vessels of one hundred gross tons or more carrying one or more passengers for hire, and towing vessels of 26 feet or more in length must contact COTP Baltimore before entering or getting underway within the RNA to obtain current COTP orders. Section 165.503 will remain in effect from January 15, 1997 to March 15, 1997.

Dated: January 13, 1997.

G.S. Cope,  
Captain, U.S. Coast Guard, Captain of the  
Port, Coast Guard Activities Baltimore.

[FR Doc. 97-2633 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-14-M

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 721

[OPPTS-50598B; FRL-5580-5]

#### Substituted Cyclohexyldiamino Ethyl Esters; Revocation of a Significant New Use Rule

AGENCY: Environmental Protection  
Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is revoking a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for substituted cyclohexyldiamino ethyl esters based on receipt of new data. Based on the data the Agency determined that it could no longer support a finding that activities not described in the PMN may result in significant changes in environmental exposure.

**EFFECTIVE DATE:** The effective date of this rule is March 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543A, 401 M St., SW., Washington, DC 20460; telephone: (202) 554-1404; TDD: (202) 554-0551; e-mail: TSCA-Hotline@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of October 8, 1992 (57 FR 46458) (FRL-3934-7) EPA issued a SNUR establishing significant new uses for substituted cyclohexyldiamino ethyl esters. Because of additional data EPA has received for this substance, EPA is proposing to revoke this SNUR.

#### I. Background

The Agency proposed the revocation of the SNUR for this substance in the

*Federal Register* of April 19, 1996 (61 FR 17272) (FRL-5355-5). The background and reasons for the revocation of the SNUR are set forth in the preamble to the proposed revocation. The Agency received no public comment concerning the proposed revocation. As a result EPA is revoking this SNUR.

#### II. Background and Rationale for Revocation of the Rule

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted under § 721.170(b)(4)(ii) based on the fact that activities not described in the PMN may result in significant changes in environmental exposure. Based on these findings, a SNUR was promulgated.

EPA has determined that it could no longer support a finding that activities not described in the PMN may result in significant changes in environmental exposure. The revocation of SNUR provisions for this substance designated herein is consistent with this finding.

In light of the above, EPA is revoking the SNUR provisions for this chemical substance. When this revocation becomes final, EPA will no longer require notice of any company's intent to manufacture, import, or process this substance. In addition, export notification under section 12(b) of TSCA will no longer be required.

#### III. Rulemaking record

The record for the rule which EPA is revoking was established at OPPTS-50598 (P-91-1243). This record includes information considered by the Agency in developing this rule.

A public version of the record, without any Confidential Business Information, is available in the OPPT Non-Confidential Information Center (NCIC) from 12 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA NCIC is located in the Northeast Mall Basement Rm. B-607, 401 M St., SW., Washington, DC.

#### IV. Regulatory Assessment Requirements

EPA is revoking the requirements of this rule. Any costs or burdens associated with this rule will also be eliminated when the rule is revoked. Therefore, EPA finds that no costs or burdens must be assessed under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 40 CFR Part 721**

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: January 27, 1997.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

Therefore, 40 CFR part 721 is amended as follows:

**PART 721—[AMENDED]**

1. The authority citation for part 721 continues to read as follows:

**Authority:** 15 U.S.C. 2604, 2607, and 2625(c).

**§ 721.2980 [Removed]**

2. By removing § 721.2980.

[FR Doc. 97-2710 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-F

**DEPARTMENT OF TRANSPORTATION****Maritime Administration****46 CFR Part 349**

[Docket No. H 169]

RIN 2133-AB28

**Reemployment Rights of Certain Merchant Seamen**

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** The Maritime Administration (MARAD) is issuing this procedural rule to implement provisions of the Maritime Security Act of 1996. These provisions amend the Merchant Marine Act, 1936, to grant reemployment rights and other benefits to certain merchant seamen serving on vessels used by the United States for a war, armed conflict, national emergency or maritime mobilization need. This rule establishes the procedure for obtaining the necessary MARAD certification for reemployment rights and other benefits conferred by statute and its assistance in pursuing these statutory rights and benefits.

**EFFECTIVE DATE:** This final rule is effective February 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Christopher E. Krusa, Maritime Training Specialist, Maritime Administration, MAR-250, Room 7302, 400 Seventh Street, SW, Washington, DC 20590-0001, tel. (202) 366-2648.

**SUPPLEMENTARY INFORMATION:** Section 2 of Pub. L. 104-239, the Maritime Security Act of 1996 (MSA), enacted on

October 8, 1996, in amending Title VI of the Merchant Marine Act, 1936 (Act), 46 App. U.S.C. 1171 *et seq.*, directs the Secretary of Transportation to establish a Maritime Security Program (MSP). The MSP will provide, over a period of ten years, financial assistance for the commercial operation of militarily useful vessels in the foreign commerce of the United States, employing U.S. citizen crews. Pursuant to contract, participating vessel operators are required to make their ships and other commercial transportation resources available to the Government during time of war or national emergency. Section 10 of the MSA also amends Title III of the Act, 46 App. U.S.C. 1131, to provide "reemployment rights and other benefits" for certain merchant seamen who have been certified" by the Secretary of Transportation.

In order to receive certification, those merchant seamen must submit an application not later than 45 days following completion of employment in the activation or operation of a vessel used by the United States for a "war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance)." The MSA provides that the reemployment rights and other benefits shall be "substantially equivalent to the rights and benefits provided for by chapter 43 of Title 38, United States Code, for any member of the Armed Forces of the United States who is ordered to active duty." The Secretary has delegated this certification authority to the Maritime Administrator (61 FR 64029; Dec. 3, 1996).

Section 10 of the MSA requires the Secretary to issue regulations implementing this section not later than 120 days after its enactment. Accordingly, pursuant to delegation of this authority by the Secretary to the Maritime Administrator, MARAD is issuing this final rule to establish the procedure for obtaining MARAD certification and to provide for MARAD administrative assistance to merchant seamen alleging denial of their statutory rights to reemployment and other benefits.

**Rulemaking Analysis and Notices**

*Executive Order 12866 (Regulatory Planning and Review; Department of Transportation (DOT) Regulatory Policies and Procedures; Pub. L. 104-121*

This procedural rulemaking is not considered to be an economically significant regulatory action under E.O. 12866, and is also not considered a

major rule for purposes of Congressional review under Pub. L. 104-121. It is not considered to be a significant rule under DOT's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Accordingly, it has not been reviewed by the Office of Management and Budget.

Section 10 of Pub. L. 104-239, which added section 302 to the Act (46 App. U.S.C. 1132), mandates that regulations be issued by February 5, 1997. This rule merely prescribes the procedures for MARAD to certify certain merchant seamen as being eligible for reemployment rights and other benefits granted by the Congress and to provide assistance to them in obtaining those rights and other benefits. Accordingly, pursuant to 5 U.S.C. 553, the notice and comment requirements of the Administrative Procedure Act are inapplicable and this is being published as a final rule.

**Federalism**

MARAD has analyzed this rulemaking in accordance with principles and criteria contained in E.O. 12612 and has determined that these regulations do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

**Regulatory Flexibility**

The Maritime Administrator certifies that this rulemaking will not have a significant economic impact on a substantial number of small entities. This is a procedural rule mandated by the Congress to allow individuals to be certified as eligible to claim their statutory rights to reemployment and other benefits.

**Environmental Assessment**

MARAD has concluded that this final rule has no environmental impact and that an environmental impact statement is not required.

**Paperwork Reduction Act**

This rulemaking contains new information collection requirements which will be submitted to the Office of Management and Budget for review and approval.

This rule does not impose any unfunded mandates.

**List of Subjects in 46 CFR Part 349**

Employment, National defense, Seamen.

Accordingly, new part 349 is added to Title 46 CFR to read as follows:

**PART 349—REEMPLOYMENT RIGHTS OF CERTAIN MERCHANT SEAMEN**

Sec.

- 349.1 Purpose.  
 349.2 Application for certification.  
 349.3 Certification criteria.  
 349.4 Decision on application.  
 349.5 Reemployment rights and benefits.  
 349.6 Enforcement.

**Authority:** Secs. 204(b), 302, Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1114(b), 1132); 38 U.S.C. 4301 *et seq.*; 49 CFR 1.66

**§ 349.1 Purpose.**

This part prescribes regulations implementing section 302, Merchant Marine Act, 1936 (Act), as amended (46 App. U.S.C. 1132), added by section 10 of Pub. L. 104-239, the Maritime Security Act of 1996. These regulations provide the procedures by which the Maritime Administration (MARAD), under authority delegated by the Secretary of Transportation to the Maritime Administrator, certifies, upon application, that certain merchant seamen are entitled to reemployment rights and other benefits after completion of their service on vessels used by the United States for a war, armed conflict, national emergency or maritime mobilization need. It also describes the form of administrative assistance MARAD will provide to the seamen certified.

**§ 349.2 Application for certification.**

Pursuant to 46 App. U.S.C. 1132, an individual may submit an application to MARAD not later than 45 days after the date the individual completes the period of employment described in § 349.3 of this part.

**§ 349.3 Certification criteria.**

The Administrator shall apply the following criteria for certifying that an individual merchant seaman is entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided by chapter 43 of title 38, United States Code, for any member of a Reserve Component of the Armed Forces of the United States who is ordered to active duty. It shall be the responsibility of each applicant for certification to submit relevant documentation to MARAD, Office of Maritime Labor, Training, and Safety, MAR-250, 400 Seventh St., S.W., Room 7302, Washington, D.C. 20590, establishing that—

(a) *Employment as merchant seaman.* The applicant was employed after October 8, 1996, in the activation or operation of a vessel—

(1) in the National Defense Reserve Fleet maintained by MARAD under

authority of section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744) in a period in which that vessel was in use or being activated for use under 50 U.S.C. App. 1744(b);

(2) that is requisitioned under section 902 of the Act (46 App. U.S.C. 1242); or

(3) that is owned, chartered, or controlled by the United States and used by the United States for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance).

(b) *Seaman credentials.* During the period of employment described in paragraph (a) of this section, the seaman possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 73 (as applicable) of title 46, United States Code, as required by 46 App. U.S.C. 1132(c).

(c) *Additional information.* If applicable, periods of hospitalization, convalescence, illness, injury, shipwreck or detention beyond the mariner's control were incurred in, or aggravated during, the performance of employment described in § 349.3(a).

**§ 349.4 Decision on application.**

MARAD will issue or deny certification (accompanied by an explanation in writing) to each applicant not later than 20 days after receipt of an application for certification.

**§ 349.5 Reemployment rights and benefits.**

(a) *General.* An individual who is absent from a position of employment, in the private or public (federal, state or local government) sector, because of temporary employment of any duration described in § 349.3(a), shall be entitled to reemployment rights and benefits upon completion of the temporary employment as a merchant seaman.

(b) *Superior claims.* Pursuant to 38 U.S.C. 4312(g), the right of a person to reemployment shall not entitle such person to retention preference or displacement rights over any person with a superior claim under the provisions of title 5, United States Code, relating to veterans and other preference eligibles.

(c) *Notification of employer.* Any person who is absent from a position of employment by reason of service as described in § 349.3(a) shall be entitled to reemployment rights and benefits provided in § 349.3(e) if—

(1) The person has given advance written or verbal notice of such service to such person's employer, unless giving notice is precluded by military

necessity, under regulations prescribed by the Secretary of Defense, or, under all relevant circumstances, is impossible or unreasonable, pursuant to the provisions of 38 U.S.C. 4312(b); and

(2) The person submits an application for reemployment with the employer not later than 14 days after completion of a period of service of less than 181 days, or not later than 90 days after the completion of a period of service greater than 180 days, or if submitting such application within such period is impossible or unreasonable through no fault of the person, the next first full calendar day when submission of such application becomes possible.

(d) *Waiver of notice requirements.* A person who has not given notice, or who fails to report or apply for employment or re-employment within the appropriate period specified in paragraph (c) of this section shall not automatically forfeit such person's entitlement to the rights and benefits referred to in § 349.5(e), but shall be subject to the rules of conduct, established by policy, and the general practices of the employer pertaining to explanations and discipline with respect to absence from scheduled work. MARAD will make a determination on the issue of whether notice of service was required in acting on the application for certification.

(e) *Exception to reemployment rights.* An employer is not required to reemploy an individual if the employer satisfies the burden of proving that, pursuant to 38 U.S.C. 4312(d)—

(1) The employer's circumstances have so changed as to make such reemployment impossible or unreasonable, or such reemployment, if required, would impose an undue hardship on the employer, as defined in 38 U.S.C. 4303(15); or

(2) The employment which the individual left for employment as a merchant seaman was for a brief, nonrecurrent period and there was not at the time of leaving such employment any reasonable expectation that such employment would continue indefinitely or for a significant period.

(f) *Reemployment benefits.* An individual certified by MARAD to be entitled to reemployment shall also be entitled to other "benefits of employment" (other than wages or salary for work performed), as defined in 38 U.S.C. 4303(2), that would have accrued to that individual by reason of an employment contract or agreement or an employer policy, plan or practice and includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards,

bonuses, severance pay, supplemental unemployment and benefits, vacations and the opportunity to select work hours or location of employment.

(g) *Reemployment position.* (1) An individual certified by MARAD as being entitled to reemployment shall be promptly reemployed by the former employer, according to the order of priority specified in 38 U.S.C. 4313(a), after submitting an application for reemployment. The three categories of priority, in ascending order, are for a merchant seaman who:

- (i) Served for 90 days or less;
- (ii) Served for more than 90 days; or
- (iii) Has a disability incurred in, or aggravated during, the performance of such merchant service.

(2) For a person with such service related disability, the employer shall make "reasonable efforts", as defined in 38 U.S.C. 4303(10), "to accommodate the disability" to allow that person to be employed in the position that would have been occupied had the employment with the employer been continuous, or in the position in which employed on the date service began as a merchant seaman, and if that person is "not qualified" for either position, in a substantially equivalent position, as specified in 38 U.S.C. 4313(a)(3) and (a)(4).

#### § 349.6 Enforcement.

MARAD shall provide administrative assistance to any individual certified to be entitled to reemployment rights and benefits pursuant to chapter 43 of title 38, United States Code, made applicable by 46 App. U.S.C. 1132(a) and these regulations, who alleges in writing to MARAD the failure, refusal, or imminent failure or refusal of an employer to grant such rights or other benefits. The complaint must be sent to MARAD at the address in § 349.3. Such complaint may be in any format and shall include the name and address of the employer against whom the complaint is filed and a summary of the allegations that form the basis for the complaint. MARAD will review, investigate and attempt to resolve the complaint by taking one or more of the following actions:

(a) *Consultation with claimant.* MARAD will communicate with the individual filing the complaint, in writing and/or by telephone or other means, to provide assistance in pursuing reemployment rights and benefits with the employer.

(b) *Employer contact.* MARAD may contact the employer and attempt to resolve the complaint to the mutual satisfaction of the complainant and the employer.

(c) *Consultation with Department of Labor.* If attempts by MARAD to resolve the complaint are unsuccessful, MARAD may seek advice on the matter from the U.S. Department of Labor.

(d) *Referral to Attorney General or Merit Systems Protection Board.* MARAD will notify the complainant of an unsuccessful effort to resolve a complaint. Pursuant to 38 U.S.C. 4323 and 4324, if the complainant so requests, MARAD will refer to the Attorney General a complaint relating to a private or State employer, or to the Merit Systems Protection Board, for litigation, a complaint relating to a Federal executive agency employer.

Dated: January 30, 1997.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary.

[FR Doc. 97-2746 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-81-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 43, 63, 64, and 65

[CC Docket No. 96-23, DA 96-1873]

#### Revision of Filing Requirements

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

**SUMMARY:** On November 8, 1996, the Common Carrier Bureau adopted a *Report and Order*, "Revision of Filing Requirements," that eliminates or significantly reduces reporting requirements imposed on communications common carriers by the Commission's policies and rules. As a result of this action, thirteen reporting requirements have been eliminated, and the frequency of filing for four other reports has been reduced.

**EFFECTIVE DATE:** March 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Thomas J. Beers, Deputy Chief, Industry Analysis Division, Common Carrier Bureau, at (202) 418-0952, or Scott Bergmann, Industry Analysis Division, Common Carrier Bureau, at (202) 418-7102.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Common Carrier Bureau's *Report and Order*, "Revision of Filing Requirements," adopted November 8, 1996 and released November 13, 1996 (CC Docket No. 96-23, DA 96-1873). The full text of the *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference

Center, Room 239, 1919 M Street, Washington, DC 20554. The *Report and Order* has been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104-13, and has been approved in accordance with the provisions of that Act (OMB Control No. 3060-0701). The Office of Management and Budget (OMB) offered its strong support for the actions as proposed. The complete text also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

**PAPERWORK REDUCTION ACT:** The actions taken regarding the collections of information contained in the *Report and Order* have been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law 104-13, and have been approved by the Office of Management and Budget (OMB) under OMB control number 3060-0701. OMB offered its strong support for the actions. In addition, OMB made three suggestions in addition to the proposals: (1) That the word "annual" be added to the revised language for § 65.600(b)<sup>1</sup> to make clear that the reports are required on an annual basis; (2) that the Commission conduct a rulemaking to address the filing requirements associated with the ARMIS and CAM reporting thresholds; and (3) that the Commission consider modifying the annual access tariff filing periods to coincide with the periods covered by the interstate rate of return monitoring reports.<sup>2</sup> First, we agree with OMB and ALLTEL that the revised language for § 65.600(b) should more clearly specify that reports are required on an annual basis. We believe that the revised language for § 65.600(b), adopted in the *Report and Order*, achieves that result. Second, as discussed at Part IV of the *Report and Order*, the Commission will address ARMIS and CAM filing requirements and carrier classification in another proceeding. Finally, we decline to alter the annual access tariff filing period because the present schedule allows the Commission to use the current years rate-of-return reports to evaluate and calculate annual access tariffs.

OMB Approval Number: 3060-0701.  
Title: Revision of Filing Requirements, CC Docket 96-23, DA 96-1873.

Form Number: FCC 492.

<sup>1</sup> Notice of Office of Management and Budget Action, at 2 (OMB No. 3060-0701) (released May 30, 1996). OMB suggests a change to § 65.500(b). We assume this to be a typographical error. ALLTEL, whose suggestion OMB specifically supports, also suggests a change to § 65.600(b).

<sup>2</sup> Notice of Office of Management and Budget Action, at 2.



Respondents: Business or other for profit, including small businesses.

Burden Estimate:

Title	Respondents	Est. time per resp.	Frequency	Annual burden
1. Circuit Report .....	0	0 hours .....	0 per year .....	0 hours.
2. Record Carrier Letter .....	0	0 hours .....	0 per year .....	0 hours.
3. Report on Inside Wiring Services .....	0	0 hours .....	0 per year .....	0 hours.
4. FCC 492 Rate of Return .....	35	8 hours .....	1 per year .....	280 hours.
5. New Service Tracking Report .....	16	20 .....	.....	104 hours.
6. Report of Unsecured Credit to Political Candidates .....	13	8 .....	1 per year .....	104 hours.

Total Annual Burden: 488 total hours.  
Estimated Costs Per Respondent: \$0.00.

**Needs and Uses:** The Commission eliminated thirteen reporting requirements and reduced the frequency of four reporting requirements imposed on communications common carriers, including Regional Bell Operating Companies, other local telephone companies, record carriers, AT&T and Sprint. The information received will be used to assist the Federal Communications Commission in performing its public oversight duties. The actions taken regarding the collection of information subject to the PRA contained in this Report and Order have been approved by OMB under OMB control number 3060-0701. OMB Control number 3060-0701 expires 5/31/99.

**Summary of the Report and Order**

1. In this Report and Order, and pursuant to delegated authority, we adopt proposals set out in the Commission's Notice of Proposed Rulemaking (NPRM), *Revision of Reporting Requirements*, to eliminate thirteen information reporting requirements imposed on communications common carriers by the Commission's rules and policies.<sup>3</sup> We also reduce pursuant to the NPRM, the frequency of filing obligations for four other reporting requirements imposed pursuant to Commission orders.

2. The Commission in the NPRM proposed to eliminate thirteen, and reduce the frequency of filing for six, information collection requirements applied to communications common carriers.<sup>4</sup> Earlier, the Commission had

ordered the Common Carrier Bureau (Bureau) to conduct a review of all reports filed with the Bureau, including those reports not subject to the Paperwork Reduction Act.<sup>5</sup> In fact, the NPRM that initiated this proceeding is but one instance of the Commission's on-going commitment to eliminate unnecessary and burdensome regulation, including reporting requirements.<sup>6</sup> Other deregulatory initiatives will follow upon the Commission's continuing review of its statutory mandate and its own practices and procedures.<sup>7</sup>

3. In this proceeding, commenters<sup>8</sup> generally support the Commission's proposals,<sup>9</sup> while several urge the

Reporting and Management Information System (ARMIS) quality of service reports and the Payphone Compensation reports have been mooted by the passage of the Telecommunications Act of 1996 and subsequent Commission actions. See 47 U.S. 272(b)(5), 276(b)(1)(A); Revision of Filing Requirements and Implementation of Section 402(b)(2)(B) of the Telecommunications Act of 1996: Annual ARMIS Reports, Order, CC Docket No. 96-23, DA 96-381 (released March 20, 1996), 61 FR 18143 (April 24, 1996) (*Annual ARMIS Reports Order*); Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, Report and Order, CC Docket 96-128, FCC 96-388 (released September 20, 1996), 61 FR 52307 (October 7, 1996) (*Payphone Compensation Order*). See also Part IV of the Report and Order.

<sup>5</sup> NPRM at para. 2.  
<sup>6</sup> NPRM at para. 27.  
<sup>7</sup> *Id.*

<sup>8</sup> Fifteen parties filed comments in this proceeding. Six of these parties and three additional parties filed reply comments. Appendix A of the Report and Order lists the commenters as well as the short names this Report and Order uses to refer to them. Additionally, on April 26, 1996, APCC filed a Request for leave to File Late Reply Comments, which it further identified as "Ex Parte or Late Filed," to reply to issues raised. In comments filed by AT&T and Sprint. We grant APCC's petition to the extent that we accept its comments as informal comments pursuant to § 1.419(b) of the Commission's rules. 47 CFR 1.419(b).

<sup>9</sup> See, e.g., Pacific Bell Comments at 1-2; NYNEX Comments at 1; Bellsouth Comments at 1; ALLTEL Comments at 1; AT&T Comments at 1; GTE Comments at ii. Other parties directed their comments to certain proposals contained in the NPRM. See, e.g., CompTel Comments at 1, n.2 (addressing BOC-filed billing and collection contracts); NECA Comments at 1 (addressing FCC Form 492 and pooling reports); INS Comments at 1-2 (addressing, *inter alia*, semi-annual circuit reports, but generally "(applauding) the

Commission to go further and delete or modify reporting requirements other than those set out in the NPRM.<sup>10</sup> Although we in almost all cases deny these requests as going beyond the scope of this proceeding, we will take into account the commenters' suggestions during our continuing review.<sup>11</sup> Any further action will be undertaken only after affording opportunity for comment on discrete proposals in appropriate proceedings.

4. As a result of this action, the following reports have been eliminated: Equal Access Progress Report; Construction Budget Summary; National Security and Emergency Preparedness Effectiveness Report; AT&T Customer Premises Equipment and Installation Maintenance Report; AT&T Nondiscrimination Report for Enhanced Service Providers; AT&T Service Quality: Equipment Blockage and Failure Report; Bell Operating Company (BOC) Customer Premises Equipment Installation and Maintenance Report; BOC Customer Premises Equipment Affidavits for Nondiscriminatory Provision of Network Maintenance; BOC Sales Agency Program and Vendor Support Program Report; Billing and Collection Contracts Report; Circuit Report; Record Carrier Letter; and Report on Inside Wiring.

5. In addition, the filing frequency for the following reports has been significantly reduced: Form 492—Rate of Return Report (from quarterly to annual submissions); Joint Board Monitoring Program—Pooling Report (from monthly to quarterly submissions); New Service Tracking Report (from quarterly to annual submissions); and Report of Unsecured Credit to Political Candidates (from semi-annual annual submissions).

Commission's efforts to reduce unnecessary regulatory burdens on carriers' and the Commission's scarce resources").

<sup>10</sup> See e.g., GTE Comments at ii (endorsing NPRM proposals and generally urging Bureau to undertake more comprehensive review of reporting requirements).

<sup>11</sup> See Part IV of the Report and Order.

<sup>3</sup> Revision of Filing Requirements, *Notice of Proposed Rulemaking*, CC Docket No. 96-23, FCC 96-64, (released February 27, 1996), 61 FR 10522 (March 14, 1996). The Commission delegated to the Chief, Common Carrier Bureau, authority to determine whether to adopt any of the proposals set forth in that notice of proposed rulemaking and to issue any necessary reports or orders arising in that rulemaking. NPRM at para. 21.

<sup>4</sup> *Id.* at par. 2. While the Commission proposed modify six reports pursuant to the NPRM, the Commission's proposals concerning the Automated

## Final Regulatory Flexibility Analysis

### A. Introduction

1. The Commission in the NPRM concluded that an Initial Regulatory Flexibility Analysis (IRFA) mandated in certain circumstances by the Regulatory Flexibility Act (RFA) was not required as there were no small entities affected by the proposals described in the NPRM.<sup>12</sup> After the NPRM was adopted, however, Congress amended the RFA in the Contract With America Advancement Act of 1996 (CWA AAA), Public Law No. 104-121, 110 Stat. 847 (1996).<sup>13</sup> Pursuant to the amended requirements of the RFA and after further consideration of the potential economic impact on small entities, the *Report and Order* includes a Final Regulatory Flexibility Analysis (FRFA) as set out below.

### B. Need for and Objectives of the Rules and Actions Taken

2. In the *Report and Order*, the Common Carrier Bureau (Bureau), upon delegated authority from the Commission, eliminates thirteen reporting requirements and modifies four others so as to significantly reduce the frequency by which affected entities must file information with the Commission. The Bureau takes these actions in furtherance of the President's Regulatory Reform Initiative and the overall de-regulatory objectives of the Paperwork Reduction Act. This action is part of the Commission's and Bureau's continuing efforts to reduce the regulatory burden on the public by reducing the amount of information the public must provide to the Commission. In short, the results of the Bureau's actions in the *Report and Order* are entirely deregulatory and represent significant reductions of the burdens imposed on the public—including small entities. No additional or substitute burdens are imposed on the public to replace the reporting requirements that are eliminated.

### C. Summary of Significant Issues Raised by the Public in Response to the IRFA

3. As explained in paragraph one of the *Report and Order*, the Commission in the NPRM concluded that an IRFA was not required and, as a result, no comments were filed addressing such an analysis. In general, however, the commenters praised and supported the Commission's proposed deregulatory actions. In fact, no party opposed any of the deregulatory actions adopted in the

*Report and Order*. While not every partly discussed every action proposed in the NPRM, the overwhelming consensus was that the actions taken in the *Report and Order*—all of which serve either to eliminate or reduce filing burdens imposed by regulation—would serve the public interest. Some parties encouraged the Commission to make additional revisions to reporting requirements beyond those proposed in the NPRM.<sup>14</sup> Accordingly, we conclude that nothing in the record demonstrates that small entities will be adversely affected by implementation of the *Report and Order*. This conclusion is bolstered by the supportive comments of USTA, whose members include small and mid-size companies.<sup>15</sup>

### D. Description and Estimate of Number of Small Businesses to Which Rules and Actions Will Apply

4. For purposes of this analysis, we examined the relevant definition of "small entity" or "small business" and applied this definition to examine those entities that are subject to the reporting requirements in question. The RFA defines a "small business" to be the same as a "small business concern" under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.<sup>16</sup> Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).<sup>17</sup> Moreover, SBA has defined a small business for Standard Industrial Classification (SIC) category 481 (Telephone Communications) to be small entities when they have fewer than 1,500 employees.<sup>18</sup>

5. As an initial matter we note that, as demonstrated by the following list, the entities affected by the vast majority of the deregulatory actions taken by the Bureau in the *Report and Order* are

among the largest communications companies, namely, AT&T, Sprint, the Regional (Bell) Holding Companies (RHCs), and the Bell Operating Companies (BOCs):

- (1) *Equal Access Progress Report*: submitted by AT&T and RHCs;
- (2) *Construction Budget Summary*: submitted by AT&T and RHCs;
- (3) *National Security and Emergency Preparedness Effectiveness Report (NSEP Report)*: submitted annually by AT&T and Bellcore;
- (4) *AT&T Customer Premises Equipment (CPE): Installation & Maintenance Report*;
- (5) *AT&T Service Quality: Equipment Blockage and Failure Report*;
- (6) *AT&T Nondiscrimination Report for Enhanced Service Providers*;
- (7) *BOC Customer Premises Equipment (CPE) Affidavits for Non-Discrimination Provision of Network Maintenance*;
- (8) *BOC Customer Premises Equipment (CPE) Installation & Maintenance Report*;
- (9) *BOC Sales Agency Program and Vendor Support Program Report*;
- (10) *Billing and Collection Contracts*: submitted by incumbent local exchange carriers (ILECs).
- (11) *Circuit Report*: filed by 36 nondominant carriers.
- (12) *Record Carrier Letter*: filed by record carriers with operating revenues over \$75 million.
- (13) *Report on Inside Wiring Service*: filed by ILECs with operating revenues over \$100 million;
- (14) *Form 492 Rate of Return Report*: filed by ILECs not subject to price cap regulation and the National Exchange Carrier Association (NECA);
- (15) *Joint Board Monitoring Program: Pooling*: submitted by NECA;
- (16) *New Service Tracking Report*: submitted by ILECs subject to price-cap regulation;
- (17) *Report of Unsecured Credit to Political Candidates*: submitted by all carriers having revenue in excess of \$1 million.

6. Setting aside the ten actions that are addressed exclusively to some of the largest communications entities, only the adopted actions addressing the following reports would appear to possibly implicate some small entities: (3) NSEP Report; (10) Billing and Collection; (11) Circuit Report; (12) Record Carrier Letter; (14) Form 492 Rate of Return Report; (15) Joint Board Monitoring Program; and (17) Report of Unsecured Credit to Political Candidates. Moreover, it is easy to quantify the number of all entities (i.e., including a putative smaller number of small entities) affected by four of the

<sup>14</sup> See generally Part IV of the *Report and Order*, (discussing proposals to revise reports not discussed in the NPRM); see also Part III of the *Report and Order*, (discussing commenters' proposals to eliminate reports that the Commission proposed for modification). See, e.g., BellSouth Comments at 5-6 (urging the Commission to eliminate ARMIS Reports 43-01, 43-02, and 43-03).

<sup>15</sup> See USTA Comments at 1-3; USTA Reply Comments at 1.

<sup>16</sup> See 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 5 U.S.C.

<sup>17</sup> 15 U.S.C. 632. See, e.g., *Brown Transport Truckload, Inc. v. Southern Wipers, Inc.*, 176 B.R. 82, 89 (N.D. Ga. 1994).

<sup>18</sup> 13 CFR 121.201.

<sup>12</sup> NPRM at para. 22.

<sup>13</sup> Subtitle II of the CWA AAA is "The Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA), codified at 5 U.S.C. 601 *et seq.*

seven actions not addressed exclusively to the largest entities. Thus, action (3), NSEP Report, affects only one entity other than AT&T (Bellcore); action (11), Circuit Report, affects only 36 entities; action (12), Record Carrier Letter, affects only two entities; and action (15), Joint Board Monitoring Program, affects only one entity (NECA). Assuming, *arguendo*, that some of these affected entities are "small business" or "small entities," the subset of such putative small businesses or entities could only, by definition, equal and not exceed the forty (40) members that, at a maximum, constitute the affected entity set for these four actions. Furthermore, the regulatory actions adopted in the *Report and Order*, in every case, effect reductions in regulatory burdens: as a result of the *Report and Order*, fewer regulatory burdens are imposed on all affected entities, large and small alike.

7. Thus, only three of the report-related actions adopted in the *Report and Order* are addressed to entity groups for which small business or entity subsets, per SBA definition, are difficult to identify and quantify: (10) Billing and Collection (submitted by all ILECs); (14) Form 492 Rate of Return Report (filed by NECA and all ILECs not subject to price cap regulation); and (17) Report of Unsecured Credit to Political Candidates (submitted by all carriers having revenue in excess of \$1 million). We proceed to consider these entity groups.

8. First, addressing the groups "all ILECs" and "all ILECs not subject to price cap regulations," we note that only one action, (10), Billing and Collection, affects ILECs generally, while a second, (14) Rate of Return Report, affects one readily identifiable entity (NECA) and a subset of "all ILECs" that excludes the largest ILECs (*i.e.*, "all ILECs not subject to price cap regulation"). Furthermore, we note that the Commission has found ILECs to be "dominant in their field of operation" since the early 1980's, and consistently has certified under the RFA<sup>19</sup> that ILECs are not subject to regulatory flexibility analyses because they are not small businesses.<sup>20</sup> The Commission has made similar determinations in other areas.<sup>21</sup> We firmly believe that the Commission's consistent and long-

standing definitional treatment of all ILECs as dominant (and hence exempt from treatment as small businesses under prong (2) of the SBA test set out *supra*) should not be altered here. We will, however, out of an abundance of caution and prudence, include small ILECs, as defined in relation to SBA SIC 481, in this FRFA to remove any possible issue of RFA compliance.

9. Neither the Commission nor SBA has developed a definition of small providers of local exchange services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies (SIC 4813). The most reliable source of information regarding the number of ILECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.<sup>22</sup> Although it seems certain that some of these carriers are not independently owned and operated (prong 1 of the SBA definition of small business concerns), or have more than 1,500 employees (prong 3), we are unable at this time to estimate with greater precision the number of ILECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,347 small ILECs that may be affected by the actions adopted in the *Report and Order*. Again, in every case, these actions either eliminate or reduce the regulatory burdens imposed on any such small ILECs.

10. The final deregulatory action adopted by the *Report and Order* poses the most difficulty in identifying affected small business concerns. Number (17), Report of Unsecured Credit to Political Candidates, must be submitted by all carriers having revenue in excess of \$1 million. The relevant set of small business concerns affected by this report obviously includes the set of ILECs identified above ("fewer than 1,347 small ILECs") to the extent that any earn more than \$1 million in annual revenues, but also must include small business concern from all other carrier groups, including both wireline and wireless (radiotelephone) carriers.<sup>23</sup> We

first discuss non-LEC wireline carriers, including interexchange carriers (IXCs), competitive access providers (CAPs), Operator Service Providers (OSPs), Pay Telephone Operators, and resellers.

11. Neither the Commission nor SBA has developed definitions for small entities specifically applicable to these wireline service types. The closest applicable definition under SBA rules for all these service types is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs, CAPs, OSPs, Pay Telephone Operators, and resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data: 97 companies reported that they are engaged in the provision of interexchange services; 30 companies reported that they are engaged in the provision of competitive access services; 29 companies reported that they are engaged in the provision of operator services; 197 companies reported that they are engaged in the provision of pay telephone services; and 206 companies reported that they are engaged in the resale of telephone services.<sup>24</sup> Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, and, further, that within the potential set of small entities not all would earn annual revenues in excess of \$1 million, we are unable at this time to estimate with greater precision the number of IXCs, CAPs, OSPs, Pay Telephone Operators, and resellers that would both qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 97 small entity IXCs; 30 small entity CAPs; 29 small entity OSPs; 197 small entity pay telephone service providers; and 206 small entity providers of resale telephone service that might be affected by the actions and rules adopted in the *Report and Order*. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

12. We now discuss non-wireline carriers, including: Wireless (Radiotelephone) Carriers; Cellular Service Carriers; and Mobile Service Carriers.

communications from SIC 4813 small entities providing telephone communications except radiotelephone.

<sup>24</sup> TRS Worksheet, at Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier).

<sup>19</sup> See 5 U.S.C. 605(b).

<sup>20</sup> See, e.g., Expanded Interconnection with Local Telephone Company Facilities, *Supplemental Notice of Proposed Rulemaking*, 6 FCC Rcd 5809 (1991), 56 FR 52496 (October 21, 1991).

<sup>21</sup> See, e.g., Implementation of Sections of the Cable Television Consumer Protection Act of 1992: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393, 7418 (1995), 60 FR 35854 (July 12, 1995).

<sup>22</sup> Federal Communications Commission, CCB, Industry Analysis Division, "Telecommunications Industry Revenue: TRS Fund Worksheet Data", Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (February 1996) (TRS Worksheet).

<sup>23</sup> SBA has established SIC 4812 to distinguish small entities providing radiotelephone

13. SBA has developed a definition of small entities for Wireless (Radiotelephone) Carriers. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.<sup>25</sup> According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons.<sup>26</sup> The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, and, further, that within the set of potential small entities not all such entities would earn annual revenues in excess of \$1 million, we are unable to estimate with greater precision the number of radiotelephone carriers and service providers that would both qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that might be affected by the actions and rules adopted in the *Report and Order*. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

14. Neither the Commission nor SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 789 companies reported that they are engaged in the provision of cellular services and 117 companies reported that they are engaged in the provision of mobile services.<sup>27</sup> Although it seems

certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, and, further, that within the potential set of small entities not all would earn annual revenues in excess of \$1 million, we are unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition and be subject to the Report's \$1 million annual revenue requirement. Consequently, we estimate that there are fewer than 789 small entity Cellular Service Carriers and fewer than 117 small entity Mobile Service Carriers that might be affected by the actions and rules adopted in the *Report and Order*. Again, in every case, these actions and rules either eliminate or reduce the regulatory burdens imposed on any such small entities.

#### E. Description of Projected Reporting, Record Keeping and Other Compliance Requirements of the Rules

15. As detailed in the body of the *Report and Order*, these rules will significantly reduce the amount of reporting, record keeping, and compliance requirements which was previously placed on the regulated entities—including the small entities identified above. In our efforts to quantify the economic impact of this *Report and Order* on small businesses, we refer to the Office of Management and Budget (OMB) and its analyses of administrative burdens imposed by agency rules and policies.<sup>28</sup> OMB has approved Bureau estimates of "burden hours" for the following reports which our analysis has shown to affect small entities: (11) Circuit Report, (12) Record Carrier Letter, (14) Form 492 Rate of Return Report, and (17) Report of Unsecured Credit to Political Candidates.<sup>29</sup>

16. With respect to those four reports affecting small entities that are eliminated by this *Report and Order*, the Bureau has prepared and OMB has approved estimates of the benefits for two of these reports: (10) Circuit Report and (12) Record Carrier Letter.<sup>30</sup> According to these Bureau and OMB estimates, the Bureau's action to eliminate the Circuit Report will result in a savings of 500 hours per year, in

*toto*, to the nondominant carriers formerly required to file that report.<sup>31</sup> For those record carriers formerly required to file the Record Carrier Report, it is estimated that this *Report and Order* will save approximately 20 hours per year, *in toto*, by eliminating this report.<sup>32</sup> While OMB does not maintain estimates for the other two reports eliminated, (1) NSEP Report and (10) Billing and Collection Report, it is clear that, as a result of the Bureau's actions, the small businesses previously subject to these reports will see reduced expenses for associated accounting, legal, and administrative activities.

17. As set out in Section D of the *Report and Order*, the Bureau modified three reports that might potentially affect small entities: (14) Form 492 Rate of Return Report, (15) Joint Board Monitoring Program, and (17) Report of Unsecured Credit to Political Candidates. According to OMB analysis of report (14), the Form 492 Rate of Return Report, the Bureau's action in this *Report and Order* will reduce the total burden on all businesses, both small and otherwise, by 840 hours per year.<sup>33</sup> OMB estimates for report (17), Report of Unsecured Credit to Political Candidates, indicate that as a result of the Bureau's action in this *Report and Order*, carriers—small entities and otherwise—will spend 104 hours less per year, *in toto*, to comply with the reporting requirements.<sup>34</sup> With respect to (15) the Joint Board Monitoring Program, no OMB estimates are available to calculate the precise economic benefit to NECA—the only entity subject to this reporting requirement; however, it is clear that by reducing the frequency of filing from monthly to quarterly reports, NECA will bear a relatively smaller burden than it did under the prior schedule.

#### F. Steps Taken to Minimize Impact on Small Entities Consistent With Stated Objectives

18. As discussed in detail in Section E of the *Report and Order*, to the extent that it affects small entities, the impact of this *Report and Order* is only beneficial. The primary thrust of this *Report and Order* is to reduce administrative burdens wherever possible. It does not impose any new

<sup>25</sup> United States Department of Commerce, Bureau of the Census, "1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size," at Firm Size 1-123 (1995) (1992 Census).

<sup>26</sup> 13 CFR 121.201, Standard Industrial Classification (SIC Code 4812).

<sup>27</sup> TRS Worksheet, at Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier).

<sup>28</sup> Paperwork Reduction Act of 1995, Public Law 104-13 (1995).

<sup>29</sup> NPRM.

<sup>30</sup> See Section D of this Final Regulatory Flexibility Analysis (concluding that four reports eliminated by this *Report and Order* might potentially affect small entities: (1) NSEP Report, (10) Billing and Collection Report, (11) Circuit Report, and (12) Record Carrier Letter).

<sup>31</sup> NPRM. See OMB No. 3060-0149. The per-hour reduction was calculated by comparing the OMB hourly estimates provided in the NPRM (showing the burden on entities after the *Report and Order*) with the OMB control number listing (showing the approved burdens for the respective reporting requirements as existing before this *Report and Order*).

<sup>32</sup> NPRM. See OMB No. 3060-0515.

<sup>33</sup> NPRM. See OMB No. 3060-0355.

<sup>34</sup> NPRM. See OMB No. 3060-0147.



requirements. Because this action does not include changes in format reports or additional reporting requirements, there are no steps necessary to minimize any impact on small entities. Small entities and large entities alike should be able to benefit immediately from the Bureau's actions to eliminate or reduce requirements pursuant to this *Report and Order*.

#### G. Significant Alternatives Considered and Rejected

19. Again, the action does not impose additional burdens on small entities and will in fact have a positive impact by reducing administrative burdens on a wide variety of entities. Nonetheless, we did consider a number of alternatives to the *Report and Order* as issued.

20. Where we merely modified the filing frequency, we received comments from a number of parties recommending that we instead eliminate the subject reporting requirements.<sup>35</sup> We carefully considered these options in light of our own experience and in light of reply comments from other parties. As discussed in detail in Part III, we are persuaded that these reports still serve important interests and should be retained.<sup>36</sup> We conclude that this *Report and Order* achieves the proper balance between reducing burdens and fulfilling important monitoring objectives.

21. Another alternative considered was offered by CompTel, an association of telecommunications providers including interexchange carriers. CompTel suggested imposing a new requirement to replace the Billing and Collections Report. While specifically supporting our proposed elimination of the Billing and Collections Report, CompTel argued that copies of all such contracts should be filed with the Commission. We rejected CompTel's proposal because it would impose significant administrative burdens on ILECs, both large and small, to monitor a market which the vast majority of the parties concluded to be fully competitive.

22. We received several proposals to eliminate or alter reports which were not addressed in the NPRM. For example, Cincinnati Bell Telephone, a self-described mid-size local exchange carrier, proposes that the Commission increase the revenue threshold for filing for various reports including Cost

Allocation Manuals (CAMS).<sup>37</sup> While we recognize that such changes might exempt smaller ILECs from some of these filing requirements, we choose not to follow such suggestions without giving other parties an opportunity to comment. We believe that this and other such proposals would be more appropriately considered in a separate proceeding and are outside the scope of our delegated authority. To that extent, we reaffirm that this *Report and Order* is a reflection of our continuing commitment to minimizing the adverse impact of the Commission's rules.

#### H. Report to Congress

23. The Bureau shall send a copy of this Final Regulatory Flexibility Analysis, along with the *Report and Order*, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this FRFA will also be published in the Federal Register.

#### Ordering Clauses

24. Accordingly, *it is ordered*, pursuant to sections 1, 4(i), 4(j), 201-205, 218, 226, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201-205, 218, 226, 303(r), and §§ 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, that the Commission's rules and policies are amended as set forth below, effective March 6, 1997.

25. *It is further ordered*, pursuant to Sections 0.91 and 0.291 of the Commission's rules, 47 CFR 0.91 and 0.291, that the proposal in Revision of Filing Requirements that Payphone Compensation reports be filed semiannually is rescinded.

#### List of Subjects In

##### 47 CFR Part 43

Communications common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

##### 47 CFR Part 63

Communications common carriers, Reporting and recordkeeping requirements, Telegraph, Telephone.

##### 47 CFR Part 64

Civil defense, Communications common carriers, Credits, Political candidates, Reporting and recordkeeping requirements, Telegraph, Telephone.

##### 47 CFR Part 65

Communications common carriers, Credits, Political candidates, Reporting and recordkeeping requirements, Telegraph, Telephone.

Federal Communications Commission.

Peyton Wynns,

Chief, Industry Analysis Division.

#### Rule Changes

Parts 43, 63, 64, and 65 of Title 47 of the Code of Federal Regulations are amended as follows:

#### PART 43—REPORTS OF COMMUNICATIONS COMMON CARRIERS AND CERTAIN AFFILIATES

1. The authority citation for part 43 continues to read as follows:

**Authority:** Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154; Telecommunications Act of 1996, Pub. L. 104-104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) unless otherwise noted. Interpret or apply secs. 211, 219, 220, 48 Stat. 1073, 1077, as amended; 47 U.S.C. 211, 219, 220.

2. Paragraph (d) of § 43.21 is revised to read as follows:

##### § 43.21 Annual reports of carriers and certain affiliates.

\* \* \* \* \*

(d) Each miscellaneous common carrier (as defined by § 21.2 of this chapter) with operating revenues for a calendar year in excess of the indexed revenue threshold shall file with the Common Carrier Bureau Chief a letter showing its operating revenues for that year and the value of its total communications plant at the end of that year. This letter must be filed by March 31 of the following year.

\* \* \* \* \*

##### § 43.41 [Removed and Reserved]

3. Section 43.41 is removed and reserved.

#### PART 63—EXTENSION OF LINES AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIER; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

4. The authority citation for part 63 continues to read as follows:

**Authority:** Secs. 1, 4(i), 201-205, 218, and 403 of the Communications Act of 1934, as amended, and sec. 613 of the Cable Communications Policy Act of 1984, 47 USC 151, 154(i) 15(j), 201-205, 218, 403, and 533 unless otherwise noted.

##### § 63.07 [Amended]

5. Section 63.07 is amended by removing paragraph (b) and

<sup>35</sup> See Part III of the *Report and Order* (discussing alternative proposals submitted by commenters for the Form 492 Rate of Return Report, at para. 37-38, Joint Board Monitoring Program, at para. 40-41, New Service Tracking Report, at para. 43-46, Report of Unsecured Credit to Political Candidates, at para. 48-49).

<sup>36</sup> *Id.*

<sup>37</sup> Cincinnati Bell Telephone Comments at 1-2.

redesignating paragraph (c) as paragraph (b).

**PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS**

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

**Authority:** Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, Telecommunications Act of 1996, Pub. L. 104-104, secs. 402(b)(2)(B), (c), 110 Stat. 56 (1996) unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228 unless otherwise noted.

7. Section 64.804 is amended by revising the first sentence of the introductory text of paragraph (g) to read as follows:

**§ 64.804 Rules governing the extension of unsecured credit to candidates or persons on behalf of such candidates for Federal office for interstate and foreign common carrier communication services.**

(g) On or before January 31, 1973, and on corresponding dates of each year thereafter, each carrier which had operating revenues in the preceding year in excess of \$1 million shall file with the Commission a report by account of any amount due and unpaid, as of the end of the month prior to the reporting date, for interstate and foreign communications services to a candidate or person on behalf of such candidate when such amount results from the extension of unsecured credit. \* \* \*

**PART 65—INTERSTATE RATE OF RETURN PRESCRIPTION PROCEDURES AND METHODOLOGIES**

8. The authority citation for Part 65 continues to read as follows:

**Authority:** Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat., 1066, 1072, 1077, 1094, as amended, 47 U.S.C. 151, 154, 201, 202, 203, 204, 205, 218, 219, 220, 403.

9. Section 65.600 is amended by revising paragraph (b) to read as follows:

**§ 65.600 Rate of return reports**

(b) Each local exchange carrier or group of affiliated carriers which is not subject to §§ 61.41 through 61.49 of this chapter and which has filed individual access tariffs during the preceding enforcement period shall file with the Commission within three (3) months after the end of each calendar year, an annual rate of return monitoring report which shall be the enforcement period report. Reports shall be filed on the appropriate report form prescribed by the Commission (see s 1.795 of this chapter) and shall provide full and

specific answers to all questions propounded and information requested in the currently effective report form. The number of copies to be filed shall be specified in the applicable report form. At least one copy of the report shall be signed on the signature page by the responsible officer. A copy of each report shall be retained in the principal office of the respondent and shall be filed in such a manner as to be readily available for reference and inspection. Final adjustments to the enforcement period report shall be made by September 30 of the year following the enforcement period to ensure that any refunds can be properly reflected in an annual access filing.

[FR Doc. 97-2703 Filed 2-3-97; 8:45 am] BILLING CODE 6712-01-M

**GENERAL SERVICES ADMINISTRATION**

**48 CFR Part 570**

[APD 2800.12A, CHGE 74]

RIN 3090-AF92

**General Services Administration Acquisition Regulation; Acquisition of Leasehold Interests in Real Property**

**AGENCY:** Office of Acquisition Policy, GSA.

**ACTION:** Interim rule adopted as final.

**SUMMARY:** The General Services Administration Acquisition Regulation (GSAR) interim rule published at 61 FR 2470, May 16, 1996, is converted to a final rule with changes. The interim rule is amended to revise section 570.106 to reflect changes made as a result of public comments. Section 570.303 of the interim rule is adopted as final without change. The interim rule published at 61 FR 2470, May 16, 1996, authorized the use of design-build select procedures in Section 303M of the Federal Property and Administrative Services Act of 1949, as amended by Public Law 104-106, February 10, 1996, for lease construction projects.

**EFFECTIVE DATE:** February 10, 1997. **FOR FURTHER INFORMATION CONTACT:** Tom Wisnowski, GSA Acquisition Policy Division, (202) 501-1224.

**SUPPLEMENTARY INFORMATION:**

**A. Public Comments**

Comments on the interim rule published on May 16, 1996, (61 FR 24720) were submitted by the Council on Federal Procurement of Architectural and Engineering Services (COFPAES).

COFPAES recommended revision of section 570.106(c) to more closely reflect statutory language, including circumstances for use of two-phase design-build procedures and specification of all criteria to be considered by the contracting officer. This revision has been incorporated in the final rule.

**B. Executive Order 12866**

This rule is not a significant rule as defined in Executive Order 12866.

**C. Regulatory Flexibility Act**

The GSA certifies that this final rule will not have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because the rule will apply to a very small number of leases per year (less than 25) and the rule simplifies procedures and reduces the cost of competing in the initial phases of a procurement.

**D. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the GSAR do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

**E. Small Business Regulatory Enforcement Fairness Act of 1996**

This rule is not a major rule under 5 U.S.C. 804. This rule was submitted to Congress and GAO under 5 U.S.C. 804.

**List of Subjects in 48 CFR Part 570**

Government procurement. Accordingly, the interim rule amending 48 CFR Part 570 which was published at 61 FR 24720 on May 16, 1996, is adopted as a final rule with the following changes:

**PART 570—ACQUISITION OF LEASEHOLD INTERESTS IN REAL PROPERTY**

1. The authority citation for 48 CFR 570-continues to read as follows:

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

2. Section 570.106 is amended by revising paragraphs (c), (c)(1), (c)(2), and (c)(3) to read as follows:

**570.106 Methods of contracting**

(c) Unless another acquisition procedure authorized by law is used, the design-build selection procedures in section 303M of the Federal Property

and Administrative Services Act of 1949, as amended, shall be used for lease construction projects, including projects with options to purchase the real property leased. The design-build selection procedures in section 303M shall be used when the lease involves the design and construction of a public building, facility or work for lease to the Government when the contracting officer determines that this method is appropriate, based on the following:

- (1) Three or more offers are anticipated;
- (2) A substantial amount of design work will be performed by offerors, that may result in offerors incurring substantial expenses in preparing offers; and
- (3) Criteria, such as the following, have been considered:
  - (i) The extent to which the project requirements have been adequately defined;
  - (ii) The time constraints for delivery of the project;
  - (iii) The capability and experience of potential contractors;
  - (iv) The suitability of the project for use of the two-phase selection procedures;
  - (v) The capability of the agency to manage the two-phase selection process; and
  - (vi) Other criteria established by the head of the contracting activity.

Dated: January 27, 1997.

Ida M. Ustad,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 97-2626 Filed 2-3-97; 8:45 am]

BILLING CODE 6820-61-M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 578

[Docket No. 97-2; Notice 1]

RIN 2105-AC63

#### Civil Penalties

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.  
**ACTION:** Final rule.

**SUMMARY:** This document specifies the civil penalties for violating NHTSA statutes and regulations, including Federal Motor Vehicle Safety Standards, as adjusted in accordance with the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

**DATES: Effective Date:** The amendments made in this rule are effective March 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Taylor Vinson, Office of Chief Counsel, NHTSA, telephone (202) 366-5263, facsimile (202) 366-3820, electronic mail "TVinson@nhtsa.dot.gov", 400 Seventh Street, SW, Washington, DC 20590.

#### SUPPLEMENTARY INFORMATION:

##### I. The Debt Collection Improvement Act of 1996

In order to preserve the remedial impact of civil penalties and foster compliance with the law, the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990 (Pub. L. 101-410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134), requires Federal agencies to regularly adjust certain civil penalties for inflation. As amended, the law requires each agency to make an initial inflationary adjustment for all applicable civil penalties, and to make further adjustments at least once every four years of these penalty amounts.

The Debt Collection Improvement Act of 1996 further stipulates that any resulting increases in a civil penalty due to the calculated inflation adjustments (i) should apply only to violations that occur after October 23, 1996—the Act's effective date—and (ii) should not exceed 10 percent of the penalty indicated.

##### Method of Calculation

Under the Federal Civil Monetary Inflation Adjustment Act as amended, the inflation adjustment for each applicable civil penalty is determined by increasing the maximum civil penalty amount per violation by the cost-of-living adjustment. The "cost-of-living" adjustment is defined as the amount by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the year in which the amount of such civil penalty was last set or adjusted pursuant to law. Any calculated increase under this adjustment is subject to a specific rounding formula set forth in the Debt Collection Improvement Act of 1996.

For example, pursuant to section 30165(a) of Title 49 of the United States Code, the National Highway Traffic Safety Administration (NHTSA) may impose a civil penalty of up to \$1,000 per violation against individuals and manufacturers that violate specified provisions of 49 U.S.C. Chapter 301, "Motor Vehicle Safety." This penalty

amount was originally set in 1966. The consumer price index is 456.7 for June 1996 and 97.1 for June 1966. Therefore, the inflation factor is 456.7/97.1 or 4.7. The maximum penalty amount after the increase and statutory rounding would be \$4,700. After applying the 10 percent limit on an initial increase, however, the new maximum penalty amount per violation is \$1,100.

##### II. NHTSA Civil Penalties Affected by this Adjustment

Title 49 of the United States Code includes several statutory provisions administered by NHTSA under which civil penalties are authorized. Today's final rule specifies these civil penalties, as adjusted pursuant to the Debt Collection Improvement Act of 1996.

###### A. Motor Vehicle Safety

Chapter 301 of Title 49 of the United States Code imposes a variety of requirements upon manufacturers of motor vehicles and items of motor vehicle equipment and other persons in order to reduce traffic crashes and deaths and injuries resulting from such crashes. Prior to the effective date of today's final rule, violators of Chapter 301 or regulations issued thereunder were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$800,000 for a related series of violations. 49 U.S.C. 30165.

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 301 or a regulation prescribed thereunder to \$1,100 per violation, with a maximum of \$880,000 for a related series of violations.

###### B. National Automobile Title Information System

Chapter 305 of Title 49 of the United States Code and regulations issued thereunder include a number of provisions that facilitate the tracing and recovery of parts from stolen vehicles. Prior to the effective date of today's final rule, violators of Chapter 305 were subject to a civil penalty of not more than \$1,000 for each violation. 49 U.S.C. 30505.

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 305 to \$1,100 per violation.

###### C. Bumper Standards

Chapter 325 of Title 49 of the United States Code was enacted to reduce the economic loss resulting from damage to passenger motor vehicles involved in

crashes by providing for the maintenance and enforcement of bumper standards. Pursuant to Chapter 325, NHTSA has adopted 49 CFR part 581, which requires passenger motor vehicles to meet specified testing criteria. Prior to the effective date of today's final rule, violators of Chapter 325 or regulations issued thereunder were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$800,000 for a related series of violations. 49 U.S.C. 32507(a).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 325 to not more than \$1,100 per violation, with a maximum of \$880,000 for a related series of violations.

#### *D. Consumer Information Regarding Crashworthiness and Damage Susceptibility*

To ensure that the public is provided with the information it needs to determine the crashworthiness and damage susceptibility of motor vehicles, various provisions of Chapter 323 of Title 49 of the United States Code require vehicle manufacturers and others to provide certain information to the Secretary of Transportation and to prospective buyers. Prior to the effective date of today's final rule, violators of these requirements were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$400,000 for a related series of violations. 49 U.S.C. 32308(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of these provisions of Chapter 323 to not more than \$1,100 per violation, with a maximum of \$440,000 for a related series of violations.

#### *E. Country of Origin Content Labeling*

Section 32304 of Title 49 of the United States Code requires manufacturers, importers, and dealers to attach and maintain labels containing specific information on the country of origin of a new passenger motor vehicle's content. Prior to the effective date of today's rule, violators of section 32304 were subject to a civil penalty of not more than \$1,000 per violation. 49 U.S.C. 32309(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of section 32304 to not more than \$1,100 per violation.

#### *F. Odometer Tampering and Disclosure*

To ensure that motor vehicle purchasers have reliable information to help them ascertain the condition and value of a motor vehicle, Chapter 327 of Title 49 and regulations issued thereunder prohibit tampering with a motor vehicle's odometer and prescribe certain safeguards to protect buyers from purchasing motor vehicles with altered or reset odometers. Prior to the effective date of today's final rule, violators of Chapter 327 were subject to a civil penalty of not more than \$2,000 for each violation and not more than \$100,000 for a related series of violations. 49 U.S.C. 32709(a). In addition, section 32710(a) subjected violators of Chapter 327 or any regulation prescribed or order issued under the chapter, with intent to defraud, to a penalty of three times the actual damages or \$1,500, whichever was greater.

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of Chapter 327 to not more than \$2,200 per violation, with a maximum of \$110,000 for a related series of violations. Further, any person violating Chapter 327 or any regulation prescribed or order issued thereunder, with intent to defraud, is liable for three times the actual damages or \$1,650, whichever is greater.

#### *G. Vehicle Theft Prevention*

Chapter 331 of Title 49 of the United States Code includes a number of provisions that facilitate the tracing and recovery of parts from stolen vehicles. Prior to the effective date of today's final rule, violators of section 33114(a)(1)-(4) of Title 49 were subject to a civil penalty of not more than \$1,000 for each violation and not more than \$250,000 for a related series of violations. 49 U.S.C. § 33115(a). In addition, prior to today's rule, violators of section 33114(a)(5) of Title 49 (relating to "chop shops") were subject to a civil penalty of not more than \$100,000 a day for each violation. 49 U.S.C. 30115(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of sections 33114(a)(1)-(4) to not more than \$1,100 per violation, with a maximum of \$275,000 for a related series of violations. Today's final rule also increases the civil penalty for a violation of section 33114(a)(5) to not more than \$110,000 a day for each violation.

#### *H. Automobile Fuel Economy*

Chapter 329 of Title 49 of the United States Code includes numerous provisions designed to improve automotive fuel economy in the United States. Among other things, Chapter 329 directs NHTSA to issue and enforce automobile fuel economy standards. Prior to the effective date of today's rule, violators of specified provisions of Chapter 329 set out in section 32911(a), and regulations, standards, and orders issued under those provisions, were subject to a civil penalty of not more than \$10,000 for each violation. A separate violation occurs for each day the violation continues. 49 U.S.C. 32912(a). In addition, manufacturers that violate a fuel economy standard were subject to a civil penalty of \$5.00 multiplied by each one-tenth of a mile a gallon by which the applicable average fuel economy standard exceeds the average fuel economy of the manufacturer's vehicles subject to a standard, multiplied by the number of those automobiles, reduced by the credits available to the manufacturer under section 32903. 49 U.S.C. 32912(b).

Pursuant to the inflation adjustment methodology included in the Debt Collection Act, today's final rule increases the civil penalty for a violation of section 32911(a) to not more than \$11,000 per violation. In addition, the civil penalty for a violation of a fuel economy standard will be assessed at a rate of \$5.50 multiplied by each one-tenth of a mile a gallon by which the applicable average fuel economy standard exceeds the average fuel economy of a manufacturer's vehicles subject to a standard, multiplied by the number of those automobiles, reduced by the credits available to the manufacturer.

#### *Effective Date*

NHTSA finds good cause to make this amendment effective 30 days after publication of this document under the Administrative Procedures Act. 5 U.S.C. 553(d). This document does not impose any additional responsibilities on any manufacturer. Instead, this document simply adjusts the civil penalties as directed by the Debt Collection Improvement Act of 1996.

NHTSA also finds for good cause that notice and an opportunity to comment on this document are unnecessary under the Administrative Procedure Act. 5 U.S.C. 553(b)(3)(B) This rulemaking conforms with and is consistent with the statutory authority set forth in the Debt Collection Act of 1996, with no issues of policy discretion.



Consequently, the agency believes that opportunity for prior comment is unnecessary and is issuing these requirements as a final rule that will apply to all future decisions under this authority.

#### Rulemaking Analyses and Notices

##### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action is limited to the adoption of statutory language, without interpretation, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

##### *Regulatory Flexibility Act*

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this final rule has no significant economic impact on a substantial number of small entities. As explained above, this action is limited to the adoption of statutory language, without interpretation, and has been determined to be not "significant" under the Department of Transportation's regulatory policies and procedures.

##### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), there are no requirements for information collection associated with this final rule.

##### *National Environmental Policy Act*

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it has no significant impact on the human environment.

##### *Executive Order 12612 (Federalism)*

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this final rule has no significant federalism implications to warrant the preparation of a Federalism Assessment.

##### *Civil Justice Reform*

This final rule does not have a retroactive or preemptive effect. Judicial review of this rule may be obtained pursuant to 5 U.S.C. § 702. That section does not require that a petition for

reconsideration be filed prior to seeking judicial review.

#### List of Subjects in 49 CFR Part 578

Imports, Motor vehicle safety, Motor vehicles, Penalties, Rubber and Rubber Products, Tires.

For the reasons set forth in the preamble, NHTSA is adding a new Part 578 to Title 49 of the Code of Federal Regulations to read as follows:

#### PART 578—CIVIL PENALTIES

##### Sec.

- 578.1 Scope.
  - 578.2 Purpose.
  - 578.3 Applicability.
  - 578.4 Definitions.
  - 578.5 Inflationary adjustment of civil penalties.
  - 578.6 Penalties for violations of specified provisions of Title 49 of the United States Code.
- Authority: Pub. L. 101-410, Pub. L. 104-134, 49 U.S.C. 30165, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

##### § 578.1 Scope.

This part specifies the civil penalties for violations of statutes administered by the National Highway Traffic Safety Administration, as adjusted for inflation.

##### § 578.2 Purpose.

The purpose of this part is to preserve the remedial impact of civil penalties and to foster compliance with the law by specifying the civil penalties for statutory violations, as adjusted for inflation.

##### § 578.3 Applicability.

This part applies to civil penalties for violations of Chapters 301, 305, 323, 325, 327, 329, and 331 of Title 49 of the United States Code.

##### § 578.4 Definitions.

All terms used in this part that are defined in sections 30102, 30501, 32101, 32702, 32901, and 33101 of Title 49 of the United States Code are used as defined in the appropriate statute.

*Administrator* means the Administrator of the National Highway Traffic Safety Administration.

*Civil penalty* means any penalty, fine, or other sanction that:

(1) Is for a specific monetary amount as provided by Federal law, or has a maximum amount provided for by Federal law; and

(2) Is assessed, compromised, collected, or enforced by NHTSA pursuant to Federal law.

*NHTSA* means the National Highway Traffic Safety Administration.

##### § 578.5 Inflationary adjustment of civil penalties.

The civil penalties set forth in this part continue in effect until adjusted by the Administrator. At least once every four years, the Administrator shall review the amount of these civil penalties and will, if appropriate, adjust them by rule.

##### § 578.6 Civil penalties for violations of specified provisions of Title 49 of the United States Code.

(a) *Motor Vehicle Safety.* A person that violates any of sections 30112, 30115, 30117-30122, 30123(d), 30125(c), 30127, 30141-30147, or 30166 of Title 49 of the United States Code or a regulation prescribed under any of those sections is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. A separate violation occurs for each motor vehicle or item of motor vehicle equipment and for each failure or refusal to allow or perform an act required by any of those sections. The maximum civil penalty under this paragraph for a related series of violations is \$880,000.

(b) *National Automobile Title Information System.* An individual or entity violating 49 U.S.C. Chapter 305 is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation.

(c) *Bumper standards.* (1) A person that violates 49 U.S.C. § 32506(a) is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. A separate violation occurs for each passenger motor vehicle or item of passenger motor vehicle equipment involved in a violation of 49 U.S.C. 32506(a)(1) or (4)—

(i) That does not comply with a standard prescribed under 49 U.S.C. 32502, or

(ii) For which a certificate is not provided, or for which a false or misleading certificate is provided, under 49 U.S.C. 32504.

(2) The maximum civil penalty under this paragraph for a related series of violations is \$880,000.

(d) *Consumer information regarding crashworthiness and damage susceptibility.* A person that violates 49 U.S.C. 32308(a) is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. Each failure to provide information or comply with a regulation in violation of 49 U.S.C. 32308(a) is a separate violation. The maximum penalty under this paragraph for a related series of violations is \$440,000.

(e) *Country of origin content labeling.* A manufacturer of a passenger motor vehicle distributed in commerce for sale in the United States that willfully fails to attach the label required under 49 U.S.C. 32304 to a new passenger motor vehicle that the manufacturer manufactures or imports, or a dealer that fails to maintain that label as required under 49 U.S.C. 32304, is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. Each failure to attach or maintain that label for each vehicle is a separate violation.

(f) *Odometer tampering and disclosure.* (1) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order issued thereunder is liable to the United States Government for a civil penalty of not more than \$2,200 for each violation. A separate violation occurs for each motor vehicle or device involved in the violation. The maximum civil penalty under this paragraph for a related series of violations is \$110,000.

(2) A person that violates 49 U.S.C. Chapter 327 or a regulation prescribed or order is issued thereunder, with intent to defraud, is liable for three times the actual damages or \$1,650, whichever is greater.

(g) *Vehicle theft protection.* (1) A person that violates 49 U.S.C. 33114(a)(1)-(4) is liable to the United States Government for a civil penalty of not more than \$1,100 for each violation. The failure of more than one part of a single motor vehicle to conform to an applicable standard under 49 U.S.C. 33102 or 33103 is only a single violation. The maximum penalty under this paragraph for a related series of violations is \$275,000.

(2) A person that violates 49 U.S.C. 33114(a)(5) is liable to the United States Government for a civil penalty of not more than \$110,000 a day for each violation.

(h) *Automobile fuel economy.* (1) A person that violates 49 U.S.C. 32911(a) is liable to the United States Government for a civil penalty of not more than \$11,000 for each violation. A separate violation occurs for each day the violation continues.

(2) Except as provided in 49 U.S.C. 32912(c), a manufacturer that violates a standard prescribed for a model year under 49 U.S.C. 32902 is liable to the United States Government for a civil penalty of \$5.50 multiplied by each .1 of a mile a gallon by which the applicable average fuel economy standard under that section exceeds the average fuel economy—

(i) Calculated under 49 U.S.C. 32904(a)(1)(A) or (B) for automobiles to

which the standard applies manufactured by the manufacturer during the model year;

(ii) Multiplied by the number of those automobiles; and

(iii) reduced by the credits available to the manufacturer under 49 U.S.C. 32903 for the model year.

Issued on January 30, 1997.

Ricardo Martinez,  
Administrator.

[FR Doc. 97-2745 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-68-P

## Surface Transportation Board

### 49 CFR Part 1142

[STB Ex Parte No. 621]

#### Removal of Obsolete Regulations Concerning Expedited Complaint Procedures Against Bus Carrier Rates

AGENCY: Surface Transportation Board, Transportation.

ACTION: Final rule.

**SUMMARY:** The Surface Transportation Board (Board) is removing from the Code of Federal Regulations obsolete regulations concerning expedited complaint procedures against bus rates.

**EFFECTIVE DATE:** February 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** Effective January 1, 1996, the ICC Termination Act of 1995, Public Law No. 104-88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC) and established the Board within the Department of Transportation. Section 204(a) of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

As here relevant, the Bus Regulatory Reform Act of 1982 (Bus Act) established a zone of rate freedom (ZORF) within which bus carriers could raise or lower their rates without being subject to protest and investigation or suspension. Former 49 U.S.C. 10708(d)(4). The ZORF expanded by specified percentages over a 3-year period (former section 10708(d)(5)). After 3 years, the zone became unlimited. As a result, the ICC could not suspend or investigate a proposed rate on unreasonableness grounds unless the proposed rate was established collectively under an agreement approved by the ICC under former 49 U.S.C. 10706(b). Former 49 U.S.C.

10708(e). Parties, however, could file complaints challenging the reasonableness of rates established within the ZORF, and, after 3 years, of any effective rate or fare filed under section 10708. Former 49 U.S.C. 10708(f). The resulting complaint proceedings were to be resolved within 90 days. *Id.* Consequently, the ICC established at 49 CFR part 1142 expedited procedures for filing and handling such complaints against effective bus rates or fares established under the ZORF on grounds that they were unreasonably high or low. *Procedures-Complaints Against Bus Car. Rates & Fares*, 133 M.C.C. 50 (1982), modified on reopening, 133 M.C.C. 240 (1983).

Under the ICCTA, the Board has jurisdiction to determine the reasonableness of rates or fares of motor carrier of passengers only if they are made collectively under agreements pursuant to new 49 U.S.C. 13703. New 49 U.S.C. 13703(a)(5). Moreover, the ICCTA eliminated the provisions under former section 10708(d) and (f) concerning the ZORF and the expedited procedures for filing complaints. Because the statutory basis for the regulations at 49 CFR part 1142 has been eliminated, we will remove those regulations. We note that parties still may file complaints against bus carriers under our regulations at 49 CFR part 1111.

Because this action merely reflects, and is required by, the enactment of the ICCTA and will not have an adverse effect on the interests of any person, this action will be made effective on the date of publication in the *Federal Register*.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

#### List of Subjects in 49 CFR Part 1142

Administrative practice and procedure, Buses.

Decided: January 24, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,  
Secretary.

#### PART 1142—[REMOVED]

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing Part 1142.

[FR Doc. 97-2548 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P

**49 CFR Part 1186**

[STB Ex Parte No. 553]

**Removal of Obsolete Regulations Concerning Exemption of Motor Carrier of Property Finance Transactions****AGENCY:** Surface Transportation Board, Transportation.**ACTION:** Final rule.

**SUMMARY:** The Surface Transportation Board (the Board) is removing from the Code of Federal Regulations obsolete regulations concerning exemption of finance transactions between motor carriers of property and between such carriers and noncarriers.

**EFFECTIVE DATE:** March 6, 1997.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** Effective January 1, 1996, the ICC Termination Act of 1995, Public Law No. 104-88, 109 Stat. 803 (ICCTA), abolished the Interstate Commerce Commission (ICC) and established the Board within the Department of Transportation. Section 204(a) of the ICCTA provides that "[t]he Board shall promptly rescind all regulations established by the [ICC] that are based on provisions of law repealed and not substantively reenacted by this Act."

Prior to January 1, 1996, former 49 U.S.C. 11343 provided that certain rail, motor, and water carrier finance transactions, including those related to mergers, purchases, and acquisitions of control, could not be carried out without prior ICC approval. However, under former 49 U.S.C. 11343(e), the ICC could exempt from regulation certain individual financial transactions involving motor carriers of property. Regulations implementing this exemption provision are found at 49 CFR 1186.<sup>1</sup>

Under the ICCTA, portions of section 11343, including the exemption provision of 49 U.S.C. 11343(e), have been repealed. Accordingly, we will eliminate the exemption regulations at 49 CFR part 1186.

We also note that new 49 U.S.C. 14303 is the only remaining statutory provision analogous to the non-rail portions of former 49 U.S.C. 11343. Under section 14303, motor carriers of passengers must still obtain Board approval for the same transactions that formerly were subject to former 49 U.S.C. 11343, unless the parties'

aggregate gross operating revenues do not exceed \$2 million.<sup>2</sup>

Currently, our regulations at 49 CFR part 1182 govern the purchase, merger, or acquisition of control of motor passenger and water carriers. In a separate proceeding instituted shortly, we will remove the regulations for water carriers in part 1182 (49 U.S.C. 14303(g) applies only to motor passenger carriers) and make appropriate modifications to the portions of 49 CFR part 1182 dealing with motor passenger carriers.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

**List of Subjects in 49 CFR Part 1186**

Administrative practice and procedure, Freight Forwarders, Motor carriers.

Decided: January 24, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,  
Secretary.

**PART 1186—[REMOVED]**

For the reasons set forth in the preamble and under the authority of 49 U.S.C. 721(a), title 49, chapter X of the Code of Federal Regulations is amended by removing part 1186.

[FR Doc. 97-2547 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P

**49 CFR Part 1310**

[STB Ex Parte No. 555]

**Household Goods Tariffs****AGENCY:** Surface Transportation Board, Transportation.**ACTION:** Final rules.

**SUMMARY:** The Surface Transportation Board (Board) adopts regulations governing the tariffs that motor carriers and freight forwarders are required to maintain for the transportation of household goods; and establishing the notice requirements with which household goods carriers must comply in order to be entitled to enforce the provisions of their tariffs against individuals whose shipments are subject to such tariffs. These regulations reflect changes effected by the ICC Termination Act of 1995.

**EFFECTIVE DATE:** These rules are effective March 6, 1997.

<sup>2</sup>Regulatory approval, formally required under former 49 U.S.C. 10926, is no longer needed when the parties' aggregate gross operating revenues do not exceed the \$2 million threshold.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** The Board's decision adopting these regulations is available to all persons for a charge by phoning DC NEWS & DATA, INC., at (202) 289-4357.

**Small Entities**

The Board certifies that these rules will not have a significant economic effect on a substantial number of small entities.

**Environment**

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

**List of Subjects in 49 CFR Part 1310**

Household goods carriers, Moving of household goods, Tariffs.

Decided: January 22, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,  
Secretary.

For the reasons set forth in the preamble, the Board adds a new part 1310 to title 49, chapter X, of the Code of Federal Regulations to read as follows:

**PART 1310—TARIFF REQUIREMENTS FOR HOUSEHOLD GOODS CARRIERS****Sec.**

1310.1 Scope; Definitions.

1310.2 Requirement to maintain tariffs.

1310.3 Contents of tariffs.

1310.4 Incorporation of tariff provisions by reference.

1310.5 Availability of tariffs at carrier offices.

1310.6 Furnishing copies of tariff publications.

**Authority:** 49 U.S.C. 721(a), 13702(a), 13702(c) and 13702(d).

**§ 1310.1 Scope; Definitions.**

(a) The provisions of this part address the tariff requirements imposed by 49 U.S.C. 13702 on motor carriers and freight forwarders for the transportation of household goods, and the notice requirements with which such carriers must comply in order to be entitled to enforce the provisions of their tariffs against individuals whose shipments are subject to such tariffs.

(b) The provisions of this part apply to all movements of household goods defined in paragraph (c)(1) of this section, and to those movements of household goods defined in paragraph (c)(2) of this section that are not provided under contracts entered into pursuant to 49 U.S.C. 14101(b) or former

<sup>1</sup>These rules were originally promulgated in *Exemption of Certain Transactions Under 49 U.S.C. 11343*, 133 M.C.C. 449 (1984).

49 U.S.C. 10702 (repealed January 1, 1996).

(c) For the purposes of this part, the term *household goods* means personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of such dwelling, and similar property if the transportation of such effects or property is:

(1) Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling; or

(2) Arranged and paid for by another party.

(d) For the purposes of this part *service terms* means all classifications, rules, regulations and practices that affect the rates, charges, or level of service for movements of household goods.

#### § 1310.2 Requirement to maintain tariffs.

(a) Except when providing transportation for charitable purposes without charge, carriers subject to the Board's jurisdiction under Chapter 135 of Title 49 of the United States Code may provide transportation or service for movements of household goods only if the rates, and related rules and practices, for such transportation or service are contained in a published tariff that is in effect under this section. The carrier may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, by giving a person a privilege, by allowing the use of a facility that affects the value of that transportation or service, or through another device. Tariffs shall be published in the English language and rates shall be stated in money of the United States.

(b) Tariffs maintained pursuant to this part must be available for inspection by the Board, and must be provided to the Board promptly and free of charge, upon request, by mail or other delivery service.

(c) A carrier that maintains a tariff pursuant to this part may not enforce the provisions of the tariff unless the carrier has given notice that the tariff is available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to the tariff, as provided in § 1310.4 of this part.

(d) The Board may invalidate a tariff prepared by or on behalf of a carrier under this part if that tariff violates 49 U.S.C. 13702 or the regulations contained in this part.

#### § 1310.3 Contents of tariffs.

(a) Tariffs prepared under this part must include an accurate description of the services offered to the public; must provide the specific applicable rates, charges and service terms; and must be arranged in a way that allows for the determination of the exact rate, charges and service terms applicable to any given shipment. Increases, reductions and other changes must be symbolized or highlighted in some way to facilitate ready identification of the changes and their effective dates.

(b) All information necessary to determine applicable rates, charges and service terms for a given shipment need not be contained in a single tariff, but if multiple tariffs are used to convey that information, the tariff containing the rates must make specific reference to all other tariffs required to determine applicable rates, charges and service terms. The carrier(s) party to the rate(s) must participate in all of the tariffs so linked and all such tariffs must be made available to shippers upon reasonable request.

#### § 1310.4 Incorporation of tariff provisions by reference.

(a) Carriers that maintain tariffs pursuant to this part may incorporate the terms of such tariffs by reference (i.e., without stating their full text) into the bill of lading or other document embodying the contract of carriage for the transportation of household goods, provided that:

(1) The bill of lading or other document must contain a conspicuous notice that the contract of carriage incorporates the terms of the carrier's tariffs; the carrier must give notice that its tariffs are available for inspection in its bill of lading or by other actual notice to individuals whose shipments are subject to such tariffs; and the carrier must make the full text of incorporated terms readily available for inspection by the shipper, free of charge, upon request. If such terms cannot be made available immediately, they must be made available promptly and free of charge by mail or other delivery service.

(2) If the incorporated terms include any of the terms set forth in paragraphs (a)(2)(i) through (a)(2)(iii) of this section, the notice on the bill of lading or other document must indicate that such terms are included; the shipper must be provided with a brief summary of the principal features of such terms on or with the document; and the shipper must be able to obtain a more complete explanation of such terms upon request.

(i) Limits on the carrier's liability for loss, damage, or delay of goods, including fragile or valuable goods.

(ii) Claim restrictions, including time periods within which shippers or consignees must file a claim or bring an action against the carrier for its acts or omissions or those of its agents.

(iii) Rights of the carrier to impose monetary penalties on shippers or consignees, increase the price of the transportation, or change any terms of the contract.

(b) A carrier may not claim the benefit as against a shipper or consignee of, and a shipper or consignee shall not be bound by, any tariff term that is incorporated by reference under this section unless the carrier has complied with the requirements of paragraph (a) of this section.

(c) The disclosure requirements established by this section preempt any State requirements on the same subject, for tariff terms that are incorporated by reference into the bill of lading or other document embodying the contract of carriage for the transportation of household goods.

#### § 1310.5 Availability of tariffs at carrier offices.

(a) Each carrier shall maintain, at its principal office, a complete set of its effective tariffs and those to which it is a party.

(b) Each carrier shall also maintain some or all of its tariffs at its other business offices, upon request. Carriers shall provide information regarding all locations where tariffs may be viewed.

(c) At all points where tariffs are maintained, they shall be made available for inspection by any person during the carrier's normal business hours. The tariffs shall be accessible and readable. The carrier shall also display, in a conspicuous place in those locations, a notice, in large print, which contains a statement that the tariffs are available for public inspection.

(d) At all other carrier business offices, the carrier shall display a notice advising the public of the location of the nearest available tariff. The notice shall be in large print and posted in a conspicuous place. In addition, the carrier shall, upon request, make its tariffs available at that location as soon as possible but not later than within 20 days, or provide the sought information orally if satisfactory to the requestor.

(e) Any publication referred to in a tariff must be maintained with that tariff.

(f) If any tariff maintained pursuant to paragraph (b) of this section has not been used for a substantial length of time, the availability of that tariff,



including its reissues, may be discontinued at that office until such time as it is again requested. It shall then be made available within 20 days.

**§ 1310.6 Furnishing copies of tariff publications.**

(a) Copies of tariffs, specific tariff provisions or tariff subscriptions shall be provided upon request to any interested person.

(b) Except for providing to shippers the full text of tariff terms incorporated by reference into the bill of lading or other document embodying the contract of carriage for the transportation of household goods, as described in § 1310.4(a)(1), carriers may assess charges for furnishing copies of tariff publications to interested persons. If a charge is made, the charge must be reasonable, and identical for the same publications and delivery service.

[FR Doc. 97-2549 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P

# Proposed Rules

Federal Register

Vol. 62, No. 23

Tuesday, February 4, 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.

## OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 293, 351, 430, and 531

RIN 3206-AH32

### Reduction in Force and Performance Management

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rulemaking.

**SUMMARY:** The Office of Personnel Management (OPM) is proposing regulations that enhance the opportunity for Federal employees to receive retention service credit during reductions in force based on their actual job performance. The proposal also gives agencies with employees who have been rated under different patterns of summary rating levels a mechanism to take this into account when awarding employees additional retention service credit for reduction in force. These proposed regulations also clarify certain other retention rights, including the coverage of employees serving under term appointments.

**DATES:** Comments must be received by April 7, 1997.

**ADDRESSES:** Send or deliver written comments to: Mary Lou Lindholm, Associate Director for Employment Service, Room 6F08, Office of Personnel Management, Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Thomas A. Glennon, Jacqueline Yeatman, or Edward P. McHugh (part 351); (202) 606-0960, FAX (202) 606-2329; or Barbara Colchao or Doris Hausser (parts 293, 430 and 531); (202) 606-2720, FAX (202) 606-2395.

#### SUPPLEMENTARY INFORMATION:

##### (1) Performance

#### *Crediting Performance in Reductions in Force*

##### Background to Proposed Regulations

Employee performance is one of four factors specified in 5 U.S.C. 3502(a), and regulations in 5 CFR part 351, that

determine an employee's retention standing during reductions in force. The other three factors are tenure of appointment, veterans' preference and length of service. Traditionally, performance has been recognized in the reduction in force process by providing employees with additional years of retention service credit based on the average of their three most recent ratings of record received under the provisions of 5 CFR part 430, subpart B, during the 4 years prior to the reduction in force.

These proposed changes enhance the opportunity for Federal employees to receive retention credit during reductions in force based on their job performance. They do not, however, change the relative importance of performance vis à vis the other retention factors: tenure, veterans' preference and length of service. Further, they retain the present range of additional retention service credit that is provided to good performers during reductions in force (i.e., 12 to 20 years additional retention service credit) and the requirement that additional retention service credit be awarded based on the average of the three most recent ratings of record whenever possible.

Current regulations at section 351.504(d) define the specific amount of additional retention service credit awarded for each rating level and require that it be applied in the same way by each agency subject to the reduction in force regulations. Twenty years of additional retention service credit is specified for a Level 5 rating of record (i.e., "Outstanding" or equivalent), 16 years of additional retention service credit for a Level 4 rating of record (i.e., "Exceeds Fully Successful" or equivalent), and 12 years of additional retention service credit for a Level 3 rating of record (i.e., "Fully Successful" or equivalent). No additional retention service credit is provided for a Level 2 rating of record (i.e., "Minimally Successful" or equivalent) or for a Level 1 rating of record (i.e., "Unacceptable").

Currently credit is provided on the basis of the three most recent ratings of record received during the 4 years prior to the reduction in force. The sum of the three most recent ratings is divided by three and rounded to a whole number. For example, an employee whose three most recent ratings are "Exceeds Fully Successful" (16), "Exceeds Fully

Successful" (16), and "Outstanding" (20) is given 18 years extra seniority (16+16+20 = 52/3 = 17.3 = 18). If employees have received fewer than three actual ratings in the last 4 years, agencies are required to substitute an assumed rating of Fully Successful for each missing rating.

#### New Procedures for Increasing Use of Actual Ratings in RIF

*Extending time period* during which ratings are considered. One element of the proposal addresses the circumstance where employees have not received three actual ratings of record in the last 4 years. They may have received two ratings, or one, or none. This could occur due to a variety of circumstances; for example: Employees on extended assignments on military reserve duty; employees on official time under chapter 71 of title 5, United States Code; employees new to Government service; or employees who have been absent due to an on-the-job injury. To minimize the use of assumed ratings and to maximize the extent to which additional retention service credit is based on actual job performance, OPM is proposing to lengthen the period of time from which ratings are taken into account from 4 years to 6 years prior to the reduction in force. For example, if an employee has been given two ratings of record during the previous 4 years, a rating given in the fifth year prior to the reduction in force may be taken into account in order to use three actual ratings. In all cases, however, the three most recent ratings of record must be used. OPM is proposing appropriate changes to the recordkeeping requirements in 5 CFR part 293. This change in the time period for crediting performance ratings will be phased in to allow agencies time to change their recordkeeping procedures. The implementation schedule for this provision is explained in the paragraph below on "Special implementation/effective dates."

*New computation methods for crediting performance in reduction in force.* OPM is also proposing to remove the requirement to fill in missing ratings of record with assumed Fully Successful ratings when an employee has received only one or two actual ratings of record during the 6-year period when ratings can be credited. Under the proposed change, the actual rating(s) of record available will serve as the sole basis of

the employee's credit, and no assumed ratings will be used. Consequently, if an employee has received only two actual ratings of record during this period, the value of each rating will be added together and divided by two to determine the amount of additional retention service credit. If the employee has received only one actual rating during the period, it will be divided by one to determine additional retention service credit. The same computation method (dividing the rating value by one) will be used when crediting an assumed rating when the value is determined under the procedures outlined below.

**Crediting performance for employees with no actual ratings.** Only in the unusual situation where an employee has no actual rating of record in a 6-year period will an assumed rating be used. The value of that assumed rating will be determined on the basis of two factors: (1) The summary level pattern that applies to the employee's official position of record at the time of the reduction in force; and (2) the amount of current continuous service the employee has.

**Employees who have no ratings and have more than one year of current continuous service.** An employee who has completed at least one year of current continuous service at the time that reduction in force notices are issued (or by the cutoff date the agency specifies prior to the issuance of RIF notices after which no new annual ratings are put on record) will be given the additional retention service credit for the most common, or "modal", summary rating level, as defined in 5 CFR 351.203, for the summary level pattern that applies to the employee's position at the time of the reduction in force. The agency may determine the modal rating using summary ratings in the competitive area, in a larger subdivision of the agency, or agencywide. The applicable modal rating(s) must be applied uniformly and consistently within the competitive area.

For example, if the employee's position would be covered under a five-level rating pattern, the agency would compile the summary ratings on record for the most recently completed appraisal period that were given to employees in the competitive area, subdivision or agency who were rated under a five-level rating pattern. If the results were: 78 Outstanding, 153 Exceeds Fully Successful, 129 Fully Successful, 42 Marginal, and 7 Unacceptable, then the modal rating in this instance would be Exceeds Fully Successful. In this example, the

assumed rating for an employee with no rating in the past 6 years, who has at least one year of current continuous service, and whose position is under a five-level program, would be Level 4. This employee would be given additional retention service credit based on a Level 4 rating.

If, using the same process, the most commonly given rating for employees under a four-level summary rating pattern was determined to be a Level 3 rating, this would be the modal rating used for employees covered by this pattern.

**Employees without ratings who have less than one year of current continuous service:** The modal rating is not used for employees who have completed less than one year of current continuous service. Additional retention service credit is given based on a Level 3 (Fully Successful or equivalent) rating of record under the summary level pattern which applies to the employee's position at the time of reduction in force.

#### **Awarding Retention Service Credit When Employees in the Same RIF Competitive Area Have Been Rated Under More Than One Pattern of Summary Rating Levels**

On August 23, 1995, OPM issued final regulations, at 60 FR 43936, giving agencies the option to determine the pattern of summary rating levels under their performance appraisal programs. There are eight possible patterns ranging from a traditional five-level program to a two-level program that uses only Level 1 and Level 3. Agencies can design their appraisal systems to permit the use of different patterns in different organizations and can change the patterns used without prior OPM approval.

This flexibility in the design of performance appraisal programs can affect employees' relative retention standing for reduction in force. Employees compete for retention within a competitive area. It is possible for a competitive area to cover two or more organizations that each use a different pattern of summary rating levels. Also, employees may have been transferred or reassigned into the competitive area from other agencies with different rating patterns. Some employees may have ratings of record from two-level appraisal programs, while others have ratings under five-level programs.

During the comment period on the performance management regulations, agencies asked for flexibility in awarding additional retention service credit when conducting reductions in force when competitive areas include

employees rated under different patterns of summary levels. In the final performance management regulations published on August 23, 1995, OPM stated that it would review the existing reduction in force regulations in 5 CFR part 351 and consider whether any changes should be made to address mixed pattern situations. These proposed regulations are a result of that review.

OPM considered the consequences that could occur as a result of agencies making maximum use of performance management flexibilities, resulting in competitive areas that include employees with ratings given under different patterns. OPM concluded that to credit actual performance more appropriately when conducting retention competition among employees rated under different patterns, agencies need flexibility to adjust the credit assigned to rating levels in their patterns. The proposed regulations revise 5 CFR 351.504 to require an agency to take into account different patterns of summary rating levels when awarding employees additional retention service credit in reduction in force competition based on their performance.

**New agency authority to determine retention service credit.** Under the proposed regulations, an agency with employees in a RIF competitive area who have been rated under different patterns of summary rating levels must decide how many years of retention service credit within the allowable range of 12 to 20 years to assign to particular summary rating levels. OPM has determined that too many potential combinations of rating patterns within a competitive area will occur in the future to mandate any particular crediting formula. The objective of applying flexibility should be to give, to the extent possible, the same credit for equivalent performance. The appropriate solution will of necessity be specific to the RIF competitive area as the agency takes into account the combination of rating patterns used and the relative numbers of employees rated under each pattern.

For example, one RIF competitive area is composed of 200 employees, each with three actual ratings of record. Of those employees, 180 have been rated under a five-level performance appraisal program. Of their ratings, 2 percent were below Fully Successful, 20 percent were Fully Successful, 53 percent were Exceeds Fully Successful, and 25 percent were Outstanding. The other 20 employees were rated under a two-level (pass/fail) program, with 98

percent of their ratings at Level 3 (Pass or Fully Successful).

Under the current regulations, all the Fully Successful ratings of record would receive 12 years of additional retention service credit, Exceeds Fully Successful ratings would receive 16 years credit, and Outstanding ratings would receive 20 years credit. Employees in the two-level system never had the opportunity to be rated and receive credit for performing above the Fully Successful level, even though their performance might well have been rated Exceeds Fully Successful, or even Outstanding, under a five-level program.

Under the proposed regulations, the agency may decide, for example, that to credit performance more appropriately, the Fully Successful ratings of record given under the two-level program should receive the same number of years additional credit as the Exceeds Fully Successful ratings given under the five-level program, because the record indicates that 78 percent of ratings given under a five-level program are above Fully Successful and most of those are Exceed Fully Successful. Under this scenario, the agency might use the flexibility to assign credit based on a mix of rating level patterns within the RIF competitive area to provide what the agency determined to be equivalent credit for similar performance.

If an agency has RIF competitive areas in which all employee ratings of records to be credited were given under the same pattern of summary levels, it is required to follow the current regulations for crediting performance in a reduction in force which now appear in paragraph (d) of section 351.504.

*Uniform and consistent treatment of employees in the same RIF competitive area.* In using the proposed regulations, the agency's application must be uniform and consistent within the RIF competitive area. For example, each employee covered by a two-level program within the competitive area must receive the same amount of additional retention service credit for their Level 3 rating of record. Under proposed paragraph (f) of section 351.504, the agency must establish its performance crediting procedures for the applicable reduction in force and must keep the procedures available for review. The agency is not required, however, to apply the same performance crediting procedures in different competitive areas, or in different reductions in force.

The proposed regulations are specific to the agency conducting the reduction in force, at the time it carries out the reduction in force action. Thus an agency carrying out a reduction in force

may provide different amounts of additional retention service credit for ratings of record received in an employee's former agency than were provided by that former organization.

The proposed regulations also include conforming changes that have been made throughout section 351.504 to make consistent the various references to rating of record and the summary levels. In addition, the exceptions to a current rating of record that are presently in paragraph (e) of section 351.504 are removed and the new definition of "Current Rating" in section 351.203 clarifies what the current rating of record is.

#### Additional Retention Service Credit for Certain Ratings From Appraisal Systems Not Covered by the Provisions of 5 CFR Part 430

Employees in a competitive area may have been rated under an appraisal system not established under the provisions of 5 CFR part 430. OPM is proposing language in the revised section 351.504 that will require agencies to use all ratings of record given to employees for assigning additional retention service credit during a reduction in force. However, a performance evaluation given to an employee under an appraisal system not covered by the provisions of 5 CFR part 430, subpart B, would be considered a rating of record only if it meets the conditions specified in the new paragraph (c) of section 430.201 of the proposed regulations. The agency conducting the reduction in force will make the determination of whether or not such "non-430" performance ratings meet the specified conditions.

#### Related Conforming Amendments

At section 430.201, General, OPM is proposing a new paragraph, Equivalent ratings of record, to specify the conditions which must be met before performance evaluations given under evaluation systems not covered by 5 U.S.C. 43 and 5 CFR 430, subpart B, can be used as the basis for granting additional retention service credit in a reduction in force. These conditions in part address fundamental requirements comparable to those in statute, such as communicating performance standards in advance and evaluating work performance against those standards. In some situations, the agency may need to take the step of identifying a summary level and pattern based on available information. OPM expects that some "non-430" performance evaluations will not meet one or more of the specified conditions.

At section 430.208, Rating performance, OPM is proposing amendments and additional language to support the use of additional flexibility for crediting performance in a reduction in force, as proposed here in section 351.504. Regulatory language is added to section 430.208, Rating performance, to include in paragraphs (d)(2) and (d)(4) designation of the summary level pattern as an integral part of a rating of record, and to establish in paragraph (d)(5) an authority to permit, but not require, assigning the same rating of record a different number of years additional retention service credit in a different summary level pattern, competitive area, or reduction in force. To conform with these changes, OPM is also revising the definitions of performance rating and rating of record regarding a summary level within a pattern in section 430.203.

#### Technical Amendments

OPM is proposing to add regulatory language in the recently issued regulations on performance appraisal systems and programs. In two places, the additions are being made solely to clarify and state explicitly restrictions on the use of critical and noncritical elements that are implicit in the existing regulations. Other clarifying changes are being made regarding the appraisal period and a delay of an acceptable level of competence determination.

#### Critical Element Definition

In the first instance, OPM proposes to amend the definition in section 430.203 of a critical element to clarify that critical elements may be used to measure performance only at the individual level. A corresponding editorial change is proposed at section 430.206(b)(4) for the description of elements contained in an employee's performance plan. These represent no substantive change in the regulations because of the statutory definition of a critical element. The statutory intent of chapter 43 is to establish and maintain individual accountability. At section 4303, the chapter includes a provision for removing an employee who fails to meet the established performance standard for one or more critical elements. A critical element that measures performance where individual contributions and control are not identifiable would be unusable as a basis for taking such a performance-based action because we conclude that individual control over the performance that meets the standard is a necessary condition for applying the standard and taking that action.



Using a group-level critical element raises the implications of the group or team failing to meet the element's established standards and being deemed, by statutory definition, Unacceptable on the element. The agency would be obligated to carry out the notification and assistance provisions of 5 CFR 432.104. Addressing unacceptable performance, for each member of the group or team, irrespective of the caliber of his or her individual performance. Also, should the timing of an appraisal period coincide with the end of their waiting periods, group members would be denied within-grade pay increases or career ladder promotions, once again without reference to their personal performance. We do not believe that this is in accord with the intent of the statute.

#### Barring Non-Critical Elements When Only Two Summary Levels Are Used

In the second instance, OPM proposes to add explicit regulatory language in section 430.206(b)(6) prohibiting the use of non-critical elements in employee performance plans in "Pass/Fail" summary appraisal situations, and thereby prevent confusion and inappropriate use of non-critical elements in appraisal programs. Adding this language is not a substantive change because it merely states a condition that is the logical consequence of applying other definitions and restrictions already included in the regulations.

This logical conclusion operates with an appraisal program that uses only two summary levels, Level 1 (Unacceptable) and Level 3 (Fully Successful or equivalent), which is commonly referred to as a "Pass/Fail" program. The relevant definitions and restrictions are: (1) the definition at section 430.203 of a non-critical element, which includes the requirement that it must affect the summary level; and (2) the provisions at section 430.208(b) (1) and (2), which make it clear that a non-critical element cannot have the effect of summarizing performance as "Unacceptable."

In an appraisal program that uses only two summary levels, if an employee's performance on any or all elements not designated as critical was appraised as Unacceptable, but performance on all critical elements was appraised as better than Unacceptable, then the assigned summary level would have to be Level 3. Level 1 cannot be used because no critical element performance was Unacceptable. The only summary level available other than Level 1 is Level 3. This illustrates that under a two-level program, the summary level can only be

affected by critical elements. Of course, additional elements could still be included in the employee's performance plan if it was not appropriate to designate them as critical elements (e.g., they measure performance at the team or organizational level).

#### Appraisal Period

In section 430.206(a)(2), a change is being made to clarify that each appraisal program can designate only one appraisal period. The change reflects OPM's ongoing position that the appraisal period chosen for the program affects the application of all the program's other provisions and is one of the key features that distinguishes one program from another. The other two distinguishing features are employee coverage and pattern of summary levels for ratings of record.

The appraisal period is a specified period of time (e.g., 12 months). Within a single program, agencies are free to start the appraisal period on different dates for different employees or groups of employees.

#### Delay of an Acceptable Level of Competence Determination

OPM also is proposing technical amendments to 5 CFR 531.409(c) to eliminate any unintended confusion regarding the delay of an acceptable level of competence determination (ALOC) and to make terminology consistent with the performance management regulations. The first change incorporates into regulation OPM's longstanding interpretation of the present regulation, thus clarifying that the two circumstances described in the regulations are the only ones under which the ALOC determination is delayed. A corresponding change is being made to the definition of rating of record in section 430.203 to clarify that a rating of record done to comply with 5 CFR 531.404(a)(1) is a bona fide rating of record for all purposes. In addition, other changes are made to bring the terminology used into conformance with the recent changes in the performance management regulations.

#### (2) Definitions

"Annual Performance Rating of Record." Performance is one of the four factors agencies use to determine an employee's retention rights. (The other three factors are Tenure, Veterans' Preference, and Service.)

Consistent with final performance regulations published in the *Federal Register* at 60 FR 43936, August 23, 1995, proposed section 351.203 removes the definition of "Annual Performance Rating of Record" and adds the

definition of "Rating of Record" consistent with the meaning given that term in section 430.203 of this chapter. The new definition also introduces equivalent ratings of record.

#### (3) Competitive Area

Agencies establish "Competitive Areas" to set the organizational and geographical boundaries within which employees compete for retention. Proposed section 351.402(b) clarifies existing policy on OPM's minimum standard for a competitive area. This regulatory change maintains the same standard for a minimum competitive area, but reflects current organizational structure and terminology in lieu of existing language.

#### (4) Competitive Level

Agencies establish "Competitive Levels" to group interchangeable positions in the process of determining employees' retention rights. Proposed section 351.403(c) is added to clarify existing policy that an agency may not establish a competitive level based solely upon: (1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level; (2) a requirement to work changing shifts; (3) the grade promotion potential of the position; or (4) a difference in the local wage areas in which wage grade positions are located.

#### (5) Retention Register

Proposed section 351.404(a) clarifies existing policy that upon displacing another employee under this section, an employee retains the same status and tenure in the new position.

Proposed section 351.404(b)(2) provides that the name of each employee in the competitive level with a written decision of removal under part 432 or 752 of this chapter is listed at the bottom of the retention register. Under present section 351.404(b)(2), the name of each employee in the competitive level with a written decision of removal because of "Unacceptable" or equivalent performance under part 432 is listed at the bottom of the retention register.

Proposed section 351.405 provides that the name of each employee in the competitive level with a written decision of demotion under part 432 or 752 of this chapter competes for retention from the position to which the employee will be or has been demoted. Under present section 351.405, the name of each employee in the competitive level with a written decision of demotion under part 432

because of "Unacceptable" or equivalent performance competes for retention from the position to which the employee will be or has been demoted.

#### (6) Retention Subgroups

Retention Groups and Subgroups include two of the factors (i.e., Tenure and Veterans' Preference) that are used to determine an employee's retention standing. Proposed section 351.501(b)(3) is revised to clarify existing policy that employees serving under Term appointments are included in retention subgroup III.

#### (7) Release From Competitive Level

Proposed section 351.602 provides that an agency may not release a competing employee from a competitive level while still retaining in that competitive level another employee who has received a written notice of demotion or removal under either part 432 or 752.

#### (8) Assignment Rights

Proposed section 351.701(f) is added to clarify existing policy on the procedures agencies use to determine the appropriate grade or grade-interval basis for setting employees' assignment rights.

Excepted service employees have no right of assignment to a position in a different competitive level. Section 351.705(a)(3) provides that, at its discretion, an agency may offer assignment rights to its excepted service employees. Proposed section 351.705(a)(3) clarifies existing policy that an excepted service employee may have a right of assignment on the same basis (i.e., "Bump" and "Retreat") as provided to competitive service employees, and only to another excepted service position under the same appointing authority.

#### (9) RIF Notices

Section 351.504(b)(1) provides that an employee is entitled to additional retention service credit based upon the employee's three most recent ratings of record during the applicable 4-, 5-, 6-year period prior to, as appropriate, the date the agency issues specific reduction in force notices or the date the agency freezes ratings before issuing reduction in force notices.

Section 351.802(a)(2) presently provides that an employee's reduction in force notice must identify the employee's annual performance ratings of record received during the last 4 years. Proposed section 351.802(a)(2) provides that the agency must identify the employee's three most recent ratings of record, rather than all ratings of

record received in the applicable 4-, 5-, 6-year period, since only the three most recent ratings of record are used to determine the employee's retention standing.

Proposed section 351.803(a) is revised to add a requirement that each employee who receives a specific notice of separation by reduction in force must be given an estimate of severance pay if eligible, and information on benefits available under new subparts F and G (Career Transition Assistance Programs) of part 330 of this chapter and from the applicable State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act. To increase placement opportunities for employees affected by downsizing, the proposed section also provides that agencies must give employees receiving a reduction in force separation notice a form to authorize, at their option, the release of their resumes for employment referral to State Dislocated Worker units and potential public and private sector employers.

Proposed section 351.804 clarifies existing policy on when a specific reduction in force notice expires.

Proposed section 351.805 clarifies existing policy on when an agency is required to issue a new or amended specific reduction in force notice.

#### *Special Implementation/Effective Dates for New Reduction in Force/Performance Credit Provisions*

Except as noted below, it is OPM's intention to make the provisions of these proposed regulations effective 30 days after the publication of final regulations. In order to give agencies adequate lead time to implement some of the procedural changes outlined in these regulations, certain provisions will be implemented as follows:

(a) When implementing proposed section 351.504(b), which extends the time period during which ratings are considered, agencies would have the option to immediately begin using a 5- or 6-year period for consideration of the employee's three most recent ratings. The 5-year period would become mandatory in reductions in force for which notices are issued or performance ratings are frozen on or after October 1, 1998. The 6-year period would become mandatory on October 1, 1999.

(b) The new agency authority to determine retention service credit when employees in a competitive area are rated under multiple rating patterns described in section 351.504(e) would apply only to ratings of record that are put on record, as defined in paragraph (b)(3) of section 351.504, on or after October 1, 1997. The agency credits any

ratings of record put on record on or before September 30, 1997, based on the governmentwide 12-, 16-, and 20-year formula for additional retention service credit currently in effect.

(c) Section 351.504(c)(1)(i), in which a modal rating is used as an assumed rating for an employee with no actual ratings, would become effective October 1, 1997. Until that date, agencies would apply the provisions of section 451.504(c)(1)(ii) to employees who have no actual ratings.

#### Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects Federal employees.

#### Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

#### List of Subjects

##### *CFR Part 293*

Archives and records, Freedom of information, Government employees, Health records, Privacy.

##### *CFR Part 351*

Administrative practice and procedure, Government employees.

##### *CFR Part 430*

Decorations, medals, awards, Government employees.

##### *CFR Part 531*

Government employees, Law enforcement officers, Wages.

U.S. Office of Personnel Management.

James B. King,

Director.

Accordingly, OPM proposes to amend parts 293, 351, 430, and 531 of title 5, Code of Federal Regulations, as follows:

#### **PART 293—PERSONNEL RECORDS**

1. The authority citation for part 293 continues to read as follows:

**Authority:** 5 U.S.C. 552 and 4315; E.O. 12107 (December 28, 1978), 3 CFR 1954-1958 Comp.; 5 U.S.C. 1103, 1104, and 1302; 5 CFR 7.2; E.O. 9830; 3 CFR 1943-1948 Comp.; 5 U.S.C. 2951(2) and 3301; and E.O. 12107.

2. In § 293.404, paragraph (a)(1) is revised to read as follows:

##### **§ 293.404 Retention schedule.**

(a)(1) Except as provided in § 293.405(a), performance ratings or documents supporting them are generally records and shall, except for

appointees to the SES and including incumbents of executive positions not covered by SES, be retained as prescribed as follows:

(i) Agencies shall retain the three (3) most recent ratings of record issued to the employee in the past: 4 years through September 30, 1998; 5 years from October 1, 1998, through September 30, 1999; and 6 years beginning October 1, 1999;

(ii) Supporting documents shall be retained for as long as the agency deems appropriate, but not to exceed 6 years;

(iii) Performance records superseded (e.g., through an administrative or judicial procedure) and performance-related records pertaining to a former employee (except as prescribed in § 293.405(a)) need not be retained for a minimum of 6 years. Rather, in the former case they are to be destroyed and in the latter case agencies shall retain in accordance with General Records Schedule 1; and

(iv) Except where prohibited by law, retention of automated records longer than the maximum prescribed in this section is permitted for purposes of statistical analysis so long as the data are not used in any action affecting the employee when the manual record has been or should have been destroyed.

\* \* \* \* \*

3. In section 293.405, paragraph (a) is revised to read as follows:

**§ 293.405 Disposition of records.**

(a) When the OPF of a non-SES employee is sent to another servicing office in the employing agency, to another agency, or to the National Personnel Records Center, the "losing" servicing office shall include in the OPF information for the three (3) most recent ratings of record issued to the employee that are 4 years old or less through September 30, 1998, (5 years old or less from October 1, 1998, through September 30, 1999, and 6 years old or less beginning October 1, 1999). The information included shall be the summary pattern within which the rating of record was assigned, the summary level assigned, the date the rating was put on record for reduction in force purposes, and the ending date of the appraisal period. Also, the "losing" office will purge from the OPF all rating of record information that is more than 4 years old (more than 5 years old from October 1, 1998, through September 30, 1999, and more than 6 years old beginning October 1, 1999), and other performance-related records, according to agency policy established under § 293.404(a)(2) and in accordance with OPM Operating Manual, "The Guide to Personnel Recordkeeping."

**PART 351—REDUCTION IN FORCE**

4. The authority citation for part 351 continues to read as follows:

**Authority:** 5 U.S.C. 1302, 3502, 3503.

5. In § 351.203, the definition of "Annual Performance rating of record" is removed, and the definitions of *Current rating of record*, *Modal rating*, and *Rating of record* are added in alphabetical order, to read as follows:

**§ 351.203 Definitions.**

\* \* \* \* \*

*Current rating* is the rating of record for the most recently completed appraisal period as provided in § 351.504(b)(3).

\* \* \* \* \*

*Modal rating* is the summary rating level assigned most frequently among the actual ratings of record that are:

(1) Assigned under the summary level pattern that applies to the employee's position of record on the date of the reduction in force;

(2) Given within the same competitive area, or at the agency's option within a larger subdivision of the agency or agencywide; and

(3) On record for the most recently completed appraisal period prior to the date of issuance of reduction in force notices or the cutoff date the agency specifies prior to the issuance of reduction in force notices after which no new ratings will be put on record.

*Rating of record* has the meaning given that term in § 430.203 of this chapter. For an agency not subject to 5 U.S.C. 43, or part 430 of this chapter, it means the officially designated performance rating, as provided for in the agency's appraisal system, that is considered to be an equivalent rating of record under the provisions of § 430.201(c) of this chapter.

\* \* \* \* \*

7. In § 351.402, paragraph (b) is revised to read as follows:

**§ 351.402 Competitive area.**

\* \* \* \* \*

(b) A competitive area must be defined solely in terms of the agency's organizational unit(s) and geographical location, and it must include all employees within the competitive area so defined. A competitive area may consist of all or part of an agency. The minimum competitive area is a subdivision of the agency under separate administration within the local commuting area.

\* \* \* \* \*

8. In § 351.403, paragraph (c) is added to read as follows:

**§ 351.403 Competitive level.**

\* \* \* \* \*

(c) An agency may not establish a competitive level based solely upon:

(1) A difference in the number of hours or weeks scheduled to be worked by other-than-full-time employees who would otherwise be in the same competitive level;

(2) A requirement to work changing shifts;

(3) The grade promotion potential of the position; or

(4) A difference in the local wage areas in which wage grade positions are located.

9. In § 351.404, paragraph (a) introductory text, and paragraph (b)(2), are revised to read as follows:

**§ 351.404 Retention register.**

(a) When a competing employee is to be released from a competitive level under this part, the agency shall establish a separate retention register for that competitive level. The retention register is prepared from the current retention records of employees. Upon displacing another employee under this part, an employee retains the same status and tenure in the new position. Except for an employee on military duty with a restoration right, the agency shall enter on the retention register, in the order of retention standing, the name of each competing employee who is:

\* \* \* \* \*

(b) \* \* \*

(2) The agency shall list, at the bottom of the list prepared under paragraph (b)(1) of this section, the name of each employee in the competitive level with a written decision of removal under part 432 or 752 of this chapter.

10. Section 351.405 is revised to read as follows:

**§ 351.405 Demoted employees.**

An employee who has received a written decision under part 432 or 752 of this chapter to demote him or her competes under this part from the position to which he or she will be or has been demoted.

11. In § 351.501, paragraph (b)(3) is revised to read as follows:

**§ 351.501 Order of retention—competitive service.**

\* \* \* \* \*

(b) \* \* \*

(3) Group III includes all employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments, and any other nonstatus nontemporary appointments which meet the definition of provisional appointments contained

in §§ 316.401 and 316.403 of this chapter.

\* \* \* \* \*

12. Section 351.504 is revised to read as follows:

**§ 351.504 Credit for performance.**

(a) *Ratings used.* (1) Only ratings of record as defined in § 351.203 shall be used as the basis for granting additional retention service credit in a reduction in force.

(2) For employees who received ratings of record while covered by part 430, subpart B, of this chapter, those ratings of record shall be used to grant additional retention service credit in a reduction in force.

(3) For employees who received performance ratings while not covered by the provisions of 5 U.S.C. 43 and part 430, subpart B, of this chapter, those performance ratings shall be considered ratings of record for granting additional retention service credit in a reduction in force only when it is determined that those performance ratings are equivalent ratings of record under the provisions of § 430.201(c) of this chapter. The agency conducting the reduction in force shall make that determination.

(b) *Time frame.* (1) An employee's entitlement to additional retention service credit for performance under this subpart shall be based on the employee's three most recent ratings of record received during the 4-year period prior to the date of issuance of reduction in force notices, except as otherwise provided in this paragraph (b)(1), and in paragraphs (b)(2) and (c) of this section. At its option, an agency may instead use the employee's three most recent ratings of record received during a 5-year or 6-year period prior to the date of issuance of reduction in force notices or an agency established cutoff date after which no new ratings of record will be put on record. The 5-year period becomes mandatory on October 1, 1998. The 6-year period becomes mandatory on October 1, 1999.

(2) To provide adequate time to determine employee retention standing, an agency may provide for a cutoff date, a specified number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart. When a cutoff date is used, an employee will receive performance credit for the three most recent ratings of record received during the applicable 4-, 5-, or 6-year period prior to the cutoff date.

(3) To be creditable for purposes of this subpart, a rating of record must have been issued to the employee, with all appropriate reviews and signatures,

and must also be on record (i.e., the rating of record is available for use by the office responsible for establishing retention registers).

(4) The awarding of additional retention service credit based on performance for purposes of this subpart, including the decision to use a 4-, 5-, or 6-year period for performance ratings, must be uniformly and consistently applied within a competitive area, and must be consistent with the agency's appropriate issuance(s) that implement these policies. Each agency must specify in its appropriate issuance(s):

(i) The conditions under which a rating of record is considered to have been received for purposes of determining whether it is within the applicable 4-, 5-, or 6-year period prior to either the date the agency issues reduction in force notices or the agency-established cutoff date for ratings of record, as appropriate; and

(ii) If the agency elects to use a cutoff date, the number of days prior to the issuance of reduction in force notices after which no new ratings of record will be put on record and used for purposes of this subpart.

(c) *Missing ratings.* Additional retention service credit for employees who do not have three actual ratings of record during the applicable 4-, 5-, or 6-year period prior to the date of issuance of reduction in force notices or the applicable 4-, 5-, or 6-year period prior to the agency-established cutoff date for ratings of record permitted in paragraph (b)(2) of this section shall be determined, as appropriate, under paragraphs (d) or (e) of this section, as follows:

(1) An employee who has not received any rating of record during the applicable 4-, 5-, or 6-year period shall receive credit for performance on the basis of an assumed rating. The value of that assumed rating will be determined according to the length of the employee's current continuous service and on the basis of the summary level pattern that applies to the employee's official position of record at the time of the reduction in force.

(i) An employee who has completed at least one year of current continuous service will be given the additional retention service credit based on the modal rating for that summary level pattern.

(ii) An employee who has not completed at least one year of current continuous service will be given the additional retention service credit for a Level 3 (Fully Successful or equivalent) rating of record under that summary level pattern.

(2) An employee who has received at least one but fewer than three previous ratings of record shall receive credit for performance on the basis of the value of the actual rating(s) of record divided by the number of actual ratings received. If an employee has received only two actual ratings of record during the period, the value of the ratings is added together and divided by two to determine the amount of additional retention service credit. If an employee has received only one actual rating during the period, its value is the amount of additional retention service credit provided.

(d) *Single rating pattern.* If all employees in a reduction in force competitive area have received ratings of record under a single pattern of summary levels as set forth in § 430.208(d) of this chapter, the additional retention service credit provided to employees shall be expressed in additional years of service and shall consist of the mathematical average (rounded in the case of a fraction to the next higher whole number) of the employee's applicable ratings of record, under paragraphs (b)(1) and (c) of this section computed on the following basis:

(1) Twenty additional years of service for each rating of record with a Level 5 (Outstanding or equivalent) summary;

(2) Sixteen additional years of service for each rating of record with a Level 4 summary; and

(3) twelve additional years of service for each rating of record with a Level 3 (Fully Successful or equivalent) summary.

(e) *Multiple rating patterns.* If an agency has employees in a competitive area who have ratings of record under more than one pattern of summary levels, as set forth in § 430.208(d) of this chapter, it shall consider the mix of patterns and provide additional retention service credit for performance to employees expressed in additional years of service in accordance with the following:

(1) Additional years of service shall consist of the mathematical average (rounded in the case of a fraction to the next higher whole number) of the additional retention service credit that the agency established for the summary levels of the employee's applicable rating(s) of record.

(2) The agency shall establish the amount of additional retention service credit provided for summary levels only in full years; the agency shall not establish additional retention service credit for summary levels below Level 3 (Fully successful or equivalent).



(3) When establishing additional retention service credit for the summary levels at Level 3 (Fully Successful or equivalent) and above, the agency shall establish at least 12 years, and no more than 20 years, additional retention service credit for a summary level.

(4) The agency may establish the same number of years additional retention service credit for more than one summary level.

(5) The agency shall establish the same number of years additional retention service credit for all ratings of record with the same summary level in the same pattern of summary levels as set forth in § 430.208(d) of this chapter.

(6) The agency may establish a different number of years additional retention service credit for the same summary level in different patterns.

(7) The agency may apply paragraphs (e)(1) through (e)(6) of this section only to ratings of record put on record on or after October 1, 1997. The agency shall establish the additional retention service credit for ratings of record put on record prior to that date in accordance with paragraphs (d)(1) through (d)(3) of this section.

(f) *Documentation of credit.* In implementing paragraph (e) of this section, the agency shall specify the number(s) of years additional retention service credit that it will establish for summary levels. This information shall be made readily available for review.

13. In § 351.602, paragraph (c) is revised to read as follows:

**§ 351.602 Prohibitions.**

\* \* \* \* \*

(c) A written decision under part 432 or 752 of this chapter of removal or demotion from the competitive level.

14. In § 351.701, paragraph (f) is added to read as follows:

**§ 351.701 Assignment involving displacement.**

\* \* \* \* \*

(f)(1) In determining applicable grades (or grade intervals) under §§ 351.701(b)(2) and 351.701(c)(2), the agency uses the grade progression of the released employee's position of record to determine the grade (or interval) limits of the employee's assignment rights.

(2) For positions covered by the General Schedule, the agency must determine whether a one-grade, two-grade, or mixed grade interval progression is applicable to the position of the released employee.

(3) For positions not covered by the General Schedule, the agency must determine the normal line of progression for each occupational series

and grade level to determine the grade (or interval) limits of the released employee's assignment rights. If the agency determines that there is no normal line of progression for an occupational series and grade level, the agency provides the released employee with assignment rights to positions within three actual grades lower on a one-grade basis. The normal line of progression may include positions in different pay systems.

(4) For positions where no grade structure exists, the agency determines a line of progression for each occupation and pay rate, and provides assignment rights to positions within three grades (or intervals) lower on that basis.

(5) If the released employee holds a position that is less than three grades above the lowest grade in the applicable classification system (e.g., the employee holds a GS-2 position), the agency provides the released employee with assignment rights up to three actual grades lower on a one-grade basis in other pay systems.

15. In § 351.705, paragraph (a)(3) is revised to read as follows:

**§ 351.705 Administrative assignment.**

(a) \* \* \*

(3) Provide competing employees in the excepted service with assignment rights to other positions under the same appointing authority on the same basis as assignment rights provided to competitive service employees under § 351.701 and in paragraphs (a) (1) and (2) of this section.

\* \* \* \* \*

16. In § 351.802, paragraph (a)(2) is revised to read as follows:

**§ 351.802 Content of notice.**

(a) \* \* \*

(2) The employee's competitive area, competitive level, subgroup, service date, and three most recent ratings of record received in the applicable 4-, 5-, 6-year period, as provided in § 351.504(b)(1).

\* \* \* \* \*

17. In § 351.803, paragraph (a) is revised to read as follows:

**§ 351.803 Notice of eligibility for reemployment and other placement assistance.**

(a) An employee who receives a specific notice of separation under this part must be given information concerning the right to reemployment consideration and career transition assistance under subparts B (Reemployment Priority List), F and G (Career Transition Assistance Programs) of part 330 of this chapter. The employee must also be given a form to

authorize, at his or her option, the release of his or her resume and other relevant employment information for employment referral to State Dislocated Worker Units and potential public or private sector employers. The employee must also be given information concerning how to apply both for unemployment insurance through the appropriate State program and benefits available under the State dislocated worker unit(s), as designated or created under title III of the Job Training Partnership Act, and an estimate of severance pay (if eligible).

\* \* \* \* \*

18. Section 351.804 is revised to read as follows:

**§ 351.804 Expiration of notice.**

(a) A notice expires when followed by the action specified, or by an action less severe than specified, in the notice or in an amendment made to the notice before the agency takes the action.

(b) An agency may not take the action before the effective date in the notice; instead, the agency may cancel the reduction in force notice and issue a new notice subject to this subpart.

19. Section 351.805 is revised to read as follows:

**§ 351.805 New notice required.**

(a) An employee is entitled to a written notice of, as appropriate, at least 60 or 120 full days if the agency decides to take an action more severe than first specified.

(b) An agency must give a employee an amended written notice if the reduction in force is changed to a later date. A reduction in force action taken after the date specified in the notice given to the employee is not invalid for that reason, except when it is challenged by a higher-standing employee in the competitive level who is reached out of order for a reduction in force action as a result of the change in dates.

(c) An agency must give an employee an amended written notice and allow the employee to decide whether to accept a better offer of assignment under subpart G of this part that becomes available before or on the effective date of the reduction in force. The agency must give the employee the amended notice regardless of whether the employee has accepted or rejected a previous offer of assignment, provided that the employee has not voluntarily separated from his or her official position.

**PART 430—PERFORMANCE MANAGEMENT**

20. The authority citation for part 430 continues to read as follows:

**Authority:** 5 U.S.C. chapter 43.

21. In § 430.201, paragraph (c) is added to read as follows:

**§ 430.201 In General.**

(c) *Equivalent ratings of record.* (1) If an agency has administratively adopted and applied the procedures of this subpart to evaluate the performance of its employees, the ratings of record resulting from that evaluation are considered ratings of record for reduction in force purposes.

(2) Other performance evaluations given while an employee is not covered by the provisions of this subpart are considered ratings of record for reduction in force purposes when the performance evaluation—

- (i) Was issued as an officially designated evaluation under the employing agency's performance evaluation system,
- (ii) Was derived from the appraisal of performance against expectations that are established and communicated in advance and are work related, and
- (iii) Identified whether the employee performed acceptably.

(3) When the performance evaluation does not include a summary level designator and pattern comparable to those established at § 430.208(d), the agency may identify a level and pattern based on information related to the appraisal process.

22. In § 430.203, the definitions of *Critical element*, *Performance rating*, and *Rating of record* are revised to read as follows:

**§ 430.203 Definitions.**

*Critical element* means a work assignment or responsibility of such importance that unacceptable performance on the element would result in a determination that an employee's overall performance is unacceptable. Such elements shall be used to measure performance only at the individual level.

*Performance rating* means the written, or otherwise recorded, appraisal of performance compared to the performance standard(s) for each critical and non-critical element on which there has been an opportunity to perform for the minimum period. A performance rating may include the assignment of a

summary level within a pattern (as specified in § 430.208(d)).

*Rating of record* means the performance rating prepared at the end of an appraisal period for performance of agency assigned duties over the entire period and the assignment of a summary level within a pattern (as specified in § 430.208(d)) or in accordance with § 531.404(a)(1) of this chapter. These constitute official ratings of record referenced in this chapter.

23. In § 430.206, paragraphs (a)(2) and (b)(4) are revised, paragraphs (b)(6) and (b)(7) are redesignated as paragraphs (b)(7) and (b)(8) respectively, and a new paragraph (b)(6) is added to read as follows:

**§ 430.206 Planning performance.**

(a) \* \* \*

(2) Each program shall specify a single length of time as its appraisal period. The appraisal period generally shall be 12 months so that employees are provided a rating of record on an annual basis. A program's appraisal period may be longer when work assignments and responsibilities so warrant or performance management objectives can be achieved more effectively.

(b) \* \* \*

(4) Each performance plan shall include all elements which are used in deriving and assigning a summary level, including at least one critical element and any non-critical element(s).

(6) A performance plan established under an appraisal program that uses only two summary levels (pattern A as specified in § 430.208(d)(1)) shall not include non-critical elements.

24. In § 430.208, the introductory text to paragraph (d)(2) is revised, paragraph (d)(4) is revised, and a new paragraph (d)(5) is added to read as follows:

**§ 430.208 Rating performance.**

(d) \* \* \*

(2) Within any of the patterns shown in paragraph (d)(1) of this section, summary levels shall comply with the following requirements:

(4) The designation of a summary level and its pattern shall be used to provide consistency in describing ratings of record and as a reference point for applying other related regulations, including, but not limited to, assigning additional retention service credit under § 351.504 of this chapter.

(5) Under the provisions of § 351.504(f) of this chapter, the number

of years additional retention service credit established for a summary level of a rating of record shall be applied in a uniform and consistent manner within a competitive area in any given reduction in force, but the number of years may vary:

- (i) In different reductions in force;
- (ii) In different competitive areas; and
- (iii) In different summary level patterns within the same competitive area.

**PART 531—PAY UNDER THE GENERAL SCHEDULE**

25. The authority citation for part 531 continues to read as follows:

**Authority:** 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Pub. L. 103-89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR 1991 Comp., p. 316;

Subpart B also issued under 5 U.S.C. 5303(g), 5333, 5334(a), and 7701(b)(2);

Subpart C also issued under 5 U.S.C. 5304, 5305, and 5553; sections 302 and 404 of FEPCA, Pub. L. 101-509, 104 Stat. 1462 and 1466; and section 3(7) of Pub. L. 102-378, 106 Stat. 1356;

Subpart D also issued under 5 U.S.C. 5335(g) and 7701(b)(2);

Subpart E also issued under 5 U.S.C. 5336;

Subpart F also issued under 5 U.S.C. 5304, 5305(g)(1), and 5553; and E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682;

Subpart G also issued under 5 U.S.C. 5304, 5305, and 5553; section 302 of the Federal Employees Pay Comparability Act of 1990 (FEPCA), Pub. L. 101-509, 104 Stat. 1462; and E.O. 12786, 56 FR 67453, 3 CFR, 1991 Comp., p. 376.

26. In § 531.409, paragraphs (c)(1), (c)(2)(i), and (c)(2)(ii) are revised to read as follows:

**§ 531.409 Acceptable level of competence determinations.**

(c) *Delay in determination.* (1) An acceptable level of competence determination shall be delayed when, and only when, either of the following applies:

(i) An employee has not had the minimum period of time established at § 430.207(a) of this chapter to demonstrate acceptable performance because he or she has not been informed of the specific requirements for performance at an acceptable level of competence in his or her current position, and the employee has not been given a performance rating in any position within the minimum period of time (as established at § 430.207(a) of this chapter) before the end of the waiting period; or

(ii) An employee is reduced in grade because of unacceptable performance to a position in which he or she is eligible for a within-grade increase or will become eligible within the minimum period as established at § 430.207(a) of this chapter.

(2) \* \* \*

(i) The employee shall be informed that his or her determination is postponed and the appraisal period extended and shall be told of the specific requirements for performance at an acceptable level of competence.

(ii) An acceptable level of competence determination shall then be made based on the employee's rating of record completed at the end of the extended appraisal period.

\* \* \* \* \*

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 226

[Regulation Z; Docket No. R-0960]

#### Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

**SUMMARY:** The Board is publishing for comment proposed revisions to Regulation Z. The revisions implement an amendment to the Truth in Lending Act contained in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 affecting the disclosure of a fifteen-year historical example of rates and payments. The amendment applies to variable-rate loans with a term exceeding one year and secured by the consumer's principal dwelling. The amendment allows creditors either to disclose a fifteen-year historical example or to give a statement that the periodic payment may substantially increase or decrease together with a maximum interest rate and payment based on a \$10,000 loan.

**DATES:** Comments must be received on or before February 28, 1997.

**ADDRESSES:** Comments should refer to Docket No. R-0960, and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. weekdays, or to the security control room at all other times. The mail room and the security control room are accessible from the courtyard

on 20th Street, N.W. (between Constitution Avenue and C Street) at any time. Comments will be available for inspection in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding the availability of information.

#### FOR FURTHER INFORMATION CONTACT:

Kyung H. Cho-Miller, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452-3667 or 452-2412; for users of Telecommunications Device for the Deaf (TDD) only, contact Dorothea Thompson at (202) 452-3544.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The purpose of the Truth in Lending Act (TILA) (15 U.S.C. 1601 *et seq.*) is to promote the informed use of consumer credit by requiring disclosures about its terms and cost. The act requires creditors to disclose the cost of credit as a dollar amount (the finance charge) and as an annual percentage rate (the APR). Uniformity in creditors' disclosures is intended to assist consumers in comparison shopping. The TILA requires additional disclosures for loans secured by a consumer's home and permits consumers to rescind certain transactions that involve their principal dwelling. The act is implemented by the Board's Regulation Z (12 CFR Part 226).

The credit transactions covered by TILA and Regulation Z fall into two categories—open- or closed-end credit transactions. Open-end credit is defined as a plan under which the creditor reasonably contemplates repeated transactions, which prescribes the terms of such transactions, and which provides for a finance charge that may be computed from time to time on the outstanding unpaid balance, for example, credit extended by means of a credit card (§ 226.2(a)(20)). Closed-end credit is defined as any credit arrangement that does not fall within the definition of open-end credit (§ 226.2(a)(10)). A mortgage loan with a definite maturity date is an example of closed-end credit.

##### II. Proposed Regulatory Provisions

Under Regulation Z, the timing and number of disclosures required for variable-rate loans vary depending on the term and security for the loan. For all variable-rate loans, disclosures are generally provided once—prior to consummation. However, if the loan exceeds a term of one year and is secured by the consumer's principal dwelling, creditors are required to

provide disclosures at three different times—when an application is received (or when a nonrefundable fee is paid, whichever occurs earlier), prior to consummation, and subsequent to consummation when certain rate or payment changes occur. (See Regulation Z, 12 CFR 226.17(b), 18(f), 19, and 20(c).)

Disclosures provided at application for a variable-rate mortgage include the Board-prescribed *Consumer Handbook on Adjustable Rate Mortgages* (or a suitable substitute) and a loan program disclosure for each variable-rate program the consumer is interested in. The loan program disclosure consists of twelve separate items as they apply to a variable-rate program, including information such as the identification of the index or formula to be used for adjustments and a fifteen-year historical example of how changes in the index values or formula used to compute interest rates would have affected the interest rates and payments on a \$10,000 loan.

On September 30, 1996, the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104-208, 110 Stat. 3009) (1996 amendment) amended the TILA by providing creditors the option to give a statement that the periodic payments may increase or decrease substantially together with the maximum interest rate and payment amount for a \$10,000 loan in lieu of the fifteen-year historical example.

The Board proposes to implement the TILA amendment as discussed below.

##### III. Section-by-Section Analysis

###### Subpart A—General

###### Section 226.19—Certain Residential Mortgage Transactions

**19(b) Certain variable-rate transactions.** Section 226.19(b) requires the historical example disclosure for loans exceeding a term of one year that are secured by a consumer's principal dwelling and where the APR may increase after consummation (such as when the rate is tied to an index). The 1996 amendment does not explicitly limit application of the alternative disclosure to loans that exceed a term of one year. The Board believes, however, that the amendment was intended to apply only to loans where the fifteen-year historical example is currently required, namely loans that exceed one year. Accordingly, the Board proposes to apply the alternative disclosure option to variable-rate loans with a term greater than one year and secured by the consumer's principal dwelling.

The 1996 amendment uses the term "residential mortgage transactions," a

term defined in Regulation Z (§ 226.2(a)(24)) as credit secured by the consumer's principal dwelling to finance the acquisition or initial construction of that dwelling. The Board believes that the Congress did not intend to limit the flexibility in the 1996 amendment to purchase-money transactions, but rather intended to provide this option to all credit transactions secured by the consumer's principal dwelling, given that the committee report to the 1996 amendment broadly states the alternative disclosure would be available to lenders in consumer credit transactions under closed-end plans.

Paragraph 19(b)(2)(viii) currently sets forth the required historical example based on a \$10,000 loan amount and paragraph 19(b)(2)(x) the required disclosure of the maximum interest rate and payment for a \$10,000 loan. To make clear that creditors may elect to provide either of the two disclosures, paragraph 19(b)(2)(viii) would be revised. The historical example requirements are contained in paragraph 19(b)(2)(viii)(A); the substance of paragraph 19(b)(2)(x) is redesignated as 19(b)(2)(viii)(B). The proposal provides that if the creditor chooses to disclose the maximum interest rate and payment in lieu of a historical example, a statement that the periodic payment may increase or decrease substantially must accompany the rate and payment amount. The statement requirement may be satisfied by the disclosure in paragraph 19(b)(2)(vi) if it states for example, "your monthly payment can increase or decrease substantially based on annual changes in the interest rate."

Regulation Z currently requires creditors to disclose a maximum interest rate using the most recent interest rate shown in the historical example. Because the historical example is not required under the 1996 amendments, creditors instead must use a "recent" interest rate as determined by the Board. The Board proposes to require creditors to calculate the maximum rate and payment based on an initial rate that was in effect within one year of the disclosure. The Board believes that a more frequent basis for updating the index or formula would place more burden on creditors than currently exists under the regulation and that the Congress intended to reduce burden with the alternative. Creditors would have to calculate the maximum rate and payment on an initial rate in effect within one year of the date the loan program is provided and to disclose the applicable month and year. For example, using the information in appendix H-14, the disclosure could

state "the initial interest rate is 9.71 percent, the rate in effect January 1987." The Board solicits comment on whether there are circumstances where there is consumer benefit in updating the initial rate more frequently than annually that would outweigh the compliance burden of producing the disclosures more frequently.

#### IV. Form of Comment Letters

Comment letters should refer to Docket No. R-0960, and, when possible, should use a standard courier typeface with a type size of 10 or 12 characters per inch. This will enable the Board to convert the text in machine-readable form through electronic scanning, and will facilitate automated retrieval of comments for review. Also, if accompanied by an original document in paper form, comments may be submitted on 3 1/2 inch or 5 1/4 inch computer diskettes in any IBM-compatible DOS-based format.

The comment period ends on February 28, 1997. Normally, the Board provides a 60-day comment period, in keeping with the Board's policy statement on rulemaking (44 FR 3957, January 19, 1979). The proposed regulatory revisions implement changes in the law that provide regulatory compliance relief. The Board believes that an abbreviated comment period is desirable to ensure that a final rule is in place as soon as possible to provide guidance to creditors affected.

#### V. Regulatory Flexibility Analysis

In accordance with section 3(a) of the Regulatory Flexibility Act (5 U.S.C. 603), the Board's Office of the Secretary has reviewed the proposed amendments to Regulation Z. Overall, the amendments are not expected to have any significant impact on small entities. The proposed regulatory revisions required to implement the 1996 amendment reduce the number of disclosure required for variable-rate mortgages and ease compliance by providing creditors with the option of either providing a fifteen-year historical example or the maximum payment example. A final regulatory flexibility analysis will be conducted after consideration of comments received during the public comment period.

#### VI. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Board has reviewed the proposed amendments under the authority delegated to the Board by the Office of Management and Budget. 5 CFR part 1320, Appendix A.1. Comments on the collection or

disclosure of information associated with this regulation should be sent to the Office of Management and Budget, Paperwork Reduction Project (7100-0199), Washington, DC 20503, with copies of such comments to be sent to Mary M. McLaughlin, Chief, Financial Reports Section, Division of Research and Statistics, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551.

The respondents are individuals or businesses that regularly offer or extend consumer credit. The purpose of the TILA and Regulation Z is to promote the informed use of consumer credit by requiring creditors to disclose its terms and cost. Records must be retained by creditors for 24 months. The revisions to the requirements in this proposed regulation are found in 12 CFR 226.19 and appendix H.

The Board's Regulation Z applies to all types of creditors, not just state member banks. Under the Paperwork Reduction Act, however, the Federal Reserve accounts for the paperwork burden associated with Regulation Z only for state member banks. Any estimates of paperwork burden for institutions other than state member banks that would be affected by the proposed amendments are to be provided by the federal agency or agencies that supervise those lenders.

The proposed changes are not expected to increase the ongoing annual burden of Regulation Z. There are 1,042 state member banks with an estimated 5,750 disclosures, 6.5 minutes for each disclosure, for closed-end credit per state member bank annually. The proportion of such loans that are mortgages with an adjustable rate is estimated to be small. If all state member banks chose to eliminate the fifteen-year historical example from all their disclosures on such loans, the average time required for each disclosure would decrease by 2 minutes. The combined annual burden for all state member banks under Regulation Z is estimated to be 1,975,600 hours; the combined annual cost is estimated to be \$39.5 million (an average of \$37,920 per state member bank). The Federal Reserve estimates that there would be associated start-up cost of \$160 per respondent to eliminate either the fifteen-year historical example or the maximum payment example.

The disclosures made by creditors to consumers under Regulation Z are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises. Disclosures relating to specific transactions or accounts are not publicly available.



Comments are invited on: (a) whether the proposed revised collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility; (b) the accuracy of the Federal Reserve's estimate of the burden of the proposed disclosures, including the cost of compliance; (c) ways to enhance the quality, utility, and clarity of the information disclosures; and (d) ways to minimize the burden of information disclosures on respondents, including through the use of automated techniques or other forms of information technology.

An agency may not collect or sponsor the collection or disclosure of information, and an organization is not required to collect or disclose information unless a currently valid OMB control number is displayed. The OMB control number for Regulation Z is 7100-0199.

**List of Subjects in 12 CFR Part 226**

Advertising, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

**Text of Proposed Revisions**

Certain conventions have been used to highlight the proposed revisions to the regulation. New language is shown inside bold-faced arrows, while language that would be deleted is set off with bold-faced brackets.

For the reasons set forth in the preamble, the Board proposes to amend 12 CFR Part 226 as follows:

**PART 226—TRUTH IN LENDING (REGULATION Z)**

1. The authority citation for part 226 continues to read as follows:

**Authority:** 12 U.S.C. 3806; 15 U.S.C. 1604 and 1637(c)(5).

2. Section 226.19 would be amended by:

- a. Republishing the introductory text of paragraph (b)(2);
- b. Revising paragraph (b)(2)(viii);
- c. Removing paragraph (b)(2)(x); and
- d. Redesignating paragraphs (b)(2)(xi), (b)(2)(xii), and (b)(2)(xiii) as paragraphs (b)(2)(x), (b)(2)(xi) and (b)(2)(xii) respectively.

The revisions would read as follows:

**§ 226.19 Certain residential mortgage and variable-rate transactions.**

\* \* \* \* \*

(b) *Certain variable-rate transactions.*

\* \* \* \* \*

(2) A loan program disclosure for each variable-rate program in which the

consumer expresses an interest. The following disclosures, as applicable, shall be provided:

\* \* \* \* \*

(viii) Either of the following:

(A) An historical example, based on a \$10,000 loan amount, illustrating how payments and the loan balance would have been affected by interest rate changes implemented according to the terms of the loan program. The example shall be based upon index values beginning in 1977 and be updated annually until a 15-year history is shown. Thereafter, the example shall reflect the most recent 15 years of index values. The example shall reflect all significant loan program terms, such as negative amortization, interest rate carryover, interest rate discounts, and interest rate and payment limitations, that would have been affected by the index movement during the period.

(B) The maximum interest rate and payment for a \$10,000 loan assuming the maximum periodic increases in rates and payments under the program; the initial interest rate and payment for that loan along with the month and year the rate was in effect (based on a rate in effect within one year of the date the disclosures are provided); and a statement that the periodic payment may increase or decrease substantially depending on changes in the rate.

\* \* \* \* \*

[(x)] The maximum interest rate and payment for a \$10,000 loan originated at the most recent interest rate shown in the historical example assuming the maximum periodic increases in rates and payments under the program; and the initial interest rate and payment for that loan.]

[(xi)] (x) The fact that the loan program contains a demand feature.

[(xii)] (xi) The type of information that will be provided in notices of adjustments and the timing of such notices.

[(xiii)] (xi) A statement that disclosure forms are available for the creditor's other variable-rate loan programs.

3. In part 226, Appendix H is amended by revising the three paragraphs preceding the example in the H-14 Variable-Rate Mortgage Sample to read as follows:

**Appendix H to Part 226—Closed-end Model Forms and Clauses**

\* \* \* \* \*

*H-14 Variable-Rate Mortgage Sample*

\* \* \* \* \*

*How Your Monthly Payment Can Change*

• Your monthly payment can [change yearly] increase or decrease substantially based on annual changes in the interest rate.

• For example, on a \$10,000, 30-year loan with an initial interest rate of 9.71 percent the rate [shown in the interest rate column below for the year 1987] in effect in January 1987, the maximum amount that the interest rate can rise under this program is 5 percentage points, to 14.71 percent, and the monthly payment can rise from a first-year payment of \$85.62 to a maximum of \$123.31 in the fourth year.

• You will be notified in writing 25 days before the annual payment adjustment may be made. This notice will contain information about your interest rates, payment amount and loan balance.

\* \* \* \* \*

4. In Supplement I to Part 226, under Section 226.19—*Certain Residential Mortgage and Variable-Rate Transactions*, under paragraph 19(b) *Certain variable-rate transactions*, the following amendments would be made:

a. The heading "Paragraph 19(b)(2)(viii)" would be revised to read "Paragraph 19(b)(2)(viii)(A);"

b. The heading "Paragraph 19(b)(2)(x)" would be revised to read "Paragraph 19(b)(2)(viii)(B)" and the paragraph heading and text are transferred immediately preceding Paragraph 19(b)(2)(ix).

c. Paragraph 1, under the heading "Paragraph 19(b)(2)(viii)(B)" would be revised.

d. The heading "Paragraph 19(b)(2)(xi)" would be revised to read "Paragraph 19(b)(2)(x)."

e. The heading "Paragraph 19(b)(2)(xii)" would be revised to read "Paragraph 19(b)(2)(xi)."

f. The heading "Paragraph 19(b)(2)(xiii)" would be revised to read "Paragraph 19(b)(2)(xii)."

The revisions would read as follows:

Supplement I—Official Staff Interpretations

\* \* \* \* \*

SUBPART C—CLOSED-END CREDIT

\* \* \* \* \*

*Section 226.19—Certain Residential Mortgage Transactions*

\* \* \* \* \*

*19(b) Certain variable-rate transactions*

\* \* \* \* \*

*Paragraph 19(b)(2)(viii)(A)*

\* \* \* \* \*

*Paragraph 19(b)(2)(x)(viii)(B)*

1. *Initial and maximum interest rate and payment.* The disclosure form must state the initial and maximum interest rates and payments for a \$10,000 loan originated at the most recent interest rate (index value plus margin) [shown in the historical example] in effect within one year of the date the disclosure is provided. The month and year the rate is effective must be included in the disclosure. In calculating the maximum payments under this paragraph, a creditor should assume that the interest rate increases

as rapidly as possible under the loan program, and the maximum payment disclosed should reflect the amortization of the loan during this period. Thus, in a loan with 2 percentage point annual (and 5 percentage point overall) interest rate limitations or "caps," the maximum interest rate would be 5 percentage points higher than the [most recent rate shown in the historical example] initial rate disclosed. Moreover, the loan would not reach the maximum interest rate until the fourth year because of the 2 percentage point annual rate limitations, and the maximum payment disclosed would reflect the amortization of the loan during this period. If the loan program includes a discounted or premium initial interest rate, the [most recent rate shown in the historical example] initial rate should be adjusted by the amount of the discount or premium reflected elsewhere in the disclosure for purposes of the requirements of this paragraph. Furthermore, this disclosure should state the amount by which the most recent rate has been adjusted. (see the commentary to § 226.19(b)(2)(viii) regarding disclosure of the amount of a discount or premium.) The creditor may use an interest rate applicable to the program that is more recent than the [latest rate shown in the historical example] initial rate.

\* \* \* \* \*  
 Paragraph 19(b)(2)((xi))(x)  
 \* \* \* \* \*

Paragraph 19(b)(2)((xii)) (xi)  
 \* \* \* \* \*

Paragraph 19(b)(2)((xiii)) (xii)  
 \* \* \* \* \*

5. In Supplement I to Part 226, all references to "section 226.19(b)(2)(viii)" are revised to read "section 226.19(b)(2)(viii)(A)".

6. In Supplement I to Part 226, all references to "comment 19(b)(2)(viii)" are revised to read "comment 19(b)(2)(viii)(A)".

7. In Supplement I to Part 226, all references to "section 226.19(b)(2)(x)" are revised to read "section 226.19(b)(2)(viii)(B)".

8. In Supplement I to Part 226, all references to "comment 19(b)(2)(x)" are revised to read "comment 19(b)(2)(viii)(B)".

9. In Supplement I to Part 226, Appendix H—Closed-End Model Forms and Clauses, Paragraph 18, would be amended by removing the fourth through the eighth sentences and adding seven new sentences in their place to read as follows:

\* \* \* \* \*

Appendix H—Closed-End Model Forms, and Clauses

\* \* \* \* \*

18. *Sample H-14.* \* \* \* It includes information on how the interest rate is determined and how it can change over time, and. Section 226.19(b)(2)(viii) permits creditors to provide either an historical

example or an initial rate and maximum rate and payment example; both are illustrated in the sample disclosure. The historical example explains how the monthly payment can change based on a \$10,000 loan amount, payable in 360 monthly installments, based on historical changes in the values for the weekly average yield on U.S. treasury securities adjusted to a constant maturity of one year. Index values are measured as of the first week ending in July for the years 1977 through 1987. This reflects the requirement that the index history be based on values for the same date or period each year beginning with index values for 1977. The [sample disclosure also illustrates the requirement under § 226.19(b)(2)(x) that the] initial and the maximum interest rates and payments [be] are shown for a \$10,000 loan originated at the most recent rate [shown in the historical example] in effect within one year of the date the loan program is provided along with the month and year the rate was in effect. In the sample, the loan is assumed to have an initial interest rate of 9.71 percent (which was the interest rate in 1987 for the example shown) in effect January 1987) and to have 2 percentage point annual (and 5 percentage point overall) interest rate limitations or caps. \* \* \*

By order of the Board of Governors of the Federal Reserve System, January 24, 1997.

William W. Wiles,  
 Secretary of the Board.  
 [FR Doc. 97-2293 Filed 2-3-97; 8:45 am]  
 BILLING CODE 6210-01-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 96-SW-23-AD]

**Airworthiness Directives; Eurocopter Deutschland GmbH Model MBB-BK 117 A-1, A-3, A-4, B-1, B-2 and C-1 Helicopters**

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to Eurocopter Deutschland GmbH (Eurocopter) Model MBB-BK 117 A-1, A-3, A-4, B-1, B-2, and C-1 helicopters. This proposal would establish a new retirement life for the clutch and would require an entry into the Accessory Replacement Record indicating the new life limit. This proposal is prompted by a recalculation of life limitations by the part manufacturer, Warner Electric. The clutch manufacturer used the airframe load spectrum to establish the new life

limit of 3,600 hours time-in-service (TIS). The actions specified by the proposed AD are intended to prevent failure of the clutch, loss of power to the main rotor and a subsequent forced landing of the helicopter.

**DATES:** Comments must be received by April 7, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96-SW-23-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053-4005.

**FOR FURTHER INFORMATION CONTACT:** Mr. Lance T. Gant, Aerospace Engineer, FAA, Rotorcraft Standards Staff, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, Texas 76137; telephone (817) 222-5114, fax (817) 222-5961.

**SUPPLEMENTARY INFORMATION: Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96-SW-23-AD." The

postcard will be date stamped and returned to the commenter.

#### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 96-SW-23-AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

#### Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for the Federal Republic of Germany, recently notified the FAA that an unsafe condition may exist on Eurocopter Model MBB-BK 117 A-1, A-3, A-4, B-1, B-2, and C-1 helicopters. The LBA advises that an entry will be made in the Accessory Replacement Record (ARR) to reflect a life limit change, and the clutch will be replaced, if necessary, and then reidentified. The LBA has issued AD 95-242, dated June 13, 1995, in order to assure the continued airworthiness of these helicopters in the Federal Republic of Germany.

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

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model MBB-BK 117 A-1, A-3, A-4, B-1, B-2, and C-1 helicopters of the same type design registered in the United States, the proposed AD would establish a new retirement life for the clutch of 3,600 hours TIS; and would require, within 30 hours TIS after the effective date of this AD, an entry into the ARR indicating the new life limit.

The FAA estimates that 130 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 12 work hours per helicopter to accomplish the clutch replacement, if necessary, and to annotate the ARR; and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$6,000. Based on these figures, the total cost impact of the proposed AD on U.S. operators if

clutches are replaced in the entire fleet, is estimated to be \$873,600.

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

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

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**Eurocopter Deutschland GmbH:** Docket No. 96-SW-23-AD.

**Applicability:** Model MBB-BK 117 A-1, A-3, A-4, B-1, and B-2 helicopters, serial numbers (S/N) 7001 through 7250, and Model MBB-BK 117 C-1, S/N 7500 through 7520 helicopters, with clutch, part number (P/N) 4639302044 or P/N CL42067-1, installed, certificated in any category.

**Note 1.** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For

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

**Compliance:** Required as indicated, unless accomplished previously.

To prevent failure of the clutch, loss of power to the main rotor and a subsequent forced landing of the helicopter:

(a) Within 30 hours time-in-service (TIS) after the effective date of this AD, make an entry into the Accessory Replacement Record to reflect a new life limit of 3,600 hours TIS for the clutch, P/N 4639302044 or P/N CL42067-1.

(b) Remove the clutch, P/N 463902044 or P/N CL42067-1, from service on or before reaching 3,600 hours TIS. This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a new retirement life for the clutch, P/N 463902044 or P/N CL42067-1, 3,600 hours TIS.

(c) Replacement of the clutch with a clutch, P/N 4639202011, constitutes a terminating action for the requirements of this AD.

(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, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

**Note 2.** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

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

Issued in Fort Worth, Texas, on January 27, 1997.

Larry M. Kelly,

Acting Manager, Rotorcraft Directorate,  
Aircraft Certification Service.

[FR Doc. 97-2720 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket No. 94-AWA-1]

RIN 2120-AAA

**Proposed Modification of the Phoenix Class B Airspace Area; Arizona****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to modify the Phoenix, AZ, (PHX) Class B airspace area. Specifically, this action proposes to: reconfigure several area boundaries; create new areas; and raise and/or lower the floors of several of the existing areas. The FAA is proposing this action to enhance safety, reduce the potential for midair collision, and to better manage air traffic operations into, out of, and through the PHX Class B airspace area while accommodating the concerns of airspace users.

**DATES:** Comments must be received on or before March 21, 1997.

**ADDRESSES:** Send comments on the proposal in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-200, Airspace Docket No. 94-AWA-1, 800 Independence Avenue, SW., Washington, DC 20591. 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:** Mr. William C. Nelson, 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. 94-AWA-1." 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 also be filed in the docket.

**Availability of NPRM's**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the 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, that describes the application procedure.

**Background**

On December 17, 1991, the FAA published the Airspace Reclassification Final Rule (56 FR 65655). This rule discontinued the use of the term "Terminal Control Area" (TCA) and replaced it with the designation "Class B airspace area." This change in terminology is reflected in this NPRM.

The Class B airspace area program was developed to reduce the potential for midair collision in the congested airspace surrounding airports with high density air traffic by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements.

The density of traffic and the type of operations being conducted in the airspace surrounding major terminals increase the probability of midair collisions. In 1970, an extensive study

found that the majority of midair collisions occurred between a general aviation (GA) aircraft and an air carrier or military aircraft, or another GA aircraft. The basic causal factor common to these conflicts was the mix of aircraft operating under visual flight rules (VFR) and aircraft operating under instrument flight rules (IFR). Class B airspace areas provide a method to accommodate the increasing number of IFR and VFR operations. The regulatory requirements of Class B airspace areas afford the greatest protection for the greatest number of people by giving air traffic control (ATC) increased capability to provide aircraft separation service, thereby minimizing the mix of controlled and uncontrolled aircraft.

On May 21, 1970, the FAA published the Designation of Federal Airways, Controlled Airspace, and Reporting Points Final Rule (35 FR 7782). This rule provided for the establishment of TCAs. To date, the FAA has established a total of 29 Class B airspace areas. The FAA is proposing to take action to modify or implement the application of these proven control areas to provide greater protection for air traffic in the airspace areas most commonly used by passenger-carrying aircraft.

The standard configuration of a Class B airspace area contains three concentric circles centered on the primary airport extending to 10, 20, and 30 nautical miles (NM), respectively. The standard vertical limits of the Class B airspace area normally should not exceed 10,000 feet mean sea level (MSL), with the floor established at the surface in the inner area and at levels appropriate for the containment of operations in the outer areas. Variations of these criteria may be utilized contingent on the terrain, adjacent regulatory airspace, and factors unique to the terminal area.

The coordinates for this airspace docket are based on North American Datum 83. Class B airspace areas are published in paragraph 3000 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR section 71.1. The Class B airspace area listed in this document would be published subsequently in the Order.

**Related Rulemaking Actions**

On June 21, 1988, the FAA published the Transponder with Automatic Altitude Reporting Capability Requirement Final Rule (53 FR 23356). This rule requires all aircraft to have an altitude encoding transponder when operating within 30 NM of any designated TCA primary airport from the surface up to 10,000 feet MSL. This



rule excluded those aircraft that were not originally certificated with an engine driven electrical system, (or those that have not subsequently been certified with such a system), balloons, or gliders.

On October 14, 1988, the FAA published the TCA Classification and TCA Pilot and Navigation Equipment Requirements Final Rule (53 FR 40318). This rule, in part, removed the different classifications of TCAs, and requires the pilot-in-command of a civil aircraft operating within a TCA to hold at least a private pilot certificate, except for a student pilot who has received certain documented training.

#### Pre-NPRM Public Input

As announced in the Federal Register on May 18, 1993 (58 FR 29022), a pre-NPRM informal airspace meeting was held on July 17, 1993, in Glendale, AZ. The purpose of this meeting was to provide local airspace users an opportunity to present input on the design of the proposed modifications of the PHX Class B airspace area.

All comments received during the informal airspace meetings and the subsequent comment period were considered and incorporated, in part, in this NPRM. Verbal and written comments received by the FAA, and the agency's responses are summarized below.

#### Analysis of Comments

Several commenters expressed concern that both the current and proposed airspace design of the PHX Class B airspace area do not provide adequate protection for aircraft executing the ILS Runway 26R approach, visual approach to Runways 26L/R, and east departures at Phoenix Sky Harbor International Airport.

The FAA agrees with this concern and proposes to modify Area A by extending the existing eastern boundary approximately 2 NM eastward. The FAA believes that extending the eastern boundary approximately 2 NM eastward will afford adequate protection for instrument and visual arrivals as well as easterly departures. Additionally, this proposed modification would not impact those GA aircraft circumnavigating the Class B airspace area.

One commenter stated that he was unable to attend the informal airspace meeting, and specifically requests that information regarding the proposed changes to the PHX Class B airspace area be forwarded to the commenter.

The FAA finds that publication of this notice in the Federal Register and the subsequent comment period will

provide this commenter and all interested parties with adequate notice and sufficient time to review and comment on the proposed modification to the PHX Class B airspace area.

Several commenters supported the reconfiguration of the airspace west of Phoenix, specifically, the area west of 99th Avenue in Area B. In Area B the FAA is proposing to introduce a boundary line running north and south along 99th Avenue. The floor of Area B, east of this proposed boundary line would remain at 3,000 feet MSL. However, the floor west of this proposed boundary line in Area B would be merged with the existing areas and raised to 4,000 feet MSL. The FAA is proposing this modification to provide a means for nonparticipating aircraft to traverse below the western portion of the PHX Class B airspace area.

Several commenters stated that lowering the floors of Areas H to the north and northeast, and Area I to the south in the PHX Class B airspace area by 1,000 feet would unnecessarily contribute to more noise pollution, constrict glider operations, and would inconvenience GA aircraft attempting to fly under the Class B airspace area. In addition, this portion of airspace is primarily used for the conveyance of airline operations.

The FAA disagrees with these comments. The primary purpose of the Class B airspace is to reduce the potential for midair collision by providing an area wherein all aircraft are subject to certain operating rules and equipment requirements. The proposed lowering of the floor by 1,000 feet in Areas H to the north and northeast and Area I to the south in the PHX Class B airspace area is necessary due to the increase in air traffic operations entering and exiting to the north and south. The proposed lowering of the floors in Areas H to the north, and Area I to the south would provide better management of air traffic flows, and enhance safety between arrival and departure traffic. Additionally, the FAA believes the proposal to lower the floors would not increase noise levels in these outer areas. Lowering these particular floors from 8,000 to 7,000 feet MSL in Areas H and I would not impact GA aircraft that now navigate under the airspace in these outer areas. For those pilots who choose not to circumnavigate or traverse below the Class B airspace area, they can use standard procedures and enter the PHX Class B airspace area. Further, the FAA believes that the floors at 7,000 feet MSL in Areas H and I would have little or no significant impact on glider operations.

Two commenters stated there is insufficient need to regulate the airspace east of Phoenix (formerly airspace above Williams Air Force Base) as proposed. These commenters recommended that the existing floor of Area D east of Chandler and south of Falcon Field Airports be raised from 4,000 to 6,000 feet MSL only.

The FAA agrees in part with this recommendation. Raising the shelf as recommended would not contain participating high performance aircraft in the farthest eastern portions of the proposed PHX Class B airspace area. The FAA believes the expansion of the airspace to the east of Phoenix is necessary to provide a safer transition area for high performance aircraft operating to the east, into and out of the PHX Class B airspace area. However, in this proposed expansion, in the vicinity between Chandler and Falcon Field Airports, the FAA proposes to merge the floor with the existing Area D at 4,000 feet MSL. It is the FAA's objective to use only the minimum amount of airspace essential to support the Class B airspace requirements. Further east and above the former Williams Air Force Base, the FAA proposes a floor of 6,000 feet MSL (Area J), and 8,000 feet MSL in the adjacent outer area (Area K). The FAA believes these floors as proposed would provide adequate airspace for GA aircraft to transit below the floors of the Class B airspace operating east of Phoenix Sky Harbor International Airport. Further, GA operators who choose not to fly below or circumnavigate the area(s) can follow standard procedures and enter the PHX Class B airspace area.

Several commenters state that the proposed modification of the PHX Class B airspace area would have an economic impact regarding property values.

The FAA disagrees. While the issue of property value is beyond the scope of this notice, the FAA believes that the proposed modifications of the PHX Class B airspace area will have no economic impact as it pertains to property values.

#### The Proposal

The FAA proposes to amend 14 CFR part 71 by modifying the PHX Class B airspace area. Specifically, this action (depicted on the attached chart) proposes to: reconfigure Area A by expanding the existing eastern boundary to the east; reconfigure the existing Area B west of Phoenix; reconfigure Area D east of Phoenix; and raise or lower the floor of several existing or modified areas. The FAA is proposing this action to enhance safety, to reduce the potential for midair collision, and

improve the management of air traffic operations into, out of, and through the PHX Class B airspace area while accommodating the concerns of airspace users.

Reconfiguration of the existing Area A by expanding its eastern boundary approximately 2 NM east would ensure that aircraft operations to and from the primary airport would be contained within the PHX Class B airspace area. Modifying the existing Area B by establishing a boundary line running north to south on 99th Avenue would provide GA operators transiting west of Phoenix greater flexibility, thereby reducing airspace incursions in this area. In this reconfiguration, Area B would remain at 3,000 feet MSL; however, the western area would be raised to merge with the existing 4,000 feet MSL of Area D.

The FAA proposes to reconfigure the boundaries of the airspace east of Phoenix, as this airspace is necessary to contain high performance aircraft within the PHX Class B airspace area. This modification would expand the Class B airspace to the east-southeast approximately 15 NM over that area formerly known as Williams Air Force Base. In addition, the proposed expansion in these areas would create additional Areas J and K. Areas J and K as proposed would have floors of 6,000 and 8,000 feet MSL respectively. This would maintain the FAA's objective to use only the minimum amount of airspace necessary to contain Class B operations and would provide sufficient airspace for GA operations below the Class B airspace area east of Phoenix.

The proposal to lower the floors of Areas H and I by 1,000 feet in the outer Areas H to the north and northeast and Area I to the south is based on the increase in participating aircraft arriving and departing the PHX Class B airspace area. In addition, the legal description for Area D would be modified due to its expansion to the east and the reconfiguration of Area A. The floors in these areas at 7,000 feet MSL would allow arriving/transitioning aircraft to be in concert with gradients for instrument procedures into and out of the primary airport. This would allow for better airspace management, a more efficient flow of traffic, and provide an enhancement to safety for participating and nonparticipating aircraft. Further, the floors of these areas allow adequate airspace for GA aircraft to maneuver below the Class B airspace area, or pilots may use standard procedures and enter the PHX Class B airspace area.

Areas E, F, and G, are not changed. Area K to the east, as proposed, would be reconfigured to align with adjacent

Area I. This configuration would support the adjoining areas allowing for more efficient transition of aircraft into and out of PHX Class B airspace area. Furthermore, expanding the southeastern area to encompass this airspace (formerly Williams Air Force Base) would provide Class B airspace service to high performance aircraft transiting to and from the en route structure.

#### Regulatory Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this NPRM: (1) would generate benefits that justify its minimal costs and is not "a significant regulatory action" as defined in the Executive Order; (2) is not significant as defined in the Department of Transportation's Regulatory Policies and Procedures; (3) would not have a significant impact on a substantial number of small entities; (4) would not constitute a barrier to international trade; and (5) would not contain any Federal intergovernmental or private sector mandates. These analyses are summarized below in the docket.

#### A. Introduction

The Class B airspace area concept was developed to reduce the likelihood of midair collisions in the congested airspace surrounding large transportation hubs. These high density terminal areas present complex air traffic conditions resulting from a mix of large turbine-powered air carrier aircraft with other aircraft of varying performance characteristics. Typically, expansion or contraction of Class B airspace areas take place because of increases in complexity or decreases in complexity, respectively.

Complexity refers to air traffic conditions resulting from a mix of large turbine-powered air traffic and other aircraft of varying performance characteristics and conditions, resulting from a mix of IFR and VFR operated aircraft. When either mix increases, so does complexity. As complexity increases, the risk of a midair collision

also increases. The FAA responds by increasing the Class B airspace area whenever complexity increases. Conversely, the FAA contracts the Class B airspace area when complexity decreases.

#### B. Costs

The NPRM would alter several existing area floors and lateral boundaries, as well as, reconfigure and create new areas within the limits of the PHX Class B airspace area. The FAA has determined that altering the Class B airspace area would enhance aviation safety and operational efficiency. This FAA determination is based on a change in operational complexity over recent years in some of the existing areas and the subsequent closure of Williams Air Force Base. The FAA contends the modification of the airspace area would impose minimal, if any, cost to either the agency or aircraft operators. In addition, the FAA has determined that the modified airspace area would impose minimal, if any, cost to operators that circumnavigate the area.

The NPRM would not impose any additional administrative costs on the FAA for either personnel or equipment. The FAA has determined that any additional workload created by the NPRM would be absorbed with existing personnel and equipment already in place at Phoenix Sky Harbor International Airport. The revision of aeronautical charts to reflect changes in the airspace area are considered a part of the normal periodic updating of the charts. The FAA currently revises aeronautical charts every 6 months to reflect changes in the airspace environment. The FAA does not expect to incur any additional charting cost as a result of the modification of the Class B airspace area.

The FAA has determined that most aircraft operating in the modified and expanded Class B airspace area already have two-way radio communications capability and Mode C transponders. Therefore, the FAA has determined that this NPRM would not impose any additional installation cost for purchasing two-way radios and/or Mode C transponders on a substantial number of operators.

The NPRM would modify the current PHX Class B airspace area by establishing new areas, and by expanding or contracting the lateral boundaries, and by raising or lowering the area floors of several of the areas. The NPRM would not alter the ceiling of the Class B airspace area, therefore the airspace ceiling would remain constant at 10,000 feet MSL. The FAA has determined that the modifications to

the airspace area would only require non-participating operators to make small deviations from their current VFR flight paths north, south, and east of Phoenix Sky Harbor International Airport. In addition, the FAA has determined that the redesigned floors and lateral boundaries would not reduce aviation safety.

#### C. Benefits

The NPRM would provide benefits for participating and non-participating operators by redesigning the PHX Class B airspace area. The NPRM would provide enhanced air traffic flow for turbine aircraft and release some airspace for GA aircraft operators.

The FAA estimates that the total number of operations at Phoenix Sky Harbor International Airport was 570,000 in 1995, up from 550,000 in 1994, and is projected to increase to 670,000 by the year 2000. Also, passenger enplanements were estimated at 13.5 million in 1995, up from 12.3 million in 1994, and are projected to increase to 18.0 million by the year 2000. The FAA has determined that this NPRM would enhance operational safety by lowering the potential risk of midair collisions, given the projected increase of total operations and passenger enplanements at Phoenix Sky Harbor International Airport. The NPRM would improve aviation safety as well as air traffic flow in the PHX Class B airspace area by simplifying the airspace area boundaries and reducing the possibility of pilot confusion. The agency, however, is unable to quantify these small but worthwhile safety improvements.

#### D. Conclusion

The modification of the PHX Class B airspace area would generate benefits by enhancing aviation safety and improving operational efficiency in those areas where aircraft are approaching or departing Phoenix Sky Harbor International Airport. In view of the minimal, if any, cost of compliance and the benefits of enhanced aviation safety and improved operational efficiency, the FAA has determined that this NPRM is cost-beneficial.

#### Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by Federal regulations. The RFA requires a Regulatory Flexibility Analysis if a NPRM would have "a significant economic impact on a substantial number of small entities."

FAA Order 2100.14A outlines the FAA's procedures and criteria for implementing the RFA. Small entities are independently owned and operated small businesses and small not-for-profit organizations. A substantial number of small entities is defined as a number that is 11 or more and which is more than one-third of the small entities subject to this NPRM.

For the purpose of this evaluation, the small entities that would be potentially affected by this NPRM are defined as unscheduled air taxi operators for hire owning nine or fewer aircraft, and flight schools operating in the vicinity of the PHX Class B airspace area. Only those unscheduled aircraft operators without the capability to operate under IFR conditions would be potentially impacted by this NPRM. The FAA has determined that all unscheduled air taxi operators are already equipped to operate under IFR conditions. These operators regularly fly into airports where radar approach control services have been established such as the PHX Class B airspace area. The FAA anticipates that flight training schools in the Phoenix area would continue to operate below the floor of the modified Class B airspace area without any difficulty. Thus, the FAA does not anticipate any adverse impacts to occur as a result of the modified Class B airspace area.

The FAA has determined that this NPRM would not result in a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required under the terms of the RFA.

#### International Trade Impact Assessment

This NPRM would not have international trade ramifications because it is a domestic airspace matter that would not impose additional costs or requirements on affected entities. The modification of Class B airspace area would affect only U.S. terminal airspace operating procedures at and in the vicinity of Phoenix, AZ. This NPRM would not impose costs on aircraft operators or aircraft manufacturers in the United States or foreign countries.

#### Unfunded Mandate Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, requires each Federal agency, to the extent possible, permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of \$100 million or more adjusted annually for inflation in any one year by State, local,

and tribal governments, in the aggregate, or by the private sector. Section 204(a) of the ACT, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, (of \$100 million adjusted annually for inflation), in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This NPRM does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

#### 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 3000 Subpart B-Class B Airspace  
\* \* \* \* \*

#### AWP AZ B Phoenix, AZ [Revised]

Phoenix Sky Harbor International Airport  
(Primary Airport)  
(Lat. 33°26'10" N., long. 112°00'34" W.)  
Phoenix VORTAC  
(Lat. 33°25'59" N., long. 111°58'13" W.)



**Boundaries**

Area A. That airspace extending upward from the surface to and including 10,000 feet MSL beginning at the intersection of 51st Avenue and Camelback Road (lat. 33°30'34" N., long. 112°10'08" W.), extending east along Camelback Road to the intersection of Camelback Road and Dobson Road (lat. 33°30'07" N., long. 111°52'26" W.), thence south on Dobson Road to the intersection of Dobson Road and Guadalupe Road (lat. 33°21'49" N., long. 111°52'35" W.), thence west on Guadalupe Road to the intersection of Guadalupe Road and Interstate 10 (lat. 33°21'50" N., long. 111°58'08" W.), thence direct to lat. 33°21'48" N., long. 112°06'30" W., thence west on Guadalupe Road to the intersection of Guadalupe Road and 51st Avenue (lat. 33°21'46" N., long. 112°10'09" W.), thence north on 51st Avenue to the point of beginning.

Area B. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of 99th Avenue and Camelback Road (lat. 33°30'29" N., long. 112°16'22" W.), thence east on Camelback Road to the intersection of Camelback Road and 51st Avenue (lat. 33°30'34" N., long. 112°10'08" W.), thence south on 51st Avenue to the intersection of 51st Avenue and Guadalupe Road (lat. 33°21'46" N., long. 112°10'09" W.), thence direct to lat. 33°21'48" N., long. 112°06'30" W., thence south direct to lat. 33°18'18" N., long. 112°06'30" W., thence west on Chandler Boulevard to the intersection of Chandler Boulevard and the Gila River (lat. 33°18'18" N., long. 112°13'11" W.), thence northwest along the Gila River to the intersection of the Gila River and 99th Avenue, (lat. 33°22'38" N., long. 112°16'21" W.), thence north along the extension of 99th Avenue to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of Guadalupe Road and Interstate 10 (lat. 33°21'50" N., long. 111°58'08" W.), thence south on Interstate 10 to the intersection of Interstate 10 and Chandler Boulevard (lat. 33°18'19" N., long. 111°58'21" W.), thence east on Chandler Boulevard to the intersection of Gilbert Road and Chandler Boulevard (lat. 33°18'19" N., long. 111°47'22" W.), thence north on Gilbert Road to the intersection of Indian Bend Road (lat. 33°32'20" N., long. 111°47'23" W.), thence west on Indian Bend Road to the intersection of Indian Bend Road and Pima/Price Road (lat. 33°32'18" N., long. 111°53'29" W.), thence south on Pima/Price Road to the intersection of Pima/Price Road and Camelback Road (lat. 33°30'07" N., long. 111°53'29" W.), thence east on Camelback Road to Dobson Road (lat. 33°30'07" N., long. 111°52'26" W.), thence south on Dobson Road to the intersection of Dobson Road and Guadalupe Road (lat. 33°32'49" N., long. 111°52'35" W.), thence west on Guadalupe Road to the point of beginning.

Area D. That airspace extending upward from 4,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of Cactus Road and the 20-mile arc of the Phoenix VORTAC (lat. 33°35'35" N., long. 111°37'13" W.), thence clockwise along the

20-mile arc of the Phoenix VORTAC to the intersection of the 20-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 079° radial (lat. 33°29'46" N., long. 111°34'44" W.), thence west along the Phoenix VORTAC 079° radial to the intersection of the Phoenix VORTAC 079° radial and the 15-mile arc of the Phoenix VORTAC (lat. 33°28'50" N., long. 111°40'37" W.), thence south along the 15-mile arc of the Phoenix VORTAC to the intersection of the Phoenix VORTAC 15-mile arc and the Phoenix VORTAC 115° radial (lat. 33°19'37" N., long. 111°41'59" W.), thence southeast along the Phoenix VORTAC 115° radial to the intersection of the Phoenix VORTAC 115° radial and the Phoenix VORTAC 20-mile arc (lat. 33°17'29" N., long. 111°36'35" W.), thence clockwise along the Phoenix VORTAC 20-mile arc to the intersection of the Phoenix VORTAC 20-mile arc and Riggs Road (lat. 33°12'58" N., long. 111°40'04" W.), thence west along Riggs Road to the intersection of the Gila River and Valley Road (lat. 33°13'10" N., long. 112°09'58" W.), thence northwest along the Gila River to the intersection of the Gila River and Chandler Boulevard (lat. 33°18'18" N., long. 112°12'03" W.), thence east to lat. 33°18'18" N., long. 112°06'30" W., thence north to lat. 33°21'48" N., long. 112°06'30" W., thence east to the intersection of Guadalupe Road and Interstate 10 (lat. 33°21'50" N., long. 111°58'08" W.), thence south on Interstate 10 to the intersection of Interstate 10 and Chandler Boulevard (lat. 33°18'19" N., long. 111°58'21" W.), thence east along Chandler Boulevard to the intersection of Chandler Boulevard and Gilbert Road (lat. 33°18'18" N., long. 111°47'22" W.), thence north along Gilbert Road to the intersection of Indian Bend Road (lat. 33°32'20" N., long. 111°47'23" W.), thence west along Indian Bend Road to the intersection of Pima/Price Road (lat. 33°32'18" N., long. 111°53'29" W.), thence south along Pima/Price Road to the intersection of Pima/Price Road and Camelback Road (lat. 33°30'07" N., long. 111°53'29" W.), thence west along Camelback Road to the intersection of 99th Avenue (lat. 33°30'29" N., long. 112°16'22" W.), thence south on 99th Avenue to the intersection of 99th Avenue and the Gila River (lat. 33°19'55" N., long. 112°16'21" W.), thence southeast along the Gila River to the intersection of the Gila River and Chandler Boulevard (lat. 33°18'18" N., long. 112°12'03" W.), thence west along Chandler Boulevard to the intersection of an extension of Chandler Boulevard and Litchfield Road (lat. 33°18'18" N., long. 112°21'29" W.), thence north along Litchfield Road to the intersection of Litchfield Road and Camelback Road (lat. 33°30'29" N., long. 112°21'29" W.), thence east along Camelback Road to lat. 33°30'30" N., long. 112°19'23" W., thence direct to lat. 33°35'34" N., long. 112°13'55" W., thence direct to lat. 33°36'35" N., long. 112°13'38" W., thence east along Thunderbird Road and Cactus Road to the intersection of Cactus Road and the 20-mile arc of the Phoenix VORTAC.

Area E. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at lat. 33°41'41" N., long. 112°13'05" W., beginning on the 20-mile arc

of the Phoenix VORTAC, thence clockwise along the 20-mile arc of the Phoenix VORTAC to intersection of the Phoenix VORTAC 20-mile arc and Cactus Road (lat. 33°35'35" N., long. 111°37'13" W.), thence west on Cactus Road, to the intersection of Cactus Road and Thunderbird Road (lat. 33°36'35" N., long. 112°13'38" W.), thence direct to the point of beginning.

Area F. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of Riggs Road and the 20-mile arc of the Phoenix VORTAC (lat. 33°12'58" N., long. 111°40'04" W.), thence clockwise along the 20-mile arc of the Phoenix VORTAC to the intersection of the 20-mile arc of the Phoenix VORTAC and Valley Road (lat. 33°07'58" N., long. 112°08'40" W.), thence north along Valley Road to the intersection of Valley Road, Riggs Road and the Gila River (lat. 33°13'10" N., long. 112°09'58" W.), thence east along Riggs Road to the point of beginning.

Area G. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the 25-mile arc of the Phoenix VORTAC and Camelback Road (lat. 33°30'30" N., long. 112°27'37" W.), thence east on Camelback Road to the intersection of Camelback Road and Litchfield Road (lat. 33°30'29" N., long. 112°21'29" W.), thence south on Litchfield Road to the intersection of Litchfield Road and Chandler Boulevard (lat. 33°18'18" N., long. 112°21'29" W.), thence west along Chandler Boulevard to the intersection of the 25-mile arc of the Phoenix VORTAC (lat. 33°18'10" N., long. 112°26'34" W.), thence clockwise along the 25-mile arc of the Phoenix VORTAC to the point of beginning.

Area H. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at a point at lat. 33°46'13" N., long. 112°15'51" W., on the 25-mile arc of the Phoenix VORTAC, thence clockwise along the 25-mile arc of the Phoenix VORTAC to the intersection of the 25-mile arc of the Phoenix VORTAC and Interstate 17 (lat. 33°49'30" N., long. 112°08'37" W.), thence south along Interstate 17 to the intersection of Interstate 17 and the 20-mile arc of the Phoenix VORTAC (lat. 33°44'31" N., long. 112°07'18" W.), thence counterclockwise along the 20-mile arc of the Phoenix VORTAC to lat. 33°41'41" N., long. 112°13'05" W., thence direct to the point of beginning; and that airspace beginning at the intersection of the 20-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 005° radial (lat. 33°45'57" N., long. 111°56'07" W.), thence north along the Phoenix VORTAC 005° radial to the intersection of the Phoenix VORTAC 005° radial and the 25-mile arc of the Phoenix VORTAC (lat. 33°50'56" N., long. 111°55'36" W.), thence clockwise along the 25-mile arc of the Phoenix VORTAC to the intersection of the 25-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 025° radial (lat. 33°48'40" N., long. 111°45'32" W.), thence southwest along the Phoenix VORTAC 025° radial to the intersection of the Phoenix VORTAC 025° radial and the 20-mile arc of the Phoenix VORTAC (lat. 33°44'08" N., long. 111°48'05" W.), thence counterclockwise along the 20-



mile arc of the Phoenix VORTAC to the point of beginning.

Area I. That airspace extending upward from 7,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the 20-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 115° radial (lat. 33°17'29" N., long. 111°36'35" W.), thence southeast along the Phoenix VORTAC 115° radial to the intersection of the Phoenix VORTAC 115° radial and the 25-mile arc of the Phoenix VORTAC (lat. 33°15'21" N., long. 111°31'12" W.), thence clockwise along the 25-mile arc of the Phoenix VORTAC to the intersection of the 25-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 168° radial (lat. 33°01'29" N., long. 111°57'02" W.), thence north along the Phoenix VORTAC 168° radial to the intersection of the Phoenix VORTAC 168° radial and the 20-mile arc of the Phoenix VORTAC (lat. 33°06'23" N., long. 111°53'16" W.), thence counterclockwise along the 20-mile arc of the Phoenix VORTAC to the point of beginning.

Area J. That airspace extending upward from 6,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the

15-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 079° radial (lat. 33°28'50" N., long. 111°40'37" W.), thence northeast along the Phoenix VORTAC 079° radial to the intersection of the Phoenix VORTAC 079° radial and the 20-mile arc of the Phoenix VORTAC (lat. 33°29'46" N., long. 111°34'44" W.), thence clockwise along the 20-mile arc of the Phoenix VORTAC to the intersection of the 20-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 115° radial (lat. 33°17'29" N., long. 111°36'35" W.), thence northwest along the Phoenix VORTAC 115° radial to the intersection of the Phoenix VORTAC 115° radial and the 15-mile arc of the Phoenix VORTAC (lat. 33°19'37" N., long. 111°41'59" W.), thence counterclockwise along the 15-mile arc of the Phoenix VORTAC to the point of beginning.

Area K. That airspace extending upward from 8,000 feet MSL to and including 10,000 feet MSL beginning at the intersection of the 20-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 025° radial (lat. 33°44'08" N., long. 111°48'05" W.), thence northeast along the Phoenix VORTAC 025° radial to the intersection of the Phoenix VORTAC 025°

radial and the 25-mile arc of the Phoenix VORTAC (lat. 33°48'40" N., long. 111°45'32" W.), thence clockwise along the 25-mile arc of the Phoenix VORTAC to the intersection of the 25-mile arc of the Phoenix VORTAC and the Phoenix VORTAC 115° radial (lat. 33°15'21" N., long. 111°31'12" W.), thence northwest along the Phoenix VORTAC 115° radial to the intersection of the Phoenix VORTAC 115° radial and the 20-mile arc of the Phoenix VORTAC (lat. 33°17'29" N., long. 111°36'35" W.), thence counterclockwise along the 20-mile arc of the Phoenix VORTAC to the point of beginning.

\* \* \* \* \*

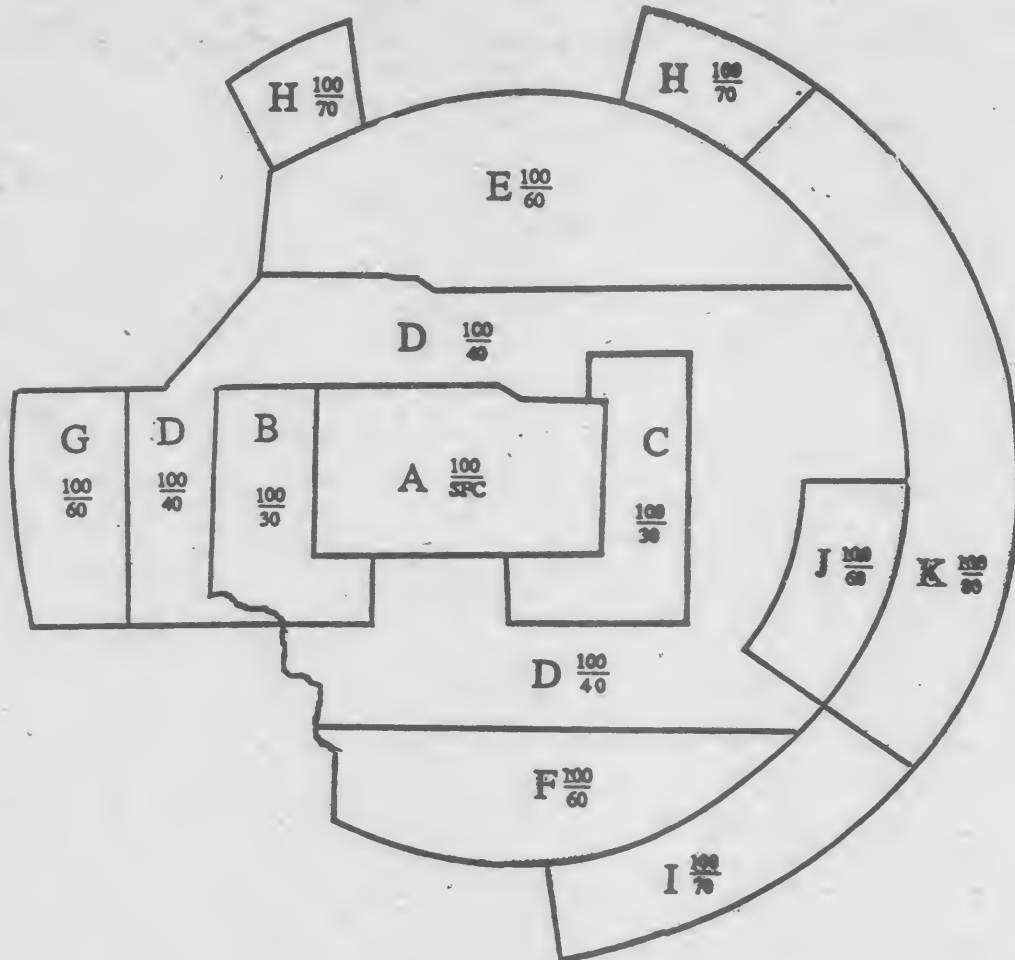
Issued in Washington, DC, on January 24, 1997.

**Jeff Griffith,**  
Program Director for Air Traffic Airspace Management.

Note: This Appendix will not appear in the Code of Federal Regulations.

**Appendix—Phoenix Sky Harbor International Airport Class B Airspace Area.**  
BILLING CODE 4910-13-D

**PHOENIX CLASS B AIRSPACE AREA**  
**FIELD ELEVATION 132 FEET**  
**(NOT TO BE USED FOR NAVIGATION)**



Prepared by the  
**FEDERAL AVIATION ADMINISTRATION**  
 Publications Branch  
 ATP-210

[FR Doc. 97-2636 Filed 2-3-97; 8:45 am]  
 BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket No. 95-ANM-31]

**Proposed Establishment of Class E  
 Airspace, Monte Vista, Colorado**

**AGENCY:** Federal Aviation  
 Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking  
 (NPRM).

**SUMMARY:** This proposed rule would  
 establish the Monte Vista, Colorado,  
 Class E airspace to accommodate a new  
 Global Positioning System (GPS)  
 Standard Instrument Approach

Procedure (SIAP) to the Monte Vista Municipal Airport. The area would be depicted on aeronautical charts for pilot reference.

**DATES:** Comments must be received on or before March 27, 1997.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Operations Branch, ANM-530, Federal Aviation Administration, Docket No. 95-ANM-31, 1601 Lind Avenue SW, Renton, Washington 98055-4056.

The official docket may be examined at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

**FOR FURTHER INFORMATION CONTACT:**

James Frala, ANM-532.4, Federal Aviation Administration, Docket No. 95-ANM-31, 1601 Lind Avenue SW, Renton, Washington 98055-4056; telephone number: (206) 227-2535.

**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. 95-ANM-31." 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 the light of comments received. All comments submitted will be available for examination at the address listed above 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, Operations Branch, ANM-530, 1601 Lind Avenue SW, Renton, Washington 98055-4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Monte Vista, Colorado, to accommodate a new GPS SIAP to the Monte Vista Municipal Airport. The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9D dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations 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 14 CFR part 71 continues to read as follows:

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

**§ 71.1 [Amended]**

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

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

\* \* \* \* \*

ANM CO E5 Monte Vista, CO [New]  
Monte Vista Municipal Airport, CO  
(Lat. 37°31'43"N, long. 106°02'46"W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Monte Vista Municipal Airport; that airspace extending upward from 1,200 feet above the surface beginning at lat. 37°35'00"N, long. 106°16'00"W; to lat. 37°55'00"N, long. 106°05'00"W; to lat. 37°59'00"N, long. 105°55'00"W; to lat. 37°56'00"N, long. 105°42'00"W; to lat. 37°07'00"N, long. 105°23'00"W; to lat. 37°08'00"N, long. 105°49'00"W; to lat. 37°16'00"N, long. 106°02'00"W; thence to point of beginning.

\* \* \* \* \*

Issued in Seattle, Washington, on January 16, 1997.

Glenn A. Adams III,  
Assistant Manager, Air Traffic Division,  
Northwest Mountain Region.

[FR Doc. 97-2637 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket No. 96-ACE-23]

**Proposed Establishment of Class E Airspace; York, NE**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking, extension of comment period.

**SUMMARY:** This notice announces an extension of the comment period on a Direct final rule; request for comments which proposes to establish Class E airspace at York, NE. This action is taken because the Direct Final rule, request for comments published in the Federal Register, January 6, 1997, did not give sufficient time for comments.

**DATES:** Comments must be received on or before February 11, 1997.

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Operations Branch, Air Traffic Division, ACE-530, Federal Aviation Administration, Docket No. 96-ACE-23, 601 E. 12th St., Kansas City, MO 64106; telephone (816) 426-3408.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, (816) 426-3408.

**SUPPLEMENTARY INFORMATION:**

**Background**

Airspace Docket No. 96-ACE-23, published on January 6, 1997 (62 FR 607) proposed to establish Class E airspace at York, NE. This action will extend the comment period closing date on that airspace docket from January 6, 1997, to February 11, 1997, to allow for a 35 day comment period instead of existing 18-day abbreviated comment period.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Extension of Comment Period**

The comment period closing date on Airspace Docket No. 96-ACE-23 is hereby extended to February 11, 1997.

**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.

Issued in Kansas City, MO, on January 23, 1997.

**Herman J. Lyons, Jr.,**  
Manager, Air Traffic Division, Central Region.  
[FR Doc. 97-2639 Filed 2-3-97; 8:45 am]

**BILLING CODE 4910-13-M**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 721**

[OPPTS-50622A; FRL-5580-7]

**Aliphatic Ester; Proposed Revocation of a Significant New Use Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to revoke a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for aliphatic ester based on a new evaluation of toxicity data. Based on the data the Agency determined that it could no longer support a finding that activities not described in the TSCA section 5(e) consent order may result in significant changes in human exposure. **DATES:** Written comments must be received by March 6, 1997.

**ADDRESSES:** Each comment must bear the docket control number OPPTS-50622A. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M Street, SW., Room G-099, East Tower, Washington, DC 20460.

All comments which are claimed confidential must be clearly marked as such. Three additional sanitized copies of any comments containing confidential business information (CBI) must also be submitted. Nonconfidential versions of comments on this rule will be placed in the rulemaking record and will be available for public inspection. Unit III of this preamble contains additional information on submitting comments containing CBI.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: optncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by (OPPTS-50622A). No CBI should be submitted through e-mail. Electronic comment on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under Unit IV of this preamble.

**FOR FURTHER INFORMATION CONTACT:**

Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543A, 401 M St., SW., Washington, DC 20460; telephone: (202) 554-1404; TDD: (202) 554-0551; e-mail: TSCA-Hotline@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of August 30, 1995 (60 FR 45072) (FRL-4926-2) EPA issued a SNUR establishing significant new uses for aliphatic ester. Because of additional data EPA has received for this substance, EPA is proposing to revoke this SNUR.

**I. Proposed Revocation**

EPA is proposing to revoke the significant new use and recordkeeping requirements for the following chemical substance under 40 CFR part 721, subpart E. In this unit, EPA provides a brief description for the substance, including its premanufacture notice (PMN) number, chemical name (generic name if the specific name is claimed as CBI), CAS number (if assigned), basis for

the revocation of the section 5(e) consent order for the substance, and the CFR citation removed in the regulatory text section of this proposed rule. Further background information for the substance is contained in the rulemaking record referenced below in Unit IV of this preamble.

**PMN Number P-93-633**

**Chemical name:** (generic) Aliphatic ester.

**CAS number:** Not available.

**Effective date of revocation of section 5(e) consent order:** December 7, 1995.

**Basis for revocation of SNUR:** The consent order which was the basis of this SNUR was revoked based on a reassessment of the developmental toxicity data used in the risk assessment of this substance. EPA's reevaluation of the data established a No Observed Adverse Effect Level (NOAEL) of 250 mg/kg. Based on that assessment EPA determined that it could no longer support an unreasonable risk finding under section 5(e) of TSCA and revoked the consent order. EPA can no longer make the finding that activities not described in the TSCA section 5(e) consent order may result in significant changes in human exposure.

**CFR Number:** 40 CFR 721.2815.

**II. Background and Rationale for Revocation of the Rule**

During review of the PMN submitted for the chemical substance that is the subject of this revocation, EPA concluded that regulation was warranted based on the fact that activities not described in the section 5(e) consent order may result in significant changes in human exposure. Based on these findings, a SNUR was promulgated.

EPA has revoked the section 5(e) consent order that is the basis for this SNUR and determined that it could no longer support a finding that activities not described in the section 5(e) consent order may result in significant changes in human exposure. The proposed revocation of SNUR provisions for this substance designated herein is consistent with this finding.

In light of the above, EPA is proposing to revoke the SNUR provisions for this chemical substance. When this revocation becomes final, EPA will no longer require notice of any company's intent to manufacture, import, or process this substance. In addition, export notification under section 12(b) of TSCA will no longer be required.



### III. Comments Containing Confidential Business Information

Any person who submits comments claimed as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential must prepare and submit a public version of the comments that EPA can place in the public file.

### IV. Rulemaking record

A record has been established for this rulemaking under docket number OPPTS 50522A (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI is available for inspection from 12 noon to 4 p.m., Monday through Friday, except legal holidays. The public record is located in the TSCA Nonconfidential Information Center Rm. NE-B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at: oppt-ncic@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

### V. Regulatory Assessment Requirements

EPA is revoking the requirements of this rule. Any costs or burdens associated with this rule will also be eliminated when the rule is revoked. Therefore, EPA finds that no costs or burdens must be assessed under Executive Order 12866, the Regulatory Flexibility Act (5 U.S.C. 605(b)), or the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

### List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: January 27, 1997.

Charles M. Auer,  
Director, Chemical Control Division, Office  
of Pollution Prevention and Toxics.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

#### PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§ 721.2815 [Removed]

2. By removing § 721.2815.

[FR Doc. 97-2709 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-F

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

46 CFR Parts 10, 12, and 15

[CGD 95-062]

RIN 2115-AF26

#### Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)

AGENCY: Coast Guard, DOT.

ACTION: Notice of intent.

**SUMMARY:** The Coast Guard is hereby giving notice of its intent to issue an interim rule to amend the current domestic regulations on licensing and documentation of personnel serving on U.S. seagoing vessels. The interim rule will implement the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended in 1995. Because the 1995 Amendments to STCW will come into force on February 1, 1997, the Coast Guard is using this notice to inform the public, and the affected industry, of the status of the interim rule, and to advise those who will be operating vessels on international voyages during the period between February 1, 1997, and the date the interim rule becomes effective.

**ADDRESSES:** The Executive Secretary maintains the public docket for this rulemaking. Comments previously received have become part of this docket and are available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, between 8:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

Copies of International Maritime Organization (IMO) circular (STCW.7/Circ.1) may be obtained by faxing your name and address to (202) 267-4570 or (202) 267-4816, by writing to the Commandant (MSO) at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or by calling (202) 267-0229.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher Young, Project Manager, Office of Operating and Environmental Standards (G-MSO), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, telephone (202) 267-0216.

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

On July 7, 1995, a Conference of Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), meeting at the Headquarters of the International Maritime Organization in London, adopted the amendments to the STCW. The 1995 Amendments to STCW enter into force on February 1, 1997. In the NPRM published on March 26, 1996 (61 FR 13284), the Coast Guard proposed a number of changes it considered necessary to implement the revised requirements, to ensure that U.S. documents and licenses are issued in compliance with the 1995 Amendments to STCW.

The STCW sets qualifications for masters, officers, and watchkeeping personnel on seagoing merchant ships. It was originally adopted in 1978 by a conference at IMO Headquarters in London, and it entered into force in 1984. Currently, there are 119 State-Parties, representing almost 95 percent of the world's merchant-ship tons. The United States became a party in 1991. Over 90 percent of ships entering U.S. waters are foreign-flag, and most of them are or will be subject to STCW. Approximately 350 large U.S. merchant ships that routinely visit foreign ports, as well as thousands of smaller U.S. documented commercial vessels that operate on ocean or near-coastal voyages, are subject to STCW.

The Amendments adopted by the Conference in July 1995 are comprehensive and detailed. They concern port-state control, communication of information to IMO to allow for mutual oversight, and responsibility of all State-Parties to ensure that seafarers meet objective standards of competence. They also require candidates for certificates (licenses and document endorsements) to establish competence through both subject-area examinations and practical

demonstrations of skills. Training, assessment, and certification of competence are all to be managed within a quality-standards system to ensure that stated objectives are being achieved.

The Coast Guard held seven public meetings in the months leading up to the Conference held by IMO, to determine what positions U.S. delegations should advocate at preparatory meetings and to exchange views about Amendments to STCW under discussion.

The Coast Guard published a notice of proposed rulemaking (NPRM) in the *Federal Register* on March 26, 1996 (61 FR 13284). That notice described the 1995 Amendments to STCW, and proposed changes to implement those Amendments in U.S. licensing regulations (46 CFR part 10), documentation (46 CFR part 12), and manning (46 CFR part 15). The notice also invited comments on the proposed rule. Over 500 letters were submitted to the public docket. The Coast Guard also held three more public meetings to receive comments on the proposed rule.

The Coast Guard is preparing the interim rule to amend our regulations to address the new requirements under the 1995 Amendments to STCW. Unfortunately, publication will not take place until after February 1, 1997, when the 1995 Amendments to STCW come into force worldwide. This may cause some confusion in the U.S. maritime industry. The Coast Guard takes this opportunity to advise the industry both of the status of the rulemaking, and of other important facts, in the hope that confusion and inconvenience will be reduced or eliminated.

The Coast Guard presents the following information in a question and answer format. This notice is as informative as possible, but readers should be aware that disclosure of details before issuance of the Interim Rule is not appropriate under Coast Guard and Department of Transportation policies, and is not in keeping with the Administrative Procedure Act (5 U.S.C. 553), which governs rulemaking, and ensures fair opportunity for public comment.

*What will be the next document to be published on the STCW rulemaking?*

The Coast Guard is preparing an interim rule for publication in the *Federal Register* in the near future. That rule will give the public another opportunity for comment on changes made as a result of comments submitted to the docket, in response to the NPRM published on March 26, 1996.

*Since the interim rule will not be published before February 1, 1997, what is the consequence for personnel serving on U.S. seagoing vessels?*

Personnel serving on U.S. seagoing vessels will not have to comply with the new requirements under the 1995 Amendments to the STCW Convention until the Interim Rule comes into effect. The Coast Guard made every effort to publish the rule prior to the enforcement date of February 1, 1997. However, as a matter of fairness and legality, the United States will not enforce the 1995 Amendments to the STCW Convention until the rule is in effect.

As a cautionary note, however, owners and operators of U.S.-flag seagoing vessels that plan to enter foreign ports should be aware that port-state control officers may inquire about steps being taken to meet company responsibilities under the 1995 Amendments to STCW. While not mandatory, as a matter of U.S. law, until the interim rule comes into effect, compliance with certain STCW requirements is highly recommended to facilitate entry into foreign ports. In particular, ship operators should—

(a) Post watch schedules that ensure that watchkeeping personnel have periods of rest that meet the STCW requirements;

(b) Provide written instructions to the master of each ship setting out policies and procedures for ensuring that new crewmembers receive a reasonable opportunity to familiarize themselves with ship-specific equipment, operating procedures, and other arrangements needed for performance of their duties; and

(c) Ensure that evidence is available to establish that each member of the crew has received familiarization instruction to ensure he or she takes appropriate action in an emergency; or, if the member is on the muster list, that he or she has participated in organized drills and other training exercises relating to fire-fighting, first aid, personal survival, and personal safety. No special evidence is required for those who hold 1978 STCW certificates or endorsements since basic safety was included in the 1978 requirements for certification.

Operators of vessels engaged in international voyages should contact local port agents or representatives to ascertain compliance expectations prior to arrival in a foreign port.

*Has IMO issued any relevant guidance on the transitional period between February 1, 1997, and February 1, 2002?*

IMO has issued guidance in the form of a circular (STCW.7/Circ.1), which is

based in part on the following two principles. First, if a requirement is mentioned in the 1995 Amendments to STCW but already exists in the 1978 STCW, then holders of 1978 STCW endorsements may continue to serve under those endorsements until February 1, 2002. However, holders of such endorsements will need to meet new requirements under the 1995 Amendments to STCW if they will be continuing their service on or after February 1, 2002. The Interim Rule will take this guidance into consideration and will identify any new requirements U.S. license holders must meet to acquire STCW endorsements valid beyond February 1, 2002.

Second, in determining the requirement for basic safety training or instruction for seafarers already employed before February 1, 1997, administrations may consider the merits of each case. This means that evidence of competence in the skills required for a particular seafarer to perform a safety or pollution prevention duty may be based on that seafarer's previous participation in shipboard drills and training exercises, until more formal training or instruction can be arranged. The Interim Rule will also take this guidance into consideration and will identify any new basic safety training or instruction requirements seafarers must meet to comply with this rule. A copy of the IMO circular (STCW.7/Circ.1) is available on request from Commandant (G-MSO) at the address given under ADDRESSES.

*What must owners and operators of small vessels on domestic voyages do to meet the requirements which are scheduled to come into force on February 1, 1997?*

Small vessels that operate beyond the boundary line but engage in domestic-only voyages will be dealt with in accordance with the special provisions of STCW Regulation II/3, paragraph 7, of the 1995 Amendments to STCW, which allows administrations to forgo application of requirements that would be unreasonable or impractical. The interim rule will explain how these small vessels can meet STCW requirements.

*When do 1978 STCW certificates and endorsements need to be replaced?*

The 1978 STCW certificates and endorsements are issued for 5-year periods that coincide with the period of validity of the licenses or documents to which they pertain. After February 1, 1997, the Coast Guard will continue to issue 1978 STCW certificates and endorsements; but they will expire on a

date not later than January 31, 2002. The Coast Guard will issue STCW certificates and endorsements for service beyond January 31, 2002, only to those who meet certain new requirements under the 1995 Amendments to STCW. The interim rule will be published in the near future and will identify those requirements, which must be met to attain a certificate or endorsement for service beyond February 1, 2002.

Dated: January 30, 1997.

R.D. Hierr,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 97-2796 Filed 1-31-97; 10:53 am]

BILLING CODE 4910-14-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AC99

#### Endangered and Threatened Wildlife and Plants; Notice of 30-Day Extension and Reopening of Public Comment Period on the Proposed Rule To List 10 Plants From the Foothills of the Sierra Nevada Mountains as Threatened or Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension and reopening of comment period on proposed rule.

**SUMMARY:** The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of reopening of the comment period on the proposed endangered status for *Brodiaea pallida* (Chinese Camp brodiaea), *Calyptidium puchellum* (Mariposa pussypaws), *Lupinus citrinus* var. *deflexus* (Mariposa lupine) and *Mimulus shevockii* (Kelso Creek monkeyflower) and proposed threatened status for *Allium tuolumnense* (Rawhide Hill onion), *Carpenteria californica* (carpenteria), *Clarkia springvillensis* (Springville clarkia), *Fritillaria striata* (striped adobe lily), *Navarretia setiloba* (Piute Mountains navarretia), and *Verbena californica* (California vervain). The comment period is reopened to acquire

new and updated information from interested parties on these 10 plants.

**DATES:** The public comment period closes March 6, 1997. Any comments received by the closing date will be considered in the final decision on this proposal.

**ADDRESSES:** Written comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Field Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821-6340. Comments and materials received will be available for inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Ken Fuller of the Sacramento Field Office (see ADDRESSES section) at (916) 979-2120.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 4, 1994, the Service published a rule proposing endangered status for *Brodiaea pallida*, *Calyptidium puchellum*, *Lupinus citrinus* var. *deflexus* and *Mimulus shevockii* and proposed threatened status for *Allium tuolumnense*, *Carpenteria californica*, *Clarkia springvillensis*, *Fritillaria striata*, *Navarretia setiloba*, and *Verbena californica*. The original comment period closed on December 5, 1994. On December 29, 1994, the comment period was reopened and extended until February 13, 1995 (59 FR 67268) to accommodate the public hearing that was requested. Due to requests for additional time, the comment period was extended until June 4, 1995 (60 FR 8342).

These 10 plants and their habitats are known from annual grasslands, chaparral, Joshua tree, pinyon-juniper, blue oak, and digger pine woodland communities in the foothills of the Sierra Nevada Mountains in central California. These plants are threatened by one or more of the following: agricultural land conversion, urbanization, logging, highway construction and road maintenance activities, inappropriate grazing, off-highway vehicle use, mining, insect predation, inadequate regulatory mechanisms, stochastic extinction from random natural events, and incompatible fire management activities.

The Service was unable to make a final listing determination on these species because a moratorium on listing actions (Public Law 104-6), which took effect on April 10, 1995, stipulated that no funds could be used to make final listing determinations or critical habitat determinations. With the lifting, on April 26, 1996, of the moratorium on final listing actions and the restoration of significant funding for listing through passage of the omnibus budget reconciliation law on, the Service is proceeding with a final determination for these species. Due to the length of time that has elapsed since the close of the last comment period, the comment period is being reopened. Changes in procedural and biological circumstances, and the need to consider the best scientific information available in this rulemaking process necessitate this action. The Service believes that updated threat information may be available that may significantly affect final listing determinations. For these reasons, the Service seeks information made available in the last 2 years concerning:

(1) Biological, commercial, or other relevant data on any threats (or lack thereof) to any of these 10 species, but particularly for *Calyptidium puchellum*, *Fritillaria striata*, *Lupinus citrinus* var. *deflexus*, and *Navarretia setiloba*;

(2) Additional information on the size, number or distribution of populations; and

(3) Specific information concerning the known or potential effects of fire suppression and general fire management practices on *Carpenteria californica*.

Written comments may be submitted through March 6, 1997 to the Service office in the ADDRESSES section.

#### Author

The primary author of this notice is Ken Fuller (see ADDRESSES section).

#### Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: January 28, 1997.

Thomas J. Dwyer,  
Acting Regional Director.

[FR Doc. 97-2679 Filed 2-3-97; 8:45 am]

BILLING CODE 4310-55-P

# Notices

Federal Register

Vol. 62, No. 23

Tuesday, February 4, 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

### Forest Service

#### Western Washington Cascades Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

**SUMMARY:** The Western Washington Cascades PIEC Advisory Committee will meet on February 27, 1997 at the Mount Baker-Snoqualmie National Forest Headquarters, 21905 64th Avenue West, in Mountlake Terrace, Washington. The meeting will begin at 9:00 a.m. and continue until about 4:00 p.m. Agenda items to be covered include: (1) discussion of logistics, operating procedures, and expected accomplishments under the renewed charter; (2) updates on watershed analyses completed or in progress, Adaptive Management Area plans, the Mt. Baker-Snoqualmie National Forest fiscal year 1997 flood repair and watershed restoration program, and other current issues; (3) update on the River Basin Information Management framework project begun under the auspices of the previous Advisory Committee, and a demonstration of the Environmental Protection Agency's Environmental Information Management System (EIMS); (4) planned review and revision of the Mt. Baker-Snoqualmie National Forest monitoring and evaluation strategy; and, (5) open public forum. All Western Washington Cascades Province Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this meeting to Chris Hansen-Murray, Province Liaison, USDA, Mt. Baker-Snoqualmie National Forest, 21905 64th Avenue West, Mountlake Terrace, Washington 98043, 206-744-3276.

Dated: January 28, 1997.

Dennis E. Bechor,

Forest Supervisor.

[FR Doc. 97-2680 Filed 2-3-97; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[Docket No. A-427-812]

#### Calcium Aluminate Flux From France; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

**SUMMARY:** On August 2, 1996, the Department of Commerce (the Department) published the preliminary results of its 1994-95 administrative review of the antidumping duty order on calcium aluminate flux from France (CA flux) (61 FR 40396). The review covers one manufacturer/exporter, Lafarge Aluminate Flux, Inc. (Lafarge), for the period June 15, 1994, through May 31, 1995.

We gave interested parties an opportunity to comment on our preliminary results. On September 3, 1996, we received a case brief from the sole respondent, Lafarge. Based on our analysis of the comments received, we have made changes, primarily clerical in nature, to these final results.

**EFFECTIVE DATE:** February 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Maureen McPhillips or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3019 or 482-3833, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On August 2, 1996, the Department published in the *Federal Register* (61 FR 40396) the preliminary results of the antidumping duty order on calcium aluminate flux from France (59 FR 30337). The Department has now completed this administrative review in

accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

We received a case brief from the sole respondent, Lafarge, on September 3, 1996. The petitioners did not file a case brief.

#### Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (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).

#### Scope of the Review

Imports covered by this review are shipments of CA Flux, other than white, high purity CA flux. This product contains by weight more than 32 percent but less than 65 percent alumina and more than one percent each of iron and silica.

CA flux is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 2523.10.000. The HTSUS is provided for convenience and U.S. Customs' purposes only. The written description of the scope of this order remains dispositive. This review covers the period June 15, 1994 through May 31, 1995.

#### Analysis of Comments Received

*Comment 1:* Lafarge states that the Department in its computer program failed to convert two home market variables from metric tons to short tons to ensure accurate comparisons to the U.S. sales amounts in short tons. In addition, two variables expressed as amounts per short ton were incorrectly multiplied by the quantity expressed in metric tons.

*Department's Position:* As stated in our calculation memorandum, dated August 16, 1996, we intended to convert all home market sales variables from metric tons to short tons and have done so for these final results.

*Comment 2:* Lafarge contends that we used an incorrect variable when calculating total movement expenses.



**Department's Position:** We agree with Lafarge and have made the necessary changes in the computer program.

**Comment 3:** Lafarge maintains that the Department erred in its calculation of profit in the computer program when it failed to use the information submitted by Lafarge on the total cost of manufacturing (COM). In addition, Lafarge points out that the computer program does not reflect the Department's intent, as stated in its notice of preliminary results, to deduct the cost of goods sold, along with selling and movement expenses, from total revenue in its calculation of profit.

**Department's Position:** We did use the COM information as submitted by Lafarge in short tons, not metric tons. To calculate profit for these final results we converted the total home market costs to total cost in short tons before adding it to the U.S. total cost which Lafarge reported in short tons.

We agree with Lafarge that the cost of goods sold, along with selling and movement expenses, should be deducted from total revenue to calculate constructed export price profit. We have made this correction in our final results.

**Comment 4:** Lafarge states that the Department should continue to remove two zero quantity U.S. sales from the data base because these observations represent billing corrections and not actual sales.

**Department's Position:** We agree with Lafarge and have not used these two zero quantity U.S. sales in these final results.

#### Final Results of Review

As a result of our review, we determine that the following weighted-average margin exists:

Manufacturer/Exporter	Period of review	Margin (percent)
Lafarge Fondu Inter'l Inc. ....	06/15/94-05/31/95	31.04

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

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of calcium aluminate flux from France within the scope of the order entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate

for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other producers and/or exporters of this merchandise, the cash deposit rate of 37.93 percent, the "all others" rate established in the LTFV investigation, 59 FR 5994, (February 9, 1994) 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 subsequent assessment of double antidumping duties.

#### Notification of Interested Parties

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of 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. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested.

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

Dated: January 27, 1997.

**Robert S. LaRussa,**  
Acting Assistant Secretary for Import Administration.

[FR Doc. 97-2714 Filed 2-3-97; 8:45 am]1q01

BILLING CODE 3510-25-M

[C-122-825]

#### Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination: Certain Laminated Hardwood Trailer Flooring (LHF) From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce  
EFFECTIVE DATE: February 4, 1997.  
FOR FURTHER INFORMATION CONTACT: David Boyland or Daniel Lossard, AD/CVD Enforcement, Office I, Import Administration, U.S. Department of Commerce, Room 3099, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-4198 and 482-1778, respectively.  
FINAL DETERMINATION: The Department determines that countervailable subsidies are not being provided to manufacturers, producers, or exporters of LHF in Canada.

#### Case History

Since the publication of the preliminary negative determination (Preliminary Determination) in the *Federal Register* (61 FR 59079, November 20, 1996), the following events have occurred.

Verification of the responses of the Government of Canada (GOC), the Government of Quebec (GOQ), Nilus Leclerc, Inc. and Industries Leclerc, Inc., Erie Flooring and Wood Products (Erie), Industrial Hardwoods Products, Ltd. (IHP), and Milner Rigsby Co., Ltd. (Milner) was conducted between November 13 and 27, 1996.

Petitioner and respondents filed case and rebuttal briefs on December 17, 1996, and December 23, 1996, respectively. The hearing was held on January 7, 1997.

#### Scope of Investigation

The scope of this investigation consists of certain edge-glued hardwood flooring made of oak, maple, or other hardwood lumber. Edge-glued hardwood flooring is customized for specific dimensions and is provided to the consumer in "kits," or pre-sorted bundles of component pieces generally ranging in size from 6" to 14" x 48' to 57" x 1" to 1(1/2)" for trailer flooring, from 6" to 13" x 12' to 28' x 1(1/8)" to 1(1/2)" for vans and truck bodies, from 9" to 12(1/2)" x 8' to 10' x 1(7/8)" to 2(1/2)" for rail cars, and from 6" to 14" x 19' to 48' x 1(1/8)" to 1(3/8)" for containers.

The merchandise under investigation is currently classified, in addition to various other hardwood products, under subheading 4421.90.98.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Edge-glued hardwood flooring is commonly referred to as "laminated" hardwood flooring by buyers and sellers of subject

merchandise. Edge-glued hardwood flooring, however, is not a hardwood laminate for purposes of classification under HTSUS 4412.14. Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of this proceeding is dispositive.

#### The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act effective January 1, 1995 (the Act). References to the *Countervailing Duties: Notice of Proposed Rulemaking and Request for Public Comments*, 54 FR 23366 (May 31, 1989) (*Proposed Regulations*), which have been withdrawn, are provided solely for further explanation of the Department's countervailing duty practice.

#### Petitioner

The petition in this investigation was filed by the Ad Hoc Committee on Laminated Hardwood Trailer Flooring, which is composed of the Anderson-Tully Company, Havco Wood Products Inc., Industrial Hardwoods Products Inc., Lewisohn Sales Company Inc., and Cloud Corporation.

#### Period of Investigation (POI)

The period for which we are measuring subsidies is calendar year 1995.

#### Ontario Companies

We have determined that three producers of the subject merchandise have received zero or *de minimis* subsidies. Erie and IHP formally requested that they be excluded from any potential countervailing duty order. Milner responded to our questionnaire.

IHP certified that the only subsidy it received during the POI was consulting services pursuant to the *Industrial Research Assistance Program (IRAP)*. The GOC and Government of Ontario also certified and we verified that this was the only benefit IHP received. Even assuming this assistance constituted a countervailable subsidy, the benefit would be *de minimis*.

Erie certified that it received no countervailable subsidies. The GOC and the Government of Ontario also certified this. We verified that Erie received no countervailable subsidies. Finally, we verified that Milner did not receive benefits during the POI.

The remainder of this notice deals exclusively with Nilus Leclerc, Inc. and Industries Leclerc, Inc.

#### Related Parties

In the present investigation, we have examined affiliated companies (within the meaning of section 771(33) of the Act) whose relationship may be sufficient to warrant treatment as a single company with a single, combined countervailing duty rate. In the countervailing duty questionnaire, consistent with our past practice, the Department defined companies as sufficiently related where one company owns 20 percent or more of the other company, or where companies prepare consolidated financial statements. The Department also stated that companies may be considered sufficiently related where there are common directors or one company performs services for the other company. According to the questionnaire, where such companies produce the subject merchandise or where such companies have engaged in certain financial transactions with the company producing the subject merchandise, the affiliated parties are required to respond to our questionnaire.

Nilus Leclerc Inc. was identified in the petition as an exporter of LHF from Canada. Nilus Leclerc Inc. is part of a consolidated group, Groupe Bois Leclerc (GBL). Nilus Leclerc, Inc. and Industries Leclerc, Inc. are the only companies in the group directly engaged in the production of LHF. Because of the extent of common ownership, we have found it appropriate to treat these two LHF producers as a single company (Leclerc). As a consequence, we are calculating a single countervailing duty rate for both companies by dividing their combined subsidies by their combined sales.

In addition, certain separately incorporated companies in the group received subsidies. Where those subsidies were tied to the production of a corporation that is not directly involved in the production of LHF, we have not included those subsidies in our calculations. Where the subsidies benefitted the production of LHF and other merchandise, we included those subsidies in our calculations using the sales of the relevant products in the denominator of the *ad valorem* subsidy rate calculations.

#### Export Subsidy Issue

Petitioner has alleged that the loans provided by the Canada-Quebec Subsidiary Agreement on Industrial Development (Subsidiary Agreement) and the *Expansion and Modernization Program* sponsored by the *Societe de Developpement Industriel du Quebec (SDI)* are *de facto* export subsidies.

Petitioner argues that the programs should be deemed to be export subsidies because the approval of government financing was "in fact contingent" on exports to the United States. According to petitioner, Leclerc's project and the government approval of the project were entirely based on Leclerc's plan to export the vast majority of the anticipated increased production to the United States. Petitioner asserts that due to the limited growth potential of the LHF market in Canada, the U.S. export market was the only viable market for Leclerc's expanded capacity. Without the U.S. market, petitioner argues, there would have been no need for expansion or financing and thus, the government approval of Leclerc's project was, and could only have been, "contingent" on exports.

In rebuttal, respondents maintain that the approval of government financing was not "contingent" on exports and that Leclerc's export potential was merely one aspect of the government officials' overall assessment of the commercial viability of the expansion project. According to respondents, the absence of provisions in the loan agreements which condition the receipt of the loan on exports or consider the failure to achieve a particular level of export performance as a default of the loan demonstrate that the programs were not "contingent" upon export performance. Furthermore, respondents invoke the second sentence of note 4 of Article 3.1(a) of the SCM which states: "The mere fact that a subsidy is accorded to enterprises which export shall not for that reason alone be considered to be an export subsidy within the meaning of (Article 3.1(a))." Respondents contend that this provision makes it clear that the mere fact that Leclerc exported to the United States or projected future exports should not transform the government financing into an export subsidy.

While we have closely analyzed this issue, as discussed below, when we examine the programs as domestic subsidies, the rate for these programs is *de minimis*. Our analysis also shows that, even if we were to find these programs to be export subsidies, the total countervailing duty rate calculated for Leclerc during the POI would be *de minimis*. Therefore, we have not addressed the issue of whether these two programs are export subsidies.

#### Creditworthiness

In our *Preliminary Determination*, we treated Leclerc as "creditworthy" in 1993, 1994, and 1995. This decision was based on information provided by Leclerc indicating that it had received

commercial financing or that commercial banks had agreed to provide it with long-term financing in each of those years. For this final determination, we are continuing to treat Leclerc as creditworthy in 1993 and 1994 because it received comparable loans from commercial banks in those years. (For a further discussion of the comparability issue, see "Comparability" of *Commercial Loans Received* section below.) However, based on further information gathered at verification regarding 1995, we have determined that the case-specific circumstances surrounding the commercial financing agreed to and actually received in that year indicate that this financing is not dispositive evidence of Leclerc's creditworthiness. Accordingly, we have analyzed Leclerc's financial condition and prospects in 1995 to determine whether the company was creditworthy in that year. Based on our analysis, we have determined that Leclerc was uncreditworthy in 1995 (see January 24, 1997 memorandum from David R. Boyland, Import Compliance Specialist, AD/CVD Enforcement, Office 1, to Susan H. Kuhbach, Acting Deputy Assistant Secretary, AD/CVD Enforcement, Group 1).

#### "Comparability" of Commercial Loans Received

In 1993 and 1994, Leclerc obtained commercial loans. The receipt of such loans must be considered both in the context of the uncreditworthiness allegation and selection of the appropriate benchmark to use in measuring the countervailable benefit from the government loans received. In 1995, Leclerc reached an agreement with a commercial source to receive long-term financing. The circumstances surrounding the 1995 financing are such that we have disregarded this financing as dispositive evidence of creditworthiness or as a possible benchmark. We now turn to the receipt by Leclerc of commercial loans in 1993 and 1994.

Section 355.44(b)(6)(i) of the *Proposed Regulations* states that the receipt of comparable long-term financing is normally dispositive evidence that a company is creditworthy. Section 775(5)(E)(ii) of the Act—a new provision added by the URAA—requires that when selecting a benchmark loan to compare to the government loan for purposes of measuring the potential benefit, the Department must select a loan comparable to one the company could obtain commercially. We have determined that the commercial loans received by Leclerc are sufficiently comparable to the government loans to

constitute dispositive evidence that the company was creditworthy in 1993 and 1994. However, we have determined that the commercial loans received are not sufficiently comparable to measure accurately any countervailable benefits received from the government loans.

When the Department examines whether a company is creditworthy, it is essentially attempting to determine if the company in question could obtain commercial financing. The analysis of whether a company is creditworthy examines whether the company received comparable commercial loans and, if necessary, the overall financial health and future prospects of the company. Such an analysis is "often highly complex" (see the preamble to the *Proposed Regulations* at 23370, citing the Subsidies Appendix at 18019.) The fundamental question however, is a general one; namely: was the company's financial health such that it did not have meaningful access to long-term commercial loans?

Given the difficult question posed by a creditworthy inquiry and our policy of seeking guidance from the judgments of the commercial markets, the Department has historically relied heavily upon the receipt of comparable commercial loans as dispositive evidence that the company at issue is creditworthy. The "comparability" of any commercial loans received has essentially been determined by examining whether long-term loans (not guaranteed by the government) were received from commercial sources in the same year as the government loans. (See for example, *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Italy* 58 FR 37327, 37329 (July 9, 1993) and *Final Affirmative Countervailing Duty Determinations: Certain Carbon Steel Products from Austria* 50 FR 33369, 33372 (August 9, 1985).) If the commercial loans received were judged comparable on this basis, the receipt of such loans has been considered dispositive evidence that the company was creditworthy. Based on our traditional interpretation of "comparable" in the creditworthy context, the commercial loans received by Leclerc were comparable to the government loans it received.

We see no reason to change the policy of relying on commercial loans or defining comparability as outlined above, because it answers the general question posed by an uncreditworthiness allegation. Specifically, it provides the most direct evidence that a company could obtain loans from commercial sources. If a company is able to obtain such financing, the marketplace has judged

that the company at issue is creditworthy. As noted above, in such instances, the Department will normally defer to the decision of the market. The fact that the commercial loans received may differ from the government loans with respect to certain terms such as the level of security does not necessarily speak directly to the question of whether the company was creditworthy.

Because of the facts of this particular case, specifically the presence of the private sector in the financing of Leclerc's expansion, and the otherwise general nature of the creditworthy analysis as outlined above, we do not believe that the differences in other terms between Leclerc's commercial loans and its government loans are great enough to warrant a departure from the Department's normal practice of finding the receipt of commercial loans to be dispositive evidence that a company is creditworthy. Therefore, we determine that Leclerc was creditworthy in 1993 and 1994.

In contrast, we do not believe that Leclerc's commercial loans are appropriate for use as benchmarks for purposes of the more exacting exercise of measuring the benefit from the government loans received by Leclerc. As noted above, the statute, as recently amended by the URAA, requires that when selecting a benchmark interest rate to compare to the government interest rate for purposes of measuring the potential benefit, the Department must select a commercial loan comparable to one the company could actually obtain on the market. The selection of the benchmark interest rate under the new statute seeks to answer a very specific question; namely: what is the benefit provided by the specific government loans in question? In this context, the Department must take into account, to the extent possible, differences in terms between the government loans and the commercial loans offered for comparison purposes which may substantially affect the accuracy of the benefit calculated.

When comparing the terms of the SDI and Subsidiary Agreement loans with Leclerc's commercial loans, differences emerge with respect to the level of security. Because we believe that the level of security can significantly affect the interest rate charged by a commercial lender, selection of benchmark financing with markedly different levels of security may distort the measurement of the countervailable benefit.

Although the specific terms of Leclerc's loans are proprietary, we learned on verification that SDI takes on more risk than commercial banks and



that there are significant differences with respect to the extent to which commercial and SDI loan values could be recovered in the event of Leclerc's default. Because of the differences between the commercial loans and the SDI and Subsidiary Agreement loans, we have chosen a benchmark interest rate which generally reflects the level of security exhibited by the government loans.

Although we have chosen a benchmark which generally reflects the significant terms of the government-provided loans, we have not adjusted for minor differences in terms or any differences which cannot be reasonably be quantified because such an analysis is not practicable and would not have a meaningful impact on our analysis. We consider such adjustments to be appropriate only to the extent that they reflect significant differences in terms and the record provides a reasonable, practicable basis for doing so.

#### Subsidies Valuation Information

**Benchmarks for Long-term Loans and Discount Rates:** We have calculated the long-term benchmark interest and discount rate in 1993, 1994, and 1995 based on company-specific debt received by Leclerc. We used this debt to estimate the appropriate benchmark interest rate in 1993-1995. For 1995, we added a risk premium, as described in section 355.44(b)(6)(D)(iv) of the *Proposed Regulations* to establish the uncreditworthy benchmark interest and discount rate.

**Allocation Period:** In the past, the Department has relied upon information from the U.S. Internal Revenue Service on the industry-specific average useful life of assets to determine the allocation period for nonrecurring subsidies (see *General Issues Appendix (GIA)* attached to the *Final Affirmative Countervailing Duty Determination: Certain Steel Products from Austria* (58 FR 37217, 37226; July 9, 1993). However, in *British Steel plc. v. United States*, 879 F. Supp. 1254 (CIT 1995) (*British Steel*), the U.S. Court of International Trade (the Court) ruled against this allocation methodology. In accordance with the Court's remand order, the Department calculated a company-specific allocation period for nonrecurring subsidies based on the average useful life (AUL) of non-renewable physical assets. This remand determination was affirmed by the Court on June 4, 1996. See *British Steel*, 929 F. Supp. 426, 439 (CIT 1996).

The Department has decided to acquiesce to the Court's decision and, as such, we intend to determine the allocation period for nonrecurring

subsidies using company-specific AUL data where reasonable and practicable. In this case, the Department has determined that it is reasonable and practicable to allocate all nonrecurring subsidies received prior to, or during, the POI using Leclerc's AUL of 18 years.

#### FOB/CIF Adjustment

The Department has deducted costs associated directly with the transportation of subject merchandise from Leclerc's U.S. sales to determine the correct FOB value for denominator purposes (see GIA at 37236, 37237). While the majority of these costs were originally reported by respondents, additional information obtained at verification has been incorporated where appropriate.

Based upon the responses to our questionnaires and the results of verification, we determine the following:

#### I. Analysis of Direct Subsidies

##### A. Programs Determined to Be Countervailable

##### 1. Canada-Quebec Subsidiary Agreement on Industrial Development

This Subsidiary Agreement, which spans five years, was jointly funded by the GOC and GOQ on March 27, 1992. Under this agreement, the GOC and GOQ established a program to improve the competitiveness and vitality of the Quebec economy by providing financial assistance, through the initial joint funding of the agreement, to companies for major industrial projects. The following four types of activities are eligible for contributions: (1) capital investment projects, (2) product or process development projects involving a major investment or leading to a capital investment, (3) studies required to assess the feasibility of an investment project, and (4) municipal infrastructure required for a major capital investment project.

Leclerc received a long-term interest-free loan under the Subsidiary Agreement. Although the Subsidiary Agreement was jointly funded, the loan received by Leclerc was provided by the GOC from its portion of the joint funding.

We have determined that the loan received by Leclerc constitutes a countervailable subsidy within the meaning of section 771(5) of the Act. It is a direct transfer of funds from the GOC providing a benefit in the amount of the difference between the benchmark interest rate and the zero interest rate paid by Leclerc.

We analyzed whether the Subsidiary Agreement is specific "in law or in

fact," within the meaning of section 771(5A) of the Act. Funds paid out by the GOC under this program are limited to companies in a particular region of Canada (*i.e.*, the Province of Quebec) and, hence, regionally specific under section 771(5A)(D)(iv) of the Act.

To calculate the countervailable benefit conferred on Leclerc, we used the 1995 uncreditworthy benchmark interest rate described above and followed our fixed-rate, long-term loan methodology (see January 24, 1997, Memorandum from Team to Susan H. Kuhbach, Acting Deputy Assistant Secretary, AD/CVD Enforcement, Group 1). We then divided the benefit attributable to the POI by Leclerc's LHF sales in the POI. (See Comment 12.) On this basis, we determine the countervailable subsidy for this program to be 0.29 percent *ad valorem* for Leclerc.

#### 2. Industrial and Regional Development Program (IRDP)

The IRDP was created by the Industrial and Regional Development Act and Regulations in 1983 and was administered by the Canadian Department of Regional Industrial Expansion. It was terminated on June 30, 1988. No new applications for IRDP projects were accepted after that date.

The goals of IRDP were to achieve economic development in all regions of Canada, promote economic development in those regions in which opportunities for productive employment are exceptionally inadequate, and improve the overall economy in Canada. To accomplish these objectives, financial support in the form of grants, contributions and loans were provided to companies for four major purposes: (1) establishing, expanding, modernizing production; (2) promoting the marketing of products or services; (3) developing new or improved products or production processes, or carrying on research in respect thereof; and (4) restructuring so as to continue on a commercially viable basis.

Under this program, all of Canada's 260 census districts were classified into one of four tiers on the basis of the economic development of the region. The most economically disadvantaged regions comprised Tier IV; the most advanced regions were classified as Tier I.

Those districts classified as Tiers III and IV were authorized to receive the highest share of assistance under IRDP (as a percentage of assistance per approved project); those in Tiers I and II received the lowest. For example, a grant toward the eligible costs of



modernizing or significantly increasing the production of companies in Tiers I and II could not exceed 17.5 percent of the capital costs of the project, while in Tiers III and IV grants could cover up to 25 percent of eligible costs.

Nilus Leclerc Inc. was located in a Tier III district when it received three grants under this program. We have determined that the grants received by Leclerc constitute a countervailable subsidy within the meaning of section 771(5) of the Act. The grants are direct transfers of funds from the GOC and confer a benefit in the amount of the portion of the grant that is in excess of the most favorable, nonspecific level of benefits (i.e., Tiers I and II). (See section 355.44(n) of the Department's *Proposed Regulations* regarding programs with varying levels of benefits.) Also, IRDP grants are regionally specific within the meaning of section 771(5A) of the Act because the preferential levels of benefits (i.e., contributions to Tiers III and IV) are limited to companies in particular regions of Canada. This is consistent with our prior determination in the *Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada*, 51 FR 10041, 10045 (March 24, 1986).

We have treated these grants as "non-recurring" subsidies based on the analysis set forth in the Allocation section of the *GIA* at 37226. In accordance with our past practice, we have allocated over time those grants which exceeded 0.5 percent of the company's sales in the year of receipt.

To calculate the countervailable subsidy, we used our standard grant methodology. For those grants which were tied to the production of both LHF and residential flooring, we divided the benefit attributable to the POI by the total sales of Leclerc and Planchers Leclerc (the company in the Leclerc group that produces residential flooring) during the same period. Otherwise, for those grants which benefited only the production of LHF, we divided the benefit attributable to the POI by Leclerc's LHF sales during the same period. On this basis, we determine the countervailable subsidy for this program to be 0.04 percent *ad valorem* for Leclerc.

### 3. SDI: Expansion and Modernization Program

Firms in Quebec can participate in the *Expansion and Modernization Program* by meeting a requirement that "the project (for which financing is requested) is aimed at markets outside Quebec." An alternative requirement for receiving assistance is that the market in Quebec is inadequately served by

businesses in Quebec and that the supported production is expected to replace imported goods into Quebec. Under either requirement, the market for the products to be supported must have an expected growth rate that is above the average for the manufacturing sector in Canada. In addition to these requirements, which are contained in the regulations governing *Expansion and Modernization Program*, the GOQ has stated that firms receiving SDI loans must also receive financing from commercial sources.

Loans under this program can be provided to companies involved in: manufacturing, recycling, computer services, software or software package design and publishing, contaminated soils remediation, the operation of a research laboratory, and the production of technical services for clients outside of Quebec. The regulations for this program further indicate that businesses in other categories may be considered "in exceptional cases." The assistance may be used to cover the following types of expenditures: (1) capital investments; (2) the purchase and introduction of a new technology; (3) the acquisition of information production or management equipment; (4) investments for project-related training; and (5) other training investments related to project start-up. Leclerc obtained loans under SDI's *Expansion and Modernization Program* in 1993, 1994, and 1995. (For further information regarding how we treated the 1995 loan, see Comment 17.) These loans were part of a larger package of commercial and government financing used to increase Leclerc's productive capacity.

We have determined that the 1993 and 1994 loans received by Leclerc constitute countervailable subsidies within the meaning of section 771(5) of the Act. They are a direct transfer of funds from the GOQ providing a benefit in the amount of the difference between the benchmark interest rate and the interest rate paid by Leclerc.

Based on our review of the eligibility criteria, we determine that the program is not *de jure* specific. However, as in our *Preliminary Determination*, we have concluded that this program is in fact specific.

Although loans were given to a large number and wide variety of users under this program, the level of financing obtained by the wood products industries group and by Leclerc was disproportionate. In 1993 and 1994, the wood products industries group was consistently among the largest beneficiaries under the program. Leclerc's share of financing as a

percentage of total authorized financing was also large relative to the shares received by other users. Taken together, these facts support a determination that the assistance received by Leclerc was disproportionate in 1993 and 1994.

In order to calculate the benefit from long-term variable rate loans, the Department normally calculates the difference during the POI between the amount of interest paid on the subsidized loan and the amount of interest that would have been paid on a comparable commercial loan. However, in this case, the loans given under the *Expansion and Modernization Program* include premia payments by Leclerc and stock options for SDI. In addition, the SDI loans have variable repayment schedules. Therefore, our normal methodology for long-term loans which focuses only on differences in interest rates would not provide an accurate measure of the benefit received by Leclerc. In order to account for the value of the premia and the variable repayment schedule, we have estimated a repayment schedule for the SDI loan and compared the amount Leclerc would repay under that schedule with the amount Leclerc would repay under a comparable commercial loan. Because of the difficulty of assigning a value to the stock options, we have not included them in our calculations. We note that if we were to include the stock options, the amount of the benefit conferred by these loans would be even less. Given that we have reached a negative countervailing duty determination, it is not important that our subsidy calculation reflects the lower benefit amount.

We next determined the grant equivalent of these loans, i.e., the present value of the difference between what would be paid under the commercial loan and the SDI loan, using the discount rates described in the *Subsidies Valuation Information* section above. We used the life of the SDI loan as the allocation period because of the variable repayment schedule on the SDI loans. The benefit allocated to the POI was then divided by Leclerc's total sales of subject merchandise during the POI. Using this methodology, we determine the countervailable subsidy from the *Expansion and Modernization Program* to be 0.24 percent *ad valorem*.

### 4. Export Promotion Assistance Program (APEX)

Under the APEX program, the GOQ shares certain costs incurred by a Quebec company in the penetration of new foreign markets. Such costs include missions to develop new markets or negotiate "industrial agreements,"

participate in trade fairs outside of Canada, adapt products to new export markets, prepare bids with the assistance of consultants, prepare marketing studies as well as strategies to enter foreign markets, and hire an international marketing expert to develop the firm's export sales (see *Preliminary Countervailing Duty Determinations: Pure and Alloy Magnesium From Canada* 56 FR 63927, 63931 (December 6, 1991)).

At the *Preliminary Determination*, the Department considered APEX to be a non-used program based on the questionnaire responses received. Prior to the start of verification, however, the GOQ stated, and we confirmed, that Leclerc in fact used this program (see December 10, 1996 GOQ Verification Report at 12.)

Because receipt of benefits under this program is contingent upon export performance, we determine that it is an export subsidy within the meaning of 771(5A)(B) of the Act. We have also determined that the grants received by Leclerc constitute a countervailable subsidy within the meaning of section 771(5) of the Act because they are direct transfers of funds from the GOQ and confer a benefit to Leclerc in the amount of the face value of the grant. We have treated the grant as a "non-recurring" subsidy based on the analysis set forth in the Allocation section of the GIA at 37226. We have allocated the benefit over the AUL of Leclerc's non-renewable physical assets using the grant allocation formula outlined in section 355.49 (b)(4)(3) of the Department's *Proposed Regulations*. The benefit allocated to the POI was then divided by Leclerc's total export sales during the POI. Using this methodology, we determine the countervailable subsidy from the APEX program to be 0.00 percent *ad valorem*.

**B. Program Determined To Be Not Countervailable, But Which Was Not Considered At The Preliminary Determination**

Program for the Development of Human Resources (PDHR) of the Societe Quebecoise de Developpement de la Main-d'Oeuvre (SQDM)

Prior to the start of verification, the GOQ reported that Leclerc received assistance under the Program for the Development of Human Resources (PDHR) which is administered by SQDM. PDHR was created in 1992 for the purpose of assisting businesses to develop or adapt their human resource programs to protect and maintain existing jobs and to support the creation of new jobs. The program is available to

all commercial enterprises, workers' unions, other groups of workers and nonprofit organizations located in Quebec. The only eligibility criterion is that a company is conducting business, or in the process of establishing a business, in Quebec or is in the process of doing so. The program focuses on assisting small and medium-size businesses: (1) with human resources management and development needs; (2) facing a difficult employment situation; and (3) active in priority economic sectors at the local, regional and provincial levels.

The financial assistance generally covers 50 percent of the costs of the company's human resource projects with a maximum cap of \$200,000 per year for up to three years. In general, funds may be used for: "hiring an expert responsible for analyzing the manpower situation at the company; paying the wages of employees involved in human resource activities; other expenses related to training activities for human resource development and/or hiring a training coordinator or a human resource manager." We verified that Leclerc received a grant under this program during the POI.

We analyzed whether the program is specific "in law or in fact," within the meaning of section 771(5A)(D)(i) and (iii) of the Act. Based upon our review of the eligibility criteria for the program, we determine that this program is not *de jure* specific.

We next examined whether the program is *de facto* specific. During the POI, we verified that assistance under the program was distributed over a large number and wide variety of users representing virtually every industry and commercial sector found in Quebec. Based on this information, we have determined that the program is not specific based on the number of users. We also examined evidence regarding the usage of the program and found that neither Leclerc nor the wood products industry was a dominant user or received a disproportionate share of benefits distributed under this program. Because the number of users is large and there is no dominant or disproportionate use of the program by Leclerc, we do not reach the issue of whether administrators of the program exercised discretion in awarding benefits. Thus, we conclude that this program is not specific and has not conferred a countervailable subsidy on Leclerc.

**C. Programs Determined To Be Not Countervailable Which Were Considered At The Preliminary Determination**

Based on verification, we continue to find these programs not countervailable for the same reasons identified in the preliminarily determination.

1. "Programme d'appui a la reprise" (PREP) program
2. Decentralized Fund for Job Creation Program of SQDM
3. Export Development Corporation (EDC)
4. Hydro-Quebec Electrotechnology Implementation Program
5. Societe de placement dans l'entreprise quebecoise (SPEQ)

**D. Programs Determined to Be Not Used**

Based on the information provided in the responses and the results of verification, we determine that the following programs were not used:

1. Capital Gains Exemptions
2. Regional Investment Tax Credits
3. Performance Security Services through the Export Development Corporation
4. Working Capital for Growth from the Business Development Bank of Canada (BDC)
5. St. Lawrence Environmental Technology Development Program (ETDP)
6. Program for Export Market Development
7. Canada-Quebec Subsidiary Agreement on the Economic Development of Quebec
8. Quebec Stumpage Program
9. Programs Provided by the Industrial Development Corporation (SDI) Article 7 Assistance Export Assistance Program Business Financing Program Research and Innovation Activities Program
10. Private Forest Development Program (PFDP)

**II. Analysis of Upstream Subsidies**

The petitioner alleged that Leclerc receives upstream subsidies through its purchase of lumber from suppliers which harvest stumpage from Quebec's public forest ("allegedly subsidized" suppliers). Section 771A(a) of the Act, defines upstream subsidies as follows:

The term "upstream subsidy" means any subsidy \* \* \* by the government of a country that:

(1) Is paid or bestowed by that government with respect to a product (hereinafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) In the judgment of the administering authority bestows a competitive benefit on the merchandise; and

(3) Has a significant effect on the cost of manufacturing or producing the merchandise.

Each of the three elements listed above must be satisfied in order for the Department to find that an upstream subsidy exists. The absence of any one element precludes the finding of an upstream subsidy. As discussed below, we determine that a competitive benefit is not bestowed on Leclerc through its purchases of allegedly subsidized lumber. Therefore, we have not addressed the first and third criteria.

#### Competitive Benefit

In determining whether subsidies to the upstream supplier(s) confer a competitive benefit within the meaning of section 771A(a)(2) on the producer of the subject merchandise, section 771A(b) directs that:

\*\*\* a competitive benefit has been bestowed when the price for the input product \*\*\* is lower than the price that the manufacturer or producer of merchandise which is the subject of a countervailing duty proceeding would otherwise pay for the product in obtaining it from another seller in an arms-length transaction.

The Department's *Proposed Regulations* offer the following hierarchy of benchmarks for determining whether a competitive benefit exists:

\*\*\* In evaluating whether a competitive benefit exists pursuant to paragraph (a)(2) of this section, the Secretary will determine whether the price for the input product is lower than:

- (1) The price which the producer of the merchandise otherwise would pay for the input product, produced in the same country, in obtaining it from another unsubsidized seller in an arm's length transaction; or
- (2) a world market price for the input product.

In this instance, Leclerc purchases the input product, lumber, from numerous unsubsidized (i.e., suppliers which do not harvest stumpage from Quebec's public forest), unrelated suppliers in Canada. Therefore, we have used the prices charged to Leclerc by these suppliers as the benchmark.

We compared the prices paid by Leclerc to its "allegedly subsidized" suppliers with the prices paid to unsubsidized suppliers on a product-by-product and aggregate basis (see October 10, 1996, November 6, 1996 and January 24, 1997, Memoranda from Team to Susan H. Kuhbach, Acting Deputy Assistant Secretary, Group 1, AD/CVD Enforcement). Based on our comparison of these prices, we found that the price of "allegedly subsidized" lumber was generally equal to or exceeded the price of unsubsidized lumber. Therefore, we

have determined that Leclerc did not receive an upstream subsidy.

#### Critical Circumstances

The petitioner alleged that critical circumstances exist with respect to imports of subject merchandise. Because we have reached a negative final determination, this issue is moot.

#### Interested Party Comments

##### Comment 1 (1995 Commercial Financing)

Petitioner disagrees with the Department's use of a 1995 financing arrangement between Leclerc and a commercial entity as a benchmark, as well as dispositive evidence of Leclerc's creditworthiness. Petitioner bases its claim on the fact that Leclerc did not actually receive the loan in 1995, nor did it meet the preconditions for receiving financing under the arrangement. Petitioner points out that section 355.44(b)(6)(i) of the Department's *Proposed Regulations* requires the receipt of a comparable long-term commercial loan for dispositive evidence of creditworthiness.

Leclerc states that it received and accepted a loan offer from a commercial source in 1995 and that the agreement was binding on both parties. Leclerc notes that the Department's November 13, 1996 Creditworthy Analysis Memorandum emphasized the fact that the Department's primary interest in considering the presence of commercial financing in the context of a creditworthiness inquiry is whether a company had access to such financing. According to Leclerc, the 1995 financing arrangement shows that the company had access to long-term funds from commercial sources.

Finally, regarding use of the 1995 financing arrangement as a benchmark, Leclerc and the GOQ state that the statute focuses on a "comparable commercial loan that the recipient could actually obtain on the market" (emphasis added). Because the 1995 financing arrangement reflects financing that Leclerc could have obtained, the circumstances surrounding the agreement should not disqualify it as a benchmark.

#### DOC Position

We disagree with respondents. As described in the December 10, 1996 Leclerc Verification Report, the circumstances surrounding the 1995 financing arrangement do not support the argument that this financing arrangement should be considered dispositive evidence of Leclerc's

creditworthiness. These circumstances also indicate that the 1995 financing arrangement does not reflect an appropriate benchmark interest rate. (Note: The details of the 1995 financing arrangement are business proprietary (see January 24, 1997 memorandum from David R. Boyland, Import Compliance Specialist, AD/CVD Enforcement, Office 1, to Susan H. Kuhbach, Acting Deputy Assistant Secretary, Group 1, AD/CVD Enforcement).)

##### Comment 2 (Creditworthiness)

In addition to arguing that the commercial and government loans are not comparable for purposes of determining Leclerc's creditworthiness, petitioner asserts that other evidence indicates that Leclerc was not creditworthy when it received the government financing under investigation. Petitioner argues that Leclerc's financial ratios during 1993, 1994, and 1995 would have been clearly unacceptable to a private lender. Petitioner further asserts that the Department must consider the expanded repayment obligations of the enlarged Leclerc operation, as opposed to simply determining whether the company historically met its financial obligations. Petitioner argues that, in addition to being unable to meet its future financing costs with its cash flow, specific aspects of Leclerc's financial position in 1995 indicate that the company was not meeting its financial obligations in that year. According to petitioner, other factors such as Leclerc's decision to abandon several of its LHF production lines in 1995 also indicate that the company was not in a position to cover its financial obligations.

Citing the *Final Affirmative Countervailing Duty Determination: Fresh and Chilled Atlantic Salmon from Norway*, 51 FR 10041 (March 24, 1986) and section 355.44(b)(6)(i) of the Department's *Proposed Regulations*, Leclerc argues that creditworthiness cannot be judged retrospectively and that the Department can only consider creditworthiness at the time the loans were actually made. Leclerc cites positive information from its balance sheet and income statements, the ITC preliminary determination in this case (*Certain Laminated Hardwood Flooring from Canada*, Inv. No. 701-TA-367), and a study of Leclerc's 1995 business plan by an outside consulting firm, to support its position that lenders in Canada had every reason to loan it money throughout the 1993-1995 period.

Leclerc states that the approach in the Department's October 9, 1996



creditworthiness memorandum (i.e., in which a company can only be considered uncreditworthy if it did not have sufficient revenues or resources in the past to meet its costs and fixed financial obligations) is consistent with the preamble to the Department's *Proposed Regulations* and past cases. Because it did have sufficient resources to meet its costs and fixed financial obligations, Leclerc asserts that no creditworthiness inquiry should be conducted.

With respect to petitioner's criticism of the company's financial ratios, Leclerc argues that the Department must examine the individual circumstances of the company. According to Leclerc, when the financial ratios are considered in context, they do not reflect financial instability nor do they indicate that the company was unable to cover its costs and fixed financial obligations out of its revenue.

#### DOC Position

As noted above, we believe that the commercial loans received by Leclerc in 1993 and 1994 are comparable to the government-provided loans in those years. Hence, we have determined that the company was creditworthy in those years.

We agree with petitioner that a number of aspects related to Leclerc's financial position in 1995 would have troubled a commercial lender and that Leclerc's financial position in 1995 reflected certain imbalances (see January 24, 1997 memorandum from David R. Boyland, Import Compliance Specialist, AD/CVD Enforcement, Office 1, to Susan H. Kubbach, Acting Deputy Assistant Secretary, Group 1, AD/CVD Enforcement). Additionally, circumstances surrounding Leclerc's 1995 financing arrangements strongly suggest that Leclerc would not have been able to obtain long-term commercial financing in that year (see December 10, 1996 Leclerc Verification Report). It is on this basis that we have determined Leclerc to be uncreditworthy in 1995.

Regarding Leclerc's argument that the Department should not have investigated the company's creditworthiness since it had sufficient resources in the past to cover its costs and fixed financial obligations, we disagree. As noted in our *Preliminary Determination* (61 FR 59080, 59079 (November 20, 1996)), while past indicators can provide useful information about a company's future prospects, they should not cause the Department to disregard information contemporaneous with the granting of the loan that is relevant to the

company's ability to meet its future financial obligations.

#### Comment 3 (Disproportionality—Determining Specificity Based on POI Benefits.)

The GOQ argues that the Department incorrectly found that SDI loans were *de facto* specific on the grounds that there was disproportionate use. The GOQ maintains that the amount of benefits approved in any one year should not be the basis upon which the Department makes a disproportionality determination. Instead, the GOQ argues that the Department should make its disproportionality determination for the POI based on the SDI benefits allocated to the POI. In other words, all benefits bestowed over the life of the SDI program should be allocated over time, and the Department's specificity analysis should be based on the distribution of allocated benefits in the POI. To support this argument, the GOQ cites the *Final Results of Countervailing Duty Administrative Review; Live Swine from Canada (Live Swine from Canada)* 56 FR 28531, 28534 (June 21, 1991) which states "[i]n analyzing *de facto* specificity, the Department looks at the actual number of commodities covered during the particular period under review."

Petitioner argues that the GOQ has offered no support in the law or in past case precedent showing that a disproportionality finding requires a specificity analysis based on a POI-allocated benefit analysis. Furthermore, according to petitioner, the GOQ approach is not feasible.

#### DOC Position

We disagree with the GOQ's assertion that the Department's disproportionality analysis must focus solely on the benefits allocated to the POI. Such an approach confuses the initial specificity determination, which is based on the action of the granting authority at the time of bestowal, with the allocation of the benefit over time. Because these are two separate processes, the portions of grants allocated to further periods of time using the Department's standard allocation methodology is not relevant in determining the actual distribution of assistance at the time of bestowal.

As regards *Live Swine from Canada* cited by Leclerc, the benefits analyzed in that proceeding are recurring subsidies. Hence, in performing its review period-by-review period analysis, the Department is looking at separate and distinct disbursements each year, and not at subsidies which have been allocated over time.

#### Comment 4 (Disproportionality—Aggregation)

The GOQ argues that the Department's reference to the wood products industries is inconsistent with the law because the Department should first consider whether the enterprise itself has received a disproportionate share, and then whether the industry similarly benefitted. The GOQ also argues that the Department should compare the benefit received by the hardwood trailer flooring industry—of which Leclerc is the sole member—to the total value of SDI loans.

Petitioner argues that requiring the Department to compare benefits received by the hardwood trailer flooring industry to other such industries at the same level of aggregation is impractical and is directly contrary to section 771(5A) of the Act and section 355.43(b) of the *Proposed Regulations* which allows the Department to choose from various levels of aggregation for comparison purposes.

#### DOC Position

We disagree with the GOQ that the Department considered the wrong industry level when analyzing disproportionality. In its May 20, 1996 questionnaire, the Department requested that the GOQ provide the annual "industry distribution" of authorized benefits under the *Investment Assistance Program* for both *Expansion and Modernization Program* and *PREP*. Our determination of disproportionality was based, in part, on an analysis of the industry distribution maintained by the GOQ and reported in their questionnaire response. Although other GOQ organizations such as SQDM provided information at a more detailed level, the Department presumed that the information provided for SDI's *Investment Assistance Program* represented the most detailed information available to the GOQ. Moreover, we did not perceive the information to be incorrect.

In our disproportionality analysis, we determined, for both Leclerc and the wood products industry, the percentage of total annual authorized financing. We examined how these percentages compared to the average transaction by industry, as well as the percentage of total assistance accounted for by the other industry participants identified by the GOQ. While the "wood products industry", as originally reported by the GOQ in its supplemental questionnaire response, can be broken down into more discrete units, we do not agree that we are precluded from examining



disproportionality at the level of detail originally provided by the GOQ. As the GOQ acknowledged in the hearing, "the statute \* \* \* confers upon [the Department] discretion to determine what is the appropriate level of aggregation" (see page 70 of January 7, 1996 hearing transcript). In this case, the Department relied on information provided by the GOQ to compare the distribution of benefits to Leclerc and the group of wood product industries to other groups of industries that received assistance under this program. Based on this comparison, we determined that Leclerc received a disproportionate amount of assistance under this program.

**Comment 5 (Disproportionality—Considering Only Disbursed Financing)**

The GOQ asserts that for purposes of determining disproportionality the Department should look at loans that were actually disbursed rather than loans that were authorized. According to the GOQ, if the Department considers the amount actually disbursed in 1995, the share of SDI financing accounted for by the wood products industries in that year is less than that received by the plastics and rubber industries and is "on par" with disbursements to the chemical and metal products industries.

Petitioner disagrees with the GOQ's argument that the Department should base its disproportionality analysis on loans actually disbursed, as opposed to loans authorized. According to petitioner, the level of authorized financing reflects the GOQ's intent during a particular period and is, therefore, an appropriate measure for determining disproportionality. Petitioner also notes that the only record evidence in this case regarding industry-by-industry assistance under the *Expansion and Modernization Program* is based on SDI authorized loans.

**DOC Position**

We disagree with the GOQ that authorized SDI financing cannot be used in the Department's disproportionality analysis. The only data we have on shares received by industries/enterprises other than Leclerc is derived from authorized amounts. To use the amount disbursed for Leclerc and the amounts authorized for other industries/enterprises to calculate their relative shares would be inappropriate given the inconsistency inherent in comparing such data. (See also Comment 17.)

**Comment 6 (Disproportionality—Magnitude)**

The GOQ argues that the Department has never found disproportionality in a

case with facts resembling the facts here. In the *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Brazil* 58 FR 37295 (July 9, 1993), the steel producers received more than 50 percent of the "benefits" under the examined program, two-and-a-half times more than the second largest recipient industry. The GOQ also cites *Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy* 59 FR 18357 (April 18, 1994) and *Final Results of Countervailing Duty Administrative Review: Live Swine from Canada* 59 FR 12243 (March 16, 1994) as examples in which the Department found disproportionality based on large industry usage of a program. While the Department determined 16.9 percent to be disproportionate in *Final Affirmative Countervailing Duty Determinations: Certain Steel Products From Belgium (Certain Steel Products From Belgium)* 58 FR 37273 (July 9, 1993), the GOQ alleges that the Department was examining a single industry (the steel industry), as opposed to a group of industries. The GOQ also cites *Final Results of Countervailing Duty Administrative Reviews: Antifriction Bearings (Other Than Tapered Roller Bearing) (AFBs) from Singapore* 60 FR 52377 (October 6, 1995) in which the group of industries in which AFBs belongs received a large percentage of assistance, while AFBs themselves received a small percentage.

Petitioner states that the Department analyzed specificity at both an industry and company-specific level and reasonably found that there was disproportionate use. Although petitioner agrees that the cases cited by the GOQ indicate that greater levels of usage have been the basis for a finding of disproportionality in some instances, petitioner asserts that this does not mean the Department's disproportionality analysis in the instant case is unreasonable or faulty.

**DOC Position**

We agree with petitioners. Disproportionality is fact-specific and determined on a case-by-case basis. The shares found to be disproportionate in previous cases do not represent a floor below which the Department cannot determine disproportionality to exist. Our determination in this case was based both on usage by the group of industries to which Leclerc belongs and usage by Leclerc. As discussed above, the wood products industries were among the top of users of the *Expansion and Modernization Program* and Leclerc, as an individual enterprise

within this group, also received a relatively large percentage of financing under this program. On this basis, we determined that Leclerc received disproportionate amounts under this program.

**Comment 7 (Disproportionality—Addressing GDP)**

The GOQ argues that the CIT has determined that the Department cannot rely on a mechanical, per se test for disproportionality and that it has a further obligation to address the reasons that may explain why an industry has received a relatively large share (see *British Steel* at 1326). In addition to comparing the industry's share of government benefits over time to the industry's share of gross domestic product (GDP), the GOQ also argues that the CIT has stated that the receipt of large benefits may also be explained by the fact that the industry was expanding, or that there was an increased demand for capital investment. According to the GOQ, when the Department considers GDP, it must request and consider other evidence which the Department did not do in this case.

The GOQ states that information provided to the Department at verification demonstrated that the share of loans received by the wood products industries is virtually identical to their share of total shipments of manufactured goods in Quebec. Additionally, the GOQ notes that during the 1993-1995 period, North America was emerging from a recession. In this economic environment, the laminated hardwood trailer flooring industry, along with other wood products industries, was experiencing sustained growth and, thus, was in need of capital.

Petitioner disagrees that the Department should use a GDP analysis in this case because the GDP figures relied upon by the GOQ are based on manufacturing GDP. Therefore, they do not represent Canada's GDP and they do not match the scope of SDI's lending authority which goes beyond the manufacturing sector. Petitioner also rejects the GOQ's argument that the CIT decision in *British Steel* stands for the proposition that the Department must perform a GDP analysis and examine factors explaining why an industry received a relatively large share of assistance under a particular program. According to petitioner, *British Steel* requires the Department to examine the above-referenced information only when it relies on indirect factors to determine disproportionality. Since the indicators used in the instant case were directly related, as opposed to indirectly

related, petitioner argues that the CIT's finding in *British Steel* is irrelevant.

#### DOC Position

We disagree with the GOQ that a finding of disproportionality requires the Department to examine reasons that may explain why the industry at issue received a disproportionate share of the benefits. The statute does not require the Department to determine the cause of any *de facto* specificity that occurs as a result of the government action. To the contrary, the statute provides that the Department may impose a countervailing duty if it determines that a benefit provided by a government action is conferred upon a specific industry. No intent or purposeful government action is required to show that a specific industry is receiving the benefit, as acknowledged by the Court in *British Steel*. See also, *Final Affirmative Countervailing Duty Determination: Certain Softwood Lumber Products from Canada*, 57 FR 22570, 22580-81 (1992).

In response to the Court's remand instructions in *British Steel*, the Department stated that it is not required to analyze the causal relationship between the benefit conferred and the specificity of the benefit. Furthermore, "imposing the requirement of an affirmative showing that *de facto* specificity is the result of particular government actions is contrary to the statute, the intent of Congress, and past judicial precedent." See *Final Results of Redetermination Pursuant to Remand British Steel Plc. v. United States* (February 9, 1995) at 12. The Department's redetermination was upheld by the Court (see *British Steel PLC v. United States* 941 F. Supp. 119, 128, (CIT 1996)).

The same point is made in the Uruguay Round Trade Agreements Statement of Administrative Action (SAA) at 262. The SAA states that evidence of government intent to target or otherwise limit benefits is irrelevant in *de facto* specificity analysis.

#### Comment 8 (Disproportionality—Considering SDI as Only One Program)

The GOQ argues that the Department incorrectly limited its examination of funds received by Leclerc and the wood products industries to the *Expansion and Modernization Program*, as opposed to total loans received under all SDI programs. The GOQ states that the latter approach is correct because all SDI loans come from the same pool of monies, they are disbursed under different "programs" only for administrative purposes, and that program distinctions make no difference

in the loan criteria, terms, essential eligibility, or participation. Also, they are administered by the same loan officers and the customized terms for all SDI loans and loan guarantees are essentially the same. This information indicates that the hardwood trailer flooring industry received only a fraction of all SDI loans between 1993 and 1995.

#### DOC Position

We do not agree that all SDI programs should, in effect, be considered integrally linked and, therefore, a single program for purposes of determining specificity. Section 355.43(b)(6) of the Department's *Proposed Regulations* states that in determining whether two or more programs are integrally linked "the Secretary will examine, among other factors, the administration of the programs, evidence of a government policy to treat industries equally, the purposes of the programs as stated in their enabling legislation, and the manner of funding the programs." In the *Final Affirmative Countervailing Duty Determination: Pure Magnesium and Alloy Magnesium From Canada* 57 FR 30946 (July 13, 1992) (*Magnesium from Canada*), the Department applied this standard when it found that SDI Article 7 assistance was not integrally linked to "general SDI programs." In making this determination, the Department noted that "[t]he \* \* \* programs offer different types of assistance and have been established for different purposes."

Each SDI program under investigation in this case (e.g., *Expansion and Modernization Program* and *PREP*) operates under separate regulations and directives. Each program is also different with respect to objective and level of benefit. For example, *PREP* was a temporary program established to alleviate cash flow problems experienced by Quebec companies during the recession of the early 1990s. Under *PREP*, SDI guaranteed a percentage of loans that could range between CD\$100,000 and CD\$1,000,000. The *Expansion and Modernization Program*, on the other hand, was a long-term program which provided businesses with loans for the establishment or expansion of facilities. Although the floor for assistance under *Expansion and Modernization Program* is also CD\$100,000, there is no stated cap.

While we acknowledge the overlap that the GOQ refers to with respect to the administration of its programs, these programs are not integrally linked because they are separated for legal purposes by different regulations. They also have different objectives and

benefit levels. For these reasons, we have continued to examine these programs individually for the final determination.

#### Comment 9 (Subsidiary Agreement: Including Amount not Disbursed in POI to Determine Benefit)

Petitioner claims that the Department's preliminary ad valorem calculation regarding the Subsidiary Agreement was understated because the Department failed to include funds disbursed to Leclerc after the POI.

The GOQ contends that petitioner's argument ignores the legal requirement that the Department determine whether countervailable benefits were provided during the POI. According to the GOQ, events occurring after the POI can have no relevance to the Department's determination of whether benefits were received during the POI.

Leclerc notes that the Department correctly treated the Subsidiary Agreement assistance as a variable rate, long-term loan. Thus, in accordance with section 355.49(d)(1) of the *Proposed Regulations*, Leclerc argues that the Department must determine the amount of the benefit attributable to a particular year under a variable rate, long-term loan by calculating the difference between what the firm paid during the year under the government loan and what the firm would have paid during the year under the benchmark loan.

#### DOC Position

We disagree with petitioner. In accordance with section 355.48 of the *Proposed Regulations*, a countervailable benefit is deemed to have been received at the time that there is a cash flow effect on the firm receiving the benefit. In the case of a loan, the cash flow effect is normally deemed to have occurred at the time a firm is due to make a payment on the benchmark loan. Therefore, because Leclerc would not have been required to make a payment during the POI on the benchmark loan for the disbursement in question, that disbursement could not have conferred a benefit on the firm during the POI.

#### Comment 10 (Benchmark Interest Rate Based on Adverse Facts Available)

Petitioner argues that the benchmark interest rate for the loan under the Subsidiary Agreement should be 20 percent, based on adverse facts available. Petitioner contends that the use of adverse facts available is warranted because the GOC did not provide the verification team with certain documents.

The GOC argues that the requested analysis/approval documents were provided to the verification team (see GOC Verification Report at page 2). Accordingly, no grounds exist for the Department to consider the punitive measures petitioner proposes.

#### DOC Position

We agree with the GOC that application of adverse facts available is not warranted with respect to the Subsidiary Agreement loan. As noted in the GOC verification report, while the GOC initially could not provide the analysis/approval documents because of concerns regarding the proprietary nature of the documents, the GOC made available certain approval documents to the verification team on November 28, 1996. Thus, no grounds exist for the Department to consider the use of adverse facts available.

#### Comment 11 (Upstream Subsidy)

Petitioner states that the Department's verification of Leclerc's lumber purchasing records incidentally confirmed that Leclerc paid widely varying prices for the same species and grade purchased at the same time, that it paid higher prices for lower quality lumber purchased at the same time, and that it was able to buy lumber, a commodity product, at prices below what other buyers were willing to pay. Thus, petitioner contends that because the Department failed to address the issues regarding the credibility of Leclerc's lumber purchasing records, the Department must disregard Leclerc's prices.

Both the GOQ and Leclerc note that the factual record in this case fully supports the Department's *Preliminary Determination* that no competitive benefit was bestowed on Leclerc through its purchases of allegedly subsidized lumber. Respondents note that the Department twice verified the actual prices paid by Leclerc for purchases of lumber and the sources of Leclerc's lumber. Moreover, respondents state that the Department's verification reports confirm that Leclerc and the GOQ accurately reported all the relevant competitive benefit data. Respondents add that the Department analyzed the verified data and correctly concluded that no competitive benefit was bestowed upon Leclerc.

#### DOC Position

We agree with respondents. We thoroughly examined and verified Leclerc's lumber purchasing records for the POI, as well as GOQ records which confirmed the sources from which Leclerc's suppliers obtained timber (see

August 26, 1996 Verification Reports of Leclerc and the GOQ and December 10, 1996 Verification Reports of Leclerc and the GOQ). Moreover, many concerns raised by petitioner prior to verification were addressed at verification. This verified record information was then analyzed using several approaches. Based on our analysis, we have determined that the company did not receive a competitive benefit through its lumber purchases from allegedly subsidized suppliers.

#### Comment 12 (Denominator Issue: Subsidiary Agreement and SDI)

Leclerc contends that the financing received under the Subsidiary Agreement and SDI benefited the company's total production and, therefore, the denominator used to calculate the *ad valorem* subsidy rate should be total sales. Leclerc adds that the Department's verification reports of Leclerc and the GOC further confirm that the assistance benefited total sales, not just subject merchandise.

Petitioner contends that Leclerc's argument is misplaced because the GOC and GOQ provided the assistance solely to support the production of LHF. Petitioner notes that the financing received through SDI and the Subsidiary Agreement was received by the two companies in the Leclerc group of companies which produce LHF, and that other members of the group which produce other items did not receive this financing. Finally, petitioner claims that Leclerc has failed to produce documentation showing that the governments intended their financing to go beyond LHF production at the time it was granted.

#### DOC Position

We agree with petitioner that the assistance provided to Leclerc under these programs was "tied" to the production of subject merchandise. Consistent with the Department's traditional tying analysis, we have determined that our inquiry should focus on the subsidy givers" (i.e., the GOC and GOQ) intended use for the subsidies prior to or at the point of bestowal. Namely, a subsidy is considered to be tied to a particular product when the intended use is acknowledged prior to or concurrent with the bestowal of the subsidy (see *GIA* at 37232). With respect to the financing in question, all available documentary record evidence generated by the GOC, GOQ and Leclerc prior to the point of bestowal (e.g., applications, analysis reports, recommendation documents, and contracts) demonstrate that the governments only considered the expansion and/or creation of LHF

facilities as the project for which the assistance was provided.

Additionally, as noted by petitioner, the Department verified that the financing in question was provided to Nilus Leclerc, Inc. and Industries Leclerc, Inc., the LHF producers in the Leclerc group of companies. Members of the Leclerc group of companies which produce non-subject merchandise were not considered in the above-referenced government documents as beneficiaries of the financing in question. Therefore, we have determined that the financing received under the Subsidiary Agreement and SDI solely benefited the production of LHF.

#### Comment 13 (SDI: Calculation Errors)

The GOQ and Leclerc contend that the Department erred in calculating the net present value of the 1995 and 1994 SDI loans by incorrectly calculating the present value of some cash flows. The GOQ and Leclerc assert that when these errors are corrected, there is no benefit from the SDI loans during the POI.

#### DOC Position

We agree with the GOQ and Leclerc that errors were made in calculating the present value interest factor for the SDI loans. These errors have been corrected.

#### Comment 14 (The Department Must First Find a Benefit)

According to the GOQ, the statute requires the Department to find first that a payment is a subsidy, and only subsequently can it analyze whether the subsidy is countervailable. The GOQ and Leclerc assert that if the Department had not erred when it determined that the SDI loans conferred a benefit, it would never have analyzed the specificity of the SDI loans.

#### DOC Position

We disagree with the assertion that the Department first must find a benefit from a particular program that is used in order to analyze the specificity of such program. Programs can be found to be specific on different grounds, which in turn dictate the method for calculating the benefit. For example, if a program is found to be an export subsidy, rather than a specific domestic subsidy, the denominator used to calculate the benefit is export sales rather than total sales, which can affect the finding of a benefit. Additionally, because the Department cumulates the benefit from all countervailable programs in order to determine if the aggregate benefit is greater than *de minimis*, the Department must assess the countervailability of any program



where the benefit may be greater than zero.

**Comment 15 (Using 1996 Information to Calculate the Benefit)**

According to the GOQ, were we to consider events subsequent to the POI, there would be no benefit to Leclerc from any of the loans. However, both the GOQ and Leclerc also argue that information concerning events subsequent to the POI cannot be used retrospectively to determine a countervailable benefit.

Petitioner claims that the Department did not verify important elements of these events and, therefore, cannot rely on them to calculate a benefit. In rebuttal, Leclerc argues that the events are on the record and verified.

**DOC Position**

We disagree with respondents that our calculation of the benefit conferred by a long-term loan during the POI cannot reflect events subsequent to the POI. For example, if we learn during verification that scheduled payments on the loan were missed during the year following the POI, it is appropriate to reflect those missed payments in our calculation. This is because when we are calculating the grant equivalent of a long-term loan we necessarily include information about expected payments under the loan. Where actual payments differ from expected payments, we reflect the actual payments to increase the accuracy of our calculation.

Our examination of the post-POI information was sufficient to determine that the information provided is generally consistent with information submitted in Leclerc's questionnaire, as well as other information provided by the GOQ, which was fully verified. Therefore, as facts available, we have decided to use the post-POI information to achieve accurate calculations of the benefits conferred by these loans.

**Comment 16 (The Department Should Use its Long-term, Variable-rate Methodology for SDI Loans)**

Leclerc maintains that the Department's approach to calculating the benefit under the SDI and Subsidiary Agreement programs is internally inconsistent, and that the variable rate methodology could be used for the SDI loans. While Leclerc notes that we changed our methodology in order to account for the premia, they state that the underlying loans are actually variable rate loans. Furthermore, Leclerc notes that the first option in the Department's long-term, variable-rate benchmark hierarchy is to

use the interest rate on a variable-rate, long-term benchmark loan.

The GOQ notes that the Department prudently deviated from its traditional methodology to account for the full costs to the borrower. However, the GOQ notes that the Department might choose to revert to its traditional methodology.

Petitioner contends that the SDI loans cannot be treated as variable rate loans because of events subsequent to the POI that preclude the use of the Department's long-term, variable-rate methodology.

**DOC Position**

We disagree with Leclerc that the Department should revert to using its long-term, variable-rate methodology. As we explained in our *Preliminary Determination*, there are several features of these loans that lead us to conclude that our variable-rate loan methodology is not capable of measuring the benefits conferred by these loans. Therefore, we have continued to apply our long-term, fixed-rate loan methodology.

**Comment 17 (Extent to Which the 1995 SDI Loan Provided a 1995 Benefit to Leclerc)**

The GOQ and Leclerc argue that the authorized portion of the 1995 SDI loan disbursed during the POI should not have been countervailed because no payments were due or would have been due under comparable financing during the POI. The GOQ and Leclerc state that the Department's *Proposed Regulations* and prior practice dictate that it countervail a benefit "at the time a firm is due to make a payment on the loan." (See *Proposed Regulations*, 355.48(a), (b)(3)). Leclerc cites, among others, — *Final Results of Countervailing Duty Administrative Review: Certain Iron-Metal Casings From India*, 61 FR 64687 (December 6, 1996) in which the Department calculated the benefit as having been received when the first interest payment was made, despite the fact that interest had accrued in the prior year.

If the Department continues to assign a benefit to 1995 from the 1995 SDI loan, the GOQ and Leclerc argue that the Department should not include amounts that were authorized, but not disbursed during 1995. Including the amounts that were not disbursed would violate Article 19 of the *Uruguay Round Agreement on Subsidies and Countervailing Measures* because, Leclerc argues, it could not have benefited during the POI from funds that were not disbursed.

Petitioner claims that the Department was consistent with its regulations in

finding a benefit from the 1995 SDI loan because it calculated the loan's grant equivalent. Petitioner notes that section 355.48(b) of the Department's *Proposed Regulations* state that "[the benefit] occur[s] in the case of a grant \* \* \* at the time a firm receives the grant or equity infusion." Thus the benefit on the 1995 loan occurred at the time of receipt (i.e., during the POI). Petitioner further argues that the cases cited by the GOQ and Leclerc do not apply to the loan in question because in all the cited cases the loans in question are short-term loans, in which the Department does not calculate a grant equivalent. Moreover, Petitioner contends that the methodology proposed by the GOQ and Leclerc is not consistent with economic logic because it would preclude the Department from finding a benefit on a loan with lengthy payment deferrals if the recipient could show that it obtained a similar loan from commercial lenders.

**DOC Position**

We agree with respondents. While we have calculated a grant equivalent for the SDI loans, the underlying instrument continues to be a loan. If there is no effect on the recipient's cash flow during the POI (i.e., no payment would have been made on the benchmark loan during the POI), there is no benefit attributable to the POI. (See *Final Affirmative Countervailing Duty Determinations: Certain Steel Products from France*, 58 FR 37304 (July 9, 1993) and *Final Affirmative Countervailing Duty Determination: Brass Sheet and Strip from France*, 52 FR 1218, 1221 (January 12, 1987).)

Furthermore, based on the Department's practice of calculating a benefit at the time a payment is due on the benchmark loan, we have found, in this instance, that the benefit conferred by the SDI loans should be attributed to the year subsequent to disbursement because no payments were due on the benchmark loans until that time.

Because we have decided that a benefit should not be calculated for the 1995 SDI loan, we do not reach the countervailability of the undisbursed amount.

**Comment 18 (SDI Loans Should be Treated as Grants or the Methodology Should be Revised)**

As adverse facts available, petitioner asserts that the SDI loans should be treated as grants offset only by verified payments. If the Department does not treat the SDI loans as grants, it should: (1) use only verified payments in the repayment stream; (2) consider principal outstanding at the end of the



loan term to be forgiven; (3) use a benchmark interest rate of 20 percent; (4) assume there will be no extension of due dates; (5) assume any shares of Leclerc that SDI might acquire will have no value; and (6) treat the SDI loans as export subsidies.

Such measures are justified, according to petitioner, because Leclerc failed to provide the Department with pertinent information about the SDI loans prior to verification. This omission constitutes a serious material misrepresentation, in petitioner's view. Despite being requested by the Department in the questionnaire to provide such information, Leclerc failed to do so. Petitioner asserts that it is Department practice to use facts available when a party "withholds information that has been requested" (see 776(a) of the Act). Additionally, because the SDI regulations state that it can enter into agreements with distressed borrowers, any SDI loan terms are suspect and, thus, cannot be used for benefit calculations.

Leclerc argues that petitioner's insistence on the use of adverse facts available is without merit because Leclerc has cooperated fully with the Department. The Department has conducted two successful verifications with the GOQ, the GOC and Leclerc. Leclerc claims that its voluntary submission of minor additional information discovered during the course of preparing for verification substantiates its cooperation. Specifically, Leclerc states that the Department's standard questionnaire simply asks that parties report differences between what the loan agreement requires and what a party actually paid.

Additionally, Leclerc claims that there is no legal precedent or argument that would justify treating the SDI loans as grants, and that there is no evidence on the record that the loans are grants. Thus, the Department should continue to analyze the SDI financing as loans. Leclerc and the GOQ argue that Leclerc continues to have a legal obligation to repay its SDI loans, thus no forgiveness has occurred. Moreover, section 355.44(k) of the *Proposed Regulations* requires the Department to recognize loan forgiveness as a grant "at the time of the assumption or forgiveness." Leclerc asserts that petitioner's other methodological suggestions are groundless. The events subsequent to the POI affecting the SDI loans are indeed on the record and verified, but these events are irrelevant because they occurred after the POI.

#### DOC Position

In this instance, we do not believe that Leclerc's late submission of information concerning events subsequent to the POI requires that the Department use adverse facts available. While we have included the post-POI information in our calculations to make them more accurate, our investigation has clearly focussed on information from years prior to and including the POI.

Further, we agree with Leclerc and the GOQ that the *Proposed Regulations* state that a benefit from loan forgiveness usually occurs when the loan is forgiven. We disagree with petitioner that the loans should be treated as grants simply because SDI can renegotiate loan terms with its clients. Commercial lenders also typically have the freedom to change the terms when dealing with a distressed borrower.

Regarding treating the SDI financing as a grant, the Department's GIA at 37255 sets out the standard for determining whether an instrument should be considered a grant:

We have distinguished grants from both debt and equity by defining grants as funds provided without expectation of a: (1) Repayment of the grant amount, (2) payment of any kind stemming directly from the receipt of the grant, or (3) claim on any funds in case of company liquidation. (parenthesis omitted)

Based on the above, the SDI loans should not be considered grants because the SDI financing does not meet any of the three criteria. Moreover, in distinguishing between equity and loans, the GIA at 37255 states:

Loans typically have a specified date on which the last remaining payments will be made and the obligation of the company to the creditor is fulfilled. Even if the instrument has no pre-set repayment date, but a repayment obligation exists when the instrument is provided, the instrument has characteristics more in line with loans than equity.

While certain aspects of repayment under the SDI loans are more flexible than that of a standard commercial bank loan, as reflected in its financial statements, Leclerc had a repayment obligation to SDI during the POI. Thus, we find no basis on which to consider the SDI loans to be a grant.

#### Summary

Based on the four countervailable programs described above, the aggregate *ad valorem* rate is 0.57 percent. This rate is *de minimis*, pursuant to 703(b)(4) of the Act. Therefore, we determine that no benefits which constitute bounties or grants within the meaning of the

countervailing duty law are being provided to manufacturers, producers or exporters of LHF in Canada.

#### Verification

In accordance with section 782(i) of the Act, we verified the information used in making our final determination. We followed standard verification procedures, including meeting with government and company officials, and examination of relevant accounting records and original source documents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit (Room B-099 of the Main Commerce Building).

#### Return or Destruction of Proprietary Information

This notice serves as 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 355.34(d). Failure to comply is a violation of the APO.

This determination is published pursuant to section 705(d) of the Act.

Dated: January 27, 1997.

Robert S. LaRussa,  
Acting Assistant Secretary for Import Administration.

[FR Doc. 97-2715 Filed 2-3-97; 8:45 am]  
BILLING CODE 3510-06-P

#### U.S. Automotive Parts Advisory Committee; Closed Meeting

**AGENCY:** International Trade Administration, Commerce.  
**ACTION:** Closed meeting of U.S. Automotive Parts Advisory Committee.

**SUMMARY:** The U.S. Automotive Parts Advisory Committee (the "Committee") advises U.S. Government officials on matters relating to the implementation of the Fair Trade in Auto Parts Act of 1988. The Committee: (1) reports annually to the Secretary of Commerce on barriers to sales of U.S.-made auto parts and accessories in Japanese markets; (2) assists the Secretary in reporting to the Congress on the progress of sales of U.S.-made auto parts in Japanese markets, including the formation of long-term supplier relationships; (3) reviews and considers data collected on sales of U.S.-made auto parts to Japanese markets; (4) advises the Secretary during consultations with the Government of Japan on these issues; and (5) assists in establishing priorities for the

Department's initiatives to increase U.S.-made auto parts sales to Japanese markets, and otherwise provide assistance and direction to the Secretary in carrying out these initiatives. At the meeting, committee members will discuss the current status of U.S.-Japan automotive trade and APAC's future activities.

**DATE AND LOCATION:** The meeting will be held on February 18, 1996 from 10:00 a.m. to 3:00 p.m. at the U.S. Department of Commerce in Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Dr. Robert Reck, Office of Automotive Affairs, Trade Development, Room 4036, Washington, D.C. 20230, telephone: (202) 482-1418.

**SUPPLEMENTARY INFORMATION:** The Assistant Secretary for Administration, with the concurrence of the General Counsel formally determined on July 10, 1996, pursuant to Section 10(d) of the Federal Advisory Act, as amended, that the series of meetings or portions of meetings of the Committee and of any subcommittee thereof, dealing with privileged or confidential commercial information may be exempt from the provisions of the Act relating to open meeting and public participation therein because these items are concerned with matters that are within the purview of 5 U.S.C. 552b(c)(4) and (9)(B). A copy of the Notice of Determination is available for public inspection and copying in the Department of Commerce Records Inspection Facility, Room 6020, Main Commerce.

Dated: January 27, 1997.

**John White,**

*Acting Director, Office of Automotive Affairs.*

[FR Doc. 97-2671 Filed 2-3-97; 8:45 am]

**BILLING CODE 3510-DR-P**

## Technology Administration

### Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure; Meeting

**AGENCY:** Technology Administration, Commerce.

**ACTION:** Notice of open meeting.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure will hold a meeting on February 19-20, 1997. The Technical Advisory Committee to Develop a Federal Information

Processing Standard for the Federal Key Management Infrastructure was established by the Secretary of Commerce to provide industry advice to the Department on encryption key recovery for the federal government. All sessions will be open to the public.

**DATES:** The meeting will be held on February 19 and 20 from 9:00 a.m. to 6:00 p.m.

**ADDRESSES:** The meeting will take place at the Sheraton Hotel at 2500 Mason Street, San Francisco, California.

**FOR FURTHER INFORMATION CONTACT:** Edward Roback, Committee Secretary and Designated Federal Official, Computer Security Division, National Institute of Standards and Technology, Building 820, Room 426, Gaithersburg, Maryland, 20899; telephone 301-975-3696. Please do not call the conference facility regarding details of this meeting.

### Agenda

#### February 19, 1997

Opening Remarks  
Chairperson's Remarks  
News Updates  
Status Update of Working Group Formation and Activities  
Federal Agency Requirements/  
Perspectives Briefings  
Foreign Government Perspectives

#### February 20, 1997

Intellectual Property Briefing  
Federal Standards Background Briefing  
Discussion of Requirements  
Working Group Issues/Activities  
Public Participation  
Plans for Next Meeting  
Closing Remarks

Note that the items in this agenda are tentative and subject to change due to logistics and speaker availability.

### Public Participation

The Committee meeting will include a period of time, not to exceed thirty minutes, for oral comments from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the individual identified in the **FOR FURTHER INFORMATION** section. In addition, written statements are invited and may be submitted to the Committee at any time. Written comments should be directed to the Technical Advisory Committee to Develop a Federal Information Processing Standard for the Federal Key Management Infrastructure, Building 820, Room 426, National Institute of Standards and Technology, Gaithersburg, Maryland, 20899. It would be appreciated if sixty copies could be submitted for distribution to the Committee and other meeting attendees.

Additional information regarding the Committee is available at its world wide web homepage at: <http://csrc.nist.gov/tacdfipskmi/>.

Should this meeting be canceled, a notice to that effect will be published in the Federal Register and a similar notice placed on the Committee's electronic homepage.

**Mark Bohannon,**

*Chief Counsel for Technology.*

[FR Doc. 97-2739 Filed 2-3-97; 8:45 am]

**BILLING CODE 3510-13-M**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Pakistan

January 29, 1997.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs reducing limits.

**EFFECTIVE DATE:** February 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6714. For information on embargoes and quota re-openings, call (202) 482-3715.

### SUPPLEMENTARY INFORMATION:

**Authority:** Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for Categories 339 and 638/639 are being reduced for carryforward applied to 1996 limits.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 68245, published on December 27, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round

Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

January 29, 1997.

Commissioner of Customs,  
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on February 4, 1997, you are directed to reduce the limits the following categories, as provided for under the terms of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted limit
339 .....	1,161,463 dozen.
638/639 .....	389,337 dozen.

The limits have not been adjusted to account for any imports exported after December 31, 1996.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

**D. Michael Hutchinson,**

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.97-2687 Filed 2-3-97; 8:45 am]

**BILLING CODE 3610-DR-F**

**CONSUMER PRODUCT SAFETY COMMISSION**

**Sunshine Act Meeting**

**AGENCY:** U.S. Consumer Product Safety Commission, Washington, DC 20207.

**TIME AND DATE:** Tuesday, February 11, 1997, 10:00 a.m.

**LOCATION:** Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Open to the Public.

**MATTER TO BE CONSIDERED**

*Petroleum Distillates*

The staff will brief the Commission on a staff recommendation that the Commission publish an advance notice

of proposed rulemaking and begin a rulemaking proceeding to require child-resistant packaging of consumer products that contain petroleum distillates.

For a recorded message containing the latest agenda information, call (301) 504-0709.

**CONTACT PERSON FOR ADDITIONAL INFORMATION:** Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

Dated: January 31, 1997.

**Sadye E. Dunn,**

*Secretary.*

[FR Doc. 97-2872 Filed 1-31-97; 2:16 pm]

**BILLING CODE 6355-01-M**

**DEPARTMENT OF EDUCATION**

**Notice of Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**ACTION:** Submission for OMB review; comment request.

**SUMMARY:** The Director, Information Resources Management Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 6, 1997.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Sherrill (202) 708-8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or

waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Management Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: January 29, 1997.

**Gloria Parker,**

*Director, Information Resources Management Group.*

**Office of Educational Research and Improvement**

*Type of Review:* Reinstatement.

*Title:* Beginning Postsecondary Students Longitudinal Study First Follow-Up 1996-1998 (BPS: 96/98).

*Frequency:* On Occasion.

*Affected Public:* Individuals or households, business or other for-profit; Not-for-profit institutions.

*Reporting Burden and Recordkeeping:*

Responses: 846.

Burden Hours: 404.

*Abstract:* The purpose of the Beginning Postsecondary Students Longitudinal Study First Follow-Up is to continue the series of longitudinal data collection efforts started in 1996 with the National Postsecondary Student Aid Study to enhance knowledge concerning progress and persistence in postsecondary education for new entrants. The study will address issues such as progress, persistence, and completion of postsecondary education programs, entry into the work force, the relationship between experiences during postsecondary education and various societal and personal outcomes, and returns to the individual and to society on the investment in postsecondary education. Individuals who first entered postsecondary education in the 1995-96 academic year will be surveyed by telephone.



**Office of Educational Research and Improvement**

*Type of Review:* Reinstatement.

*Title:* Combined Application for the Field-Initiated Studies Educational Research Grant Program.

*Frequency:* Annually.

*Affected Public:* Individuals or households; Not-for-profit institutions; State, local or Tribal Gov't, SEAs for LEAs.

*Reporting Burden and Recordkeeping:* Responses: 750.

*Burden Hours:* 11,250.

*Abstract:* This information collection allows institutions of higher education; state and local education agencies; public and private organizations, institutions, and agencies; and individuals to apply for grants under the Field-Initiated Studies Program supported by five National Research Institutes. Funds will support educational research that will improve American education.

[FR Doc. 97-2654 Filed 2-3-97; 8:45 am]

BILLING CODE 4000-01-P

**DEPARTMENT OF ENERGY**
**Federal Energy Regulatory Commission**

[Docket No. MG96-13-003]

**K N Interstate Gas Transmission Company; Notice of Filing**

January 29, 1997.

Take notice that on January 23, 1997, K N Interstate Gas Transmission Company (KNI) submitted additional information concerning its standards of conduct in response to the Commission's December 24, 1996 order.<sup>1</sup>

KNI states that copies of this filing have been mailed to all parties on the official service list compiled by the Secretary in this proceeding. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 13, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-2650 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. MG96-14-001]

**K N Wattenberg Transmission, L.L.C.; Notice of Filing**

January 29, 1997.

Take notice that on January 23, 1997, K N Wattenberg Transmission, L.L.C. (KNW) submitted revised standards of conduct in response to the Commission's December 24, 1996 order,<sup>1</sup> Order Nos. 497 *et seq.*<sup>2</sup> and Order Nos. 566, *et seq.*<sup>3</sup>

KNW states that copies of this filing have been mailed to all parties on the official service list compiled by the Secretary in this proceeding. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before February 13, 1997. Protests will be considered by the Commission in determining the appropriate action to

<sup>1</sup> 77 FERC ¶ 61,309 (1996).

<sup>2</sup> Order No. 497, 53 FR 22139 (June 14, 1998), FERC Stats. & Regs. 1986-1990 ¶ 30,820 (1988); Order No. 497-A, order on rehearing, 54 FR 52781 (December 22, 1989), FERC Stats. & Regs. 1986-1990 ¶ 30,866 (1989); Order No. 497-B, order extending sunset date, 55 FR 53291 (December 28, 1990), FERC Stats. & Regs. 1986-1990 ¶ 30,908 (1990); Order No. 497-C, order extending sunset date, 57 FR 9 (January 2, 1992), FERC Stats. & Regs. 1991-1996 ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F.2d 1187 (D.C. Cir. 1992), Order No. 497-D, order on remand and extending sunset date, FERC Stats. & Regs. 1991-1996 ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497-E, order on rehearing and extending sunset date, 59 FR 243 (January 4, 1994), FERC Stats. & Regs. 1991-1996 ¶ 30,987 (December 23, 1993); Order No. 497-F, order denying rehearing and granting clarification, 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497-G, order extending sunset date, 59 FR 3284 (June 28, 1994), FERC Stats. & Regs. 1991-1996 ¶ 30,996 (June 17, 1994).

<sup>3</sup> Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), FERC Stats. & Regs. 1991-1996 ¶ 30,997 (June 17, 1994); Order No. 566-A, order on rehearing, 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994); Order No. 566-B, order on rehearing, 59 FR 65707, (December 21, 1994), 69 FERC ¶ 61,334 (December 14, 1994).

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. 97-2651 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP96-790-000 and CP97-071-000]

**Nautilus Pipeline Company, L.L.P. ANR Pipeline Company; Notice of Site Visit for the Proposed Nautilus Project and the ANR Patterson Looping Project**

January 29, 1997.

On February 4 and 5, 1997, the Office of Pipeline Regulation staff will conduct a site visit with representatives of Nautilus Pipeline Company, L.L.C. (Nautilus) and ANR Pipeline Company (ANR) of the locations related to the facilities proposed in the Nautilus Pipeline Project and the ANR Patterson Looping Project, respectively, in St. Mary's Parish, Louisiana. All interested parties may attend. Those planning to attend must provide their own transportation.

Procedural information about the proposed projects are available from Mr. John Wisniewski, Project Manager for Nautilus' Project, at (202) 208-1073 or Ms. Jennifer Goggin, Project Manager for ANR's Project, at (202) 208-2226.

Lois D. Cashell,

Secretary.

[FR Doc. 97-2648 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP97-191-000]

**Northern Natural Gas Company; Notice of Request Under Blanket Authorization**

January 29, 1997.

Take notice that on January 10, 1997, Northern Natural Gas Company (Northern) 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed in Docket No. CP97-191-000 a request pursuant to Section 157.205 and 157.208 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.208) for authorization to install and operate five new compressor units, with appurtenances, at the Sublette Compressor Station located in Seward County, Kansas. Northern makes such request under its blanket certificate issued in Docket No. CP82-401-000

<sup>1</sup> 77 FERC ¶ 61,309 (1996).



pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Northern proposes to install and operate three high speed 1,400 Hp reciprocating units and two 6,960 Hp gas turbine compressor units, at its Sublette Compressor Station. Northern states that it intends to use the five proposed compressors in lieu of the ten units that Northern is proposing to abandon in a companion application that it filed in Docket No. CP97-190-000. It is stated that the ten units that Northern proposes to abandon in the companion filing were installed in the late 1940's and early 1970's, and that parts are not readily available for maintenance or repair. Northern avers that the five new units that it is proposing to install and operate in this filing, will eliminate the need for the old and near obsolete units.

Northern estimates the cost to install the proposed facilities to be \$18,169,257. Northern states that the proposed units will provide the ability for remote operation from a central location, reduce air emissions, and provide for more overall efficient operation of the Sublette Compression Station. It is further stated that the proposed facilities are designed to maintain existing pipeline capacity, and that Northern does not anticipate an increase in capacity as a result of the installation of the proposed compressor units.

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. 97-2653 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP97-205-000]

**Southern Natural Gas Company;  
Notice of Request Under Blanket  
Authorization**

January 29, 1997.

Take notice that on January 24, 1997, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP97-205-000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon certain measurement facilities at certain farm tap locations in Louisiana, Mississippi, and Alabama, under Southern's blanket certificate issued in Docket No. CP82-406-000, pursuant to Section 7(c) 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.

Southern proposes to abandon: (1) the J.C. Kemp Farm Tap, located in West Carroll Parish, Louisiana, (2) United Cement No. 1 and No. 2 Farm Taps, both located in Lowndes County, Mississippi, (3) the Fannie Strickland Farm Tap, located in Elmore County, Alabama, and (4) the L.A. Walter Farm Tap, located in West Carroll Parish, Louisiana.

Southern states it seeks to abandon these farm tap facilities because it no longer provides service to the customers located at any of the five farm taps.

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. 97-2649 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER96-2904-001, et al.]

**Louisville Gas & Electric Company, et  
al. Electric Rate and Corporate  
Regulation Filings**

January 29, 1996.

**1. Louisville Gas & Electric Company**

[Docket No. ER96-2904-001]

Take notice that on January 10, 1997, Louisville Gas & Electric Company, tendered for filing its refund report in the above-referenced docket.

*Comment date:* February 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

**2. Rochester Gas & Electric Corporation**

[Docket No. ER97-605-000]

Take notice that December 26, 1996, Rochester Gas & Electric Corporation tendered for filing an amendment in the above-referenced docket.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**3. Union Electric Company**

[Docket No. ER97-1146-000]

Take notice that on January 8, 1997, Union Electric Company (UE) tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service dated January 3, 1997 between The Power Company of America, L.P. (PCA) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to PCA pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96-50.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**4. Northern Indiana Public Service  
Company.**

[Docket No. ER97-1240-000]

Take notice that on January 14, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and CNG Power Services Corporation.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to CNG Power Services Corporation pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96-1416-000 and allowed to become effective by the Commission, and as amended in Docket No. OA96-47-000. *Northern Indiana Public Service Company*, 75 FERC ¶ 61,213 (1996). Northern Indiana

Public Service Company has requested that the Service Agreement be allowed to become effective as of January 31, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 5. Northern Indiana Public Service Company

[Docket No. ER97-1241-000]

Take notice that on January 14, 1997, Northern Indiana Public Service Company (Northern Indiana), tendered for filing the following:

Exhibit B, Supplement to Service Agreement between Northern Indiana Public Service Company and the Town of Argos which covers the supply of electric energy at the delivery point located on Dewey Street (without Michigan Street, Argos, Indiana. The legal description of the Argos Delivery Point is the SE 1/4 of Section M20, T32N, R2E (Dewey Street without Michigan Street), in the Town of Argos, Walnut Township, Marshall County, Indiana.

Northern Indiana Public Service Company requests an effective date of November 1, 1996, for Exhibit B, the date upon which service did commence, and further requests waiver of the Commission's notice requirements.

Copies of this filing have been served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff, Fourth Revised Volume No. 1, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 6. Northern Indiana Public Service Company

[Docket No. ER97-1242-000]

Take notice that on January 14, 1997, Northern Indiana Public Service Company (Northern Indiana), tendered for filing Eleventh Revised Sheet No. 3 to its FERC Electric Service Tariff, Fourth Revised Volume No. 1, which has been revised to include an additional delivery point for Wabash Valley Power Association at its Kankakee Valley REMC service area. Northern Indiana Public Service Company also tenders for filing the following:

Eleventh Revised Sheet No. 3 to FERC Electric Service Tariff, Original Sheet No. 45 to FERC Electric Service Tariff, Exhibit A, Supplement to Service Agreement between Northern Indiana Public Service Company and the Kankakee Valley REMC service area

of Wabash Valley Power Association covering the establishment of a new delivery point located in Washington Township, Porter County, Indiana, to be known as the Washington Delivery Point. The location of this delivery point is legally identified as the Est 1/2 of the SE 1/4 of Section 35, T35N, R5W (County Rd. 575E, South of U.S. #30) in Washington Township, Porter County, Indiana.

Copies of this filing have been served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff, Fourth Revised Volume No. 1, the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

NIPSCO requests an effective date of November 20, 1996, for Exhibit A and, therefore, requests waiver of the Commission's notice requirements.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 7. Public Service Company of Oklahoma; Southwestern Electric Power Company

[Docket No. ER97-1244-000]

Take notice that on January 15, 1997, Public Service Company of Oklahoma (PSO) and Southwestern Electric Power Company (SWEPCO) (collectively, "PSO/SWEPCO") submitted for filing a service agreement between Coral Power, L.L.C. (Coral) and PSO/SWEPCO in accordance with the then-effective PSO/SWEPCO open access tariff. Under this agreement, PSO/SWEPCO provided short-term point-to-point firm service to Coral for a single day, December 23, 1996. PSO/SWEPCO request that the agreement be accepted to become effective on December 23, 1996. PSO/SWEPCO state that a copy of this filing has been served on Coral.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 8. Boston Edison Company

[Docket No. ER97-1245-000]

Take notice that Boston Edison Company of Boston, Massachusetts, on January 15, 1997, submitted to the Commission service agreements between Boston Edison and the following customers: Town of Reading Municipal Light Department, Town of Hingham Municipal Light Department, Town of Hull Municipal Light Department, Town of Belmont Municipal Light Department, Cambridge Electric Company, and PECO Energy Company. These service agreements provide for non-firm point-to-point transmission service under Boston Edison's Open-Access Transmission Tariff, FERC Volume No. 8. Boston

Edison requests a January 15, 1997 effective date. Boston Edison states that copies of the filing have been served on the affected customers.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 9. Consolidated Edison Company of New York, Inc.

[Docket No. ER97-1246-000]

Take notice that on January 15, 1997, Consolidated Edison Company of New York, Inc. ("Con Edison") tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Central Vermont Public Service Corporation ("Central Vermont").

Con Edison states that a copy of this filing has been served by mail upon Central Vermont.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 10. Consolidated Edison Company of New York, Inc.

[Docket No. ER97-1247-000]

Take notice that on January 15, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Toledo Edison Company (Toledo).

Con Edison states that a copy of this filing has been served by mail upon Toledo.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 11. Wasatch Energy Corporation

[Docket No. ER97-1248-000]

Take notice that on January 15, 1997, Wasatch Energy Corporation (Wasatch), tendered for filing an application for waivers and blanket approvals under various regulations of the Federal Energy Regulatory Commission (Commission) and for an order accepting its Rate Schedule FERC No. 1 to be effective immediately upon acceptance for filing of its application by the Commission, 60 days from and after the date of filing its application or from and after the date of the Commission's order accepting the Rate Schedule, whichever is earlier.

Wasatch intends to act as a power marketer by engaging in market based sales of electricity and capacity.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**12. Consolidated Edison Company of New York, Inc.**

[Docket No. ER97-1249-000]

Take notice that on January 15, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a service agreement to provide non-firm transmission service pursuant to its Open Access Transmission Tariff to Cleveland Electric Illuminating Company (Cleveland).

Con Edison states that a copy of this filing has been served by mail upon Cleveland.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**13. Florida Power & Light Company**

[Docket No. ER97-1250-000]

Take notice that on January 15, 1997, Florida Power & Light Company (FPL) filed an executed service agreement under its Order No. 888 open-access transmission tariff. FPL seeks an effective date of January 3, 1997.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**14. MidAmerican Energy Company**

[Docket No. ER97-1251-000]

Take notice that on January 15, 1997, MidAmerican Energy Company, 106 East Second Street, Davenport, Iowa 52801 tendered for filing a proposed change in its Rate Schedule for Power Sales, FERC Electric Rate Schedule, Original Volume No. 5. The proposed change consists of the following:

1. Fourth Revised Sheet No. 16, superseding Third Revised Sheet No. 16;
2. Second Revised Sheet Nos. 17 and 18, superseding First Revised Sheet Nos. 17 and 18;
3. First Revised Sheet Nos. 19 and 20, superseding Original Sheet Nos. 19 and 20; and
4. Original Sheet No. 21.

MidAmerican states that it is submitting these tariff sheets for the purpose of complying with the requirements set forth in *Southern Company Services, Inc.*, 75 FERC ¶ 61,130 (1996), relating to quarterly filings by public utilities of summaries of short-term market-based power transactions. The tariff sheets contain summaries of such transactions under the Rate Schedule for Power Sales for the period October 1, 1996 through December 31, 1996.

MidAmerican proposes an effective of October 1, 1996 for the rate schedule change. Accordingly, MidAmerican requests a waiver of the 60-day notice requirement for this filing. MidAmerican states that this date is

consistent with the requirements of the *Southern Company Services, Inc.* order and the effective date authorized in Docket No. ER96-2459-000.

Copies of the filing were served upon MidAmerican's customers under the Rate Schedule for Power Sales and the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**15. Washington Water Power**

[Docket No. ER97-1252-000]

Take notice that on January 15, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, Service Agreements under WWP's FERC Electric tariff Original Volume No. 9. WWP requests waiver of Commission's 60 day prior notice requirement.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**16. Wisconsin Public Service Corporation**

[Docket No. ER97-1253-000]

Take notice that on January 16, 1997, Wisconsin Public Service Corporation ("WPSC") tendered for filing a Partial Requirements Service Agreement with the Upper Peninsula Power Company, Michigan (UPPCO) under the Company's W-2 Tariff. WPSC requests that the Commission make the Service Agreement effective on January 1, 1998.

WPSC states that copies of this filing have been served on UPPCO, on the Michigan Public Service Commission and on the Public Service Commission of Wisconsin.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**17. Tampa Electric Company**

[Docket No. ER97-1254-000]

Take notice that on January 15, 1997, Tampa Electric Company (Tampa Electric), tendered for filing service agreements with Electric Clearinghouse, Inc., Heartland Energy Services, Inc., the Orlando Utilities Commission, SCANA Energy Marketing, Inc., and Sonat Power Marketing L.P. for non-firm point-to-point transmission service under Tampa Electric's open access transmission tariff. Tampa Electric also tendered for filing two service agreements with itself for firm point-to-point transmission service under its open access transmission tariff.

Tampa Electric proposes an effective date of December 16, 1996, for the

service agreements, and therefore requests waiver of the Commission's notice requirement.

Copies of the filing have been served on the other parties to the service agreements and the Florida Public Service Commission.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**18. PacifiCorp**

[Docket No. ER97-1255-000]

Take notice that on January 15, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, revisions to Exhibit B, Table 6 and Exhibit D of the General Transfer Agreement between PacifiCorp and Bonneville Power Administration, PacifiCorp Rate Schedule FERC No. 237.

Copies of this filing were supplied to Bonneville, the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464-6122 (9600 baud, 8 bits, no parity, 1 stop bit).

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**19. EPEC Marketing Company**

[Docket No. ER97-1256-000]

Take notice that on January 15, 1997, EPEC Marketing Company, tendered for filing a Notice of Succession changing its name from Tenneco Energy Marketing Company to EPEC Marketing Company, effective January 3, 1997.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

**20. Portland General Electric Company**

[Docket No. ER97-1257-000]

Take notice that on January 16, 1997, Portland General Electric Company (PGE) tendered for filing under FERC Electric Tariff, Second Revised Volume No. 2, an executed Service Agreement with MidCon Power Services Corp.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93-2-002), PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective January 15, 1997.

A copy of this filing was caused to be served upon MidCon Power Services Corp. as noted in the filing letter.



*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 21. Carolina Power & Light Company

[Docket No. ER97-1258-000]

Take notice that on January 16, 1997, Carolina Power & Light Company (CP&L), tendered for filing separate Service Agreements for Non-Firm Point-to-Point Transmission Service executed between CP&L and the following Eligible Transmission Customers: Federal Energy Marketing, Inc.; Rainbow Energy Marketing Corporation; and Wisconsin Electric Power Company; and a Service Agreement for Short-Term Firm Point-to-Point Transmission Service with Rainbow Energy Marketing Corporation. Service to each Eligible Customer will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 22. Public Service Electric and Gas Company

[Docket No. ER97-1259-000]

Take notice that on January 16, 1997, Public Service Electric and Gas Company (PSE&G), tendered for filing an agreement to provide non-firm transmission service to Niagara Mohawk Power Corporation, pursuant to PSE&G's Open Access Transmission Tariff presently on file with the Commission in Docket No. OA96-80-000.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of December 31, 1996.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 23. Illinois Power Company

[Docket No. ER97-1260-000]

Take notice that on January 16, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Heartland Energy Services will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of January 7, 1997.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 24. Illinois Power Company

[Docket No. ER97-1261-000]

Take notice that on January 16, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm and non-firm transmission agreements under which Southern Energy Trading and Marketing, Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of January 6, 1997.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 25. Kansas City Power & Light Company

[Docket No. ER97-1262-000]

Take notice that on January 16, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated December 23, 1996, between KCPL and Midwest Energy, Inc. (Midwest). KCPL proposes an effective date of December 23, 1996, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and Midwest.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888 in Docket No. OA96-4-000.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 26. Kansas City Power & Light Company

[Docket No. ER97-1264-000]

Take notice that on January 16, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated December 20, 1996, between KCPL and Koch Power Services, Inc. (Koch). KCPL proposes an effective date of December 20, 1996, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and Koch.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to

FERC Order 888 in Docket No. OA96-4-000.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 27. Kansas City Power & Light Company

[Docket No. ER97-1265-000]

Take notice that on January 16, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated December 19, 1996 between KCPL and Empire District Electric Company (EDE). KCPL proposes an effective date of December 19, 1996, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and EDE.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888 in Docket No. OA96-4-000.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 28. South Carolina Electric & Gas Company

[Docket No. ER97-1267-000]

Take notice that on January 17, 1997, South Carolina Electric & Gas Company (SCE&G), submitted a service agreement establishing Oglethorpe Power Corporation (OPC) as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon OPC and the South Carolina Public Service Commission.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 29. Potomac Electric Power Company

[Docket No. ER97-1268-000]

Take notice that on January 17, 1997, Potomac Electric Power Company (Pepco), tendered for filing service agreements pursuant to Pepco's FERC Electric Tariff, Original Volume No. 1, entered into between Pepco and: AES Power Inc., CPS Utilities, The Power Company of America L.P., Valero Power Services Company, PacifiCorp Power Marketing Inc., Williams Energy Services Company, and Equitable Power Services Company. An effective date of January 2, 1997 for these service



agreements, with waiver of notice, is requested.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 30. Niagara Mohawk Power Corporation

[Docket No. ER97-1269-000]

Take notice that on January 17, 1997, Niagara Mohawk Power Corporation (Niagara Mohawk), notified the Commission that it is canceling Electric Rate Schedule No. 131, which involves wholesale power sales to New England Power Company. Cancellation of the rate schedule is effective on January 1, 1997.

Niagara Mohawk is requesting a waiver of the Commission's notice requirements, and is submitting a letter of concurrence that indicates the parties' desire to cancel the agreement effective on January 1, 1997.

A copy of this filing has been served on the New York State Public Service Commission, and the New England Power Company.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 31. San Diego Gas & Electric Company

[Docket No. ER97-1270-000]

Take notice that on January 17, 1997, San Diego Gas & Electric Company (SDG&E), tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 70, Service Schedule A of Power Coordination Agreement between San Diego Gas & Electric Company (SDG&E) and Arizona Public Service Company (APS).

SDG&E requests that the Commission allow the Agreement to become effective on January 29, 1997.

Copies of this filing were served upon the Public Utilities Commission of the State of California and APS.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 32. Northern States Power Company

[Docket No. ER97-1294-000]

Take notice that on January 17, 1997, Northern States Power Company (Minnesota) hereinafter referred to as "NSP" tendered for filing an Agreement dated January 14, 1997, between NSP and the Consolidated Water Power Company (CWP). The Electric Service Agreement provides for the interchange of electric power and energy from NSP to CWP.

NSP requests the Agreement to be accepted for filing effective February 1, 1997, and requests waiver of the

Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

### 33. Northern States Power Company

[Docket No. ER97-1295-000]

Take notice that on January 17, 1997, Northern States Power Company (Minnesota) hereinafter referred to as "NSP" tendered for filing an Agreement dated January 14, 1997, between NSP and the Manitowoc Public Utilities (MPU). The Electric Service Agreement provides for the interchange of electric power and energy from NSP to MPU.

NSP requests the Agreement to be accepted for filing effective February 1, 1997, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

*Comment date:* February 12, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-2694 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. EG97-28-000, et al.]

### Tosli Investments B.V., et al. Electric Rate and Corporate Regulation Filings January 28, 1996

Take notice that the following filings have been made with the Commission:

#### 1. Tosli Investments B.V.

[Docket No. EG97-28-000]

Take notice that on January 21, 1997, Tosli Investments B.V. (Applicant), with its principal office at J.J. Viottastraat 46,

1071 JT, Postbus 75458, 1070 AL, Amsterdam, The Netherlands, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it is engaged indirectly through an affiliate as defined in Section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA) and exclusively in the business of owning all or part of one or more eligible facilities as defined in Section 32 of PUHCA and selling electric energy at wholesale as the Commission has interpreted Section 32(b) of PUHCA. In no event will any electric energy be sold to consumers in the United States.

*Comment date:* February 14, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

#### 2. Compañía Boliviana de Energía Eléctrica S.A.-Bolivian Power Company Limited

[Docket No. EG97-27-000]

Take notice that on January 21, 1997, Compañía Boliviana de Energía Eléctrica S.A.-Bolivian Power Company Limited (the "Applicant") whose address is Plaza Venezuela 1401, Casilla 353, La Paz, Bolivia, filed with the Federal Energy Regulatory Commission an application for a new determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

The Applicant requests a new determination that the Applicant is an exempt wholesale generator under Section 32 of the Public Utility Holding Company Act of 1935 in light of certain changes in the ownership of Applicant's ownership of additional eligible facilities.

*Comment date:* February 14, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

#### 3. Vitol Gas & Electric L.L.C., Acme Power Marketing, Inc., KCS Power Marketing, Inc., Williams Energy Services Co., J.L. Walker and Associates, Amoco Energy Trading Corp., Alternate Power Source, Inc.

[Docket Nos. ER94-155-016, ER94-1530-011, ER95-208-008, ER95-305-009, ER95-1261-006, ER95-1359-006, ER96-1145-002 and (not consolidated)]

Take notice that the following informational filings have been made

with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 16, 1997, Vitol Gas & Electric L.L.C. filed certain information as required by the Commission's January 14, 1994, order in Docket No. ER94-155-000.

On January 10, 1997, Acme Power Marketing, Inc. filed certain information as required by the Commission's October 18, 1994, order in Docket No. ER94-1530-000.

On January 15, 1997, KCS Power Marketing, Inc. filed certain information as required by the Commission's March 2, 1995, order in Docket No. ER95-208-000.

On January 15, 1997, Williams Energy Services Company filed certain information as required by the Commission's March 10, 1995, order in Docket No. ER95-305-000.

On January 15, 1997, J.L. Walker and Associates filed certain information as required by the Commission's August 7, 1995, order in Docket No. ER95-1261-000.

On January 16, 1997, Amoco Energy Trading Corporation filed certain information as required by the Commission's November 29, 1995, order in Docket No. ER95-1359-000.

On January 7, 1997, Alternate Power Source, Inc. filed certain information as required by the Commission's April 30, 1996, order in Docket No. ER96-1145-000.

**4. Howell Power Systems, Inc., Rainbow Energy Marketing Corp., Cogentrix Energy Power Marketing, Inc., Superior Electric Power Corp., Yankee Energy Marketing Company, Gelber Group, Peabody Powertrade, Inc.**

[Docket No. ER94-178-012, ER94-1061-011, ER95-1739-005, ER95-1747-005, ER96-146-004, ER96-1933-002, ER96-2556-001 and (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On January 21, 1997, Howell Power Systems, Inc. filed certain information as required by the Commission's January 14, 1994, order in Docket No. ER94-178-000.

On January 21, 1997, Rainbow Energy Marketing Corporation filed certain information as required by the Commission's June 10, 1994, order in Docket No. ER94-1061-011.

On January 17, 1997, Cogentrix Energy Power Marketing, Inc. filed

certain information as required by the Commission's October 13, 1995, order in Docket No. ER95-1739-000.

On January 17, 1997, Superior Electric Power Corporation filed certain information as required by the Commission's October 23, 1995, order in Docket No. ER95-1747-000.

On January 13, 1997, Yankee Energy Marketing Company filed certain information as required by the Commission's November 29, 1995, order in Docket No. ER96-146-000.

On January 17, 1997, the Gelber Group filed certain information as required by the Commission's July 25, 1996, order in Docket No. ER96-1933-000.

On January 13, 1997, Peabody Powertrade, Inc. filed certain information as required by the Commission's September 9, 1996, order in Docket No. ER96-2556-000.

**5. Niagara Mohawk Power Corp.**

[Docket Nos. ER96-2619-000, ER96-2885-000, ER96-2889-000, ER97-61-000, ER97-62-000, ER97-63-000, and ER97-72-000]

Take notice that on December 30, 1996, Niagara Mohawk Power Corporation (Niagara Mohawk) tendered for filing supplements to the service agreements with purchasers under its Electric Rate Schedule Original Volume No. 2 ("Sales Tariff"), filed in the above-captioned dockets. Niagara Mohawk states that the supplements unbundle the transmission component of wholesale sales to these purchasers of capacity and/or energy under the Sales Tariff, in conformance with Commission policy.

Niagara Mohawk requests that the service agreements, as supplemented, be permitted to become effective as initially proposed in each docket.

Niagara Mohawk states that a copy of its filing has been served on New York State Public Service Commission, the purchasers under the affected service agreements, and the parties on the service lists in the dockets listed above.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**6. Citizens Utilities Company**

[Docket No. ER96-2707-000]

Take notice that on January 21, 1997, Citizens Utilities Company tendered for filing a motion to withdraw its filing in this proceeding.

*Comment date:* February 10, 1997, in accordance with Standard Paragraph E at the end of this notice.

**7. Power Access Management**

[Docket No. ER97-1084-000]

Take notice that on January 2, 1997, Power Access Management tendered for filing a Petition for Blanket Authorization, Certain Waivers and Order Approving Rate Schedule.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**8. Global Energy Services, LLC**

[Docket No. ER97-1177-000]

Take notice that on January 13, 1997, Global Energy Services, LLC (GES), tendered for filing pursuant to Rule 205, 18 CFR 385.205, a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC electric Rate Schedule No. 1 to be effective no later than sixty (60) days from the date of its filing.

GES intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where GES sells electric energy, it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Neither GES nor any of its affiliates are in the business of generating, transmitting, or distributing electric power.

Rate Schedule No. 1 provides for the sale of energy and capacity at agreed prices. Rate Schedule No. 1 also provides that sales may be made to any affiliate having a FERC rate schedule permitting sales for resale by such affiliate at rates established by agreement between the purchaser and the affiliate.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**9. Wisconsin Public Service Corporation**

[Docket No. ER97-1216-000]

Take notice that on January 13, 1997, Wisconsin Public Service Corporation ("WPSC") tendered for filing an executed Transmission Service Agreement between WPSC and Wisconsin Power & Light Company. The Agreement provides for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**10. South Carolina Electric & Gas Company**

[Docket No. ER97-1217-000]

Take notice that on January 13, 1997, South Carolina Electric & Gas Company (SCE&G), submitted a service agreement establishing Duke Power Company (Duke) as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon Duke and the South Carolina Public Service Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**11. Niagara Mohawk Power Corporation**

[Docket No. ER97-1218-000]

Take notice that on January 13, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Plum Street Energy Marketing. This Transmission Service Agreement specifies that Plum Street Energy Marketing has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96-194-000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Plum Street Energy Marketing to enter into separately scheduled transactions under which NMPC will provide transmission service for Plum Street Energy Marketing as the parties may mutually agree.

NMPC requests an effective date of January 7, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Plum Street Energy Marketing.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**12. Central Illinois Public Service Company**

[Docket No. ER97-1219-000]

Take notice that on January 13, 1997, Central Illinois Public Service Company (CIPS), tendered for filing a notice of cancellation of a rate schedule describing an interconnection between CIPS and IES Utilities Inc. (IES). The interconnection is no longer needed

because of newer interconnections between the two companies.

CIPS seeks an effective date of January 1, 1997, and accordingly, seeks waiver of the Commission's notice requirements. Copies of the filing have been served on IES, the Illinois Commerce Commission and the Iowa Utilities Board.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**13. South Carolina Electric & Gas Company**

[Docket No. ER97-1221-000]

Take notice that on January 13, 1997, South Carolina Electric & Gas Company (SCE&G), submitted a service agreement establishing Vitol Gas & Electric, L.L.C. (Vitol) as a customer under the terms of SCE&G's Negotiated Market Sales Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon Vitol and the South Carolina Public Service Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**14. Florida Power & Light Company**

[Docket No. ER97-1222-000]

Take notice that on January 13, 1997, Florida Power & Light Company (FPL), tendered for filing a proposed notice of cancellation of an umbrella service agreement with Sonat Power Marketing, Inc. for Firm Short-Term transmission service under FPL's Open Access Transmission Tariff.

FPL requests that the proposed cancellation be permitted to become effective on July 9, 1996.

FPL states that this filing is in accordance with Part 35 of the Commission's Regulations.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**15. Puget Sound Power & Light Company**

[Docket No. ER97-1223-000]

Take notice that on January 13, 1997, Puget Sound Power & Light Company, tendered for filing an agreement amending its wholesale for resale power contract with the Port of Seattle (Purchaser). A copy of the filing was served on Purchaser.

Puget states that the agreement changes the term of the wholesale for resale power contract.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**16. MidAmerican Energy Company**

[Docket No. ER97-1224-000]

Take notice that on January 13, 1997, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801, filed with the Commission a Firm Transmission Service Agreement with Ames Municipal Electric System (Ames) dated January 3, 1997, and Non-Firm Transmission Service Agreements with Western Resources (Western) dated December 20, 1996, and Wisconsin Electric Power Company (Wisconsin Electric) dated January 6, 1997, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of January 3, 1997 for the Agreement with Ames, December 20, 1996 for the Agreement with Western, and January 6, 1997 for the Agreement with Wisconsin Electric, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on Ames, Western, Wisconsin Electric, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**17. New England Power Company**

[Docket No. ER97-1225-000]

Take notice that on January 13, 1997, New England Power Company (NEP), filed three service agreements with PanEnergy Trading and Market Services, L.L.C. and Public Service Electric and Gas Company for non-firm, point-to-point transmission service under NEP's open access transmission service, FERC Electric Tariff, Original Volume No. 9.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

**18. Southwestern Public Service Company**

[Docket No. ER97-1227-000]

Take notice that on January 14, 1997, Southwestern Public Service Company (Southwestern), submitted an executed umbrella service agreement under its market-based sales tariff with West Texas Municipal Power Agency (WTMPA). This umbrella service agreement provides for Southwestern's sale and WTMPA's purchase of capacity and energy at market-based rates pursuant to Southwestern's market-based sales tariff.



*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 19. Commonwealth Edison Company

[Docket No. ER97-1228-000]

Take notice that on January 14, 1997, Commonwealth Edison Company (ComEd), submitted for filing three Service Agreements for various firm transactions with Wisconsin Electric Power Company (WEPCO), under the terms of ComEd's Open Access Transmission Tariff (OATT). ComEd also submitted a Service Agreement, establishing Public Service Electric and Gas Company (PSE&G), as a non-firm transmission customer under the terms of ComEd's OATT.

ComEd requests an effective date of December 18, 1996, for the firm service agreement dated December 18, 1996 with WEPCO, an effective date of January 1, 1997, for the two firm service agreements dated December 20, 1996 with WEPCO, and effective date of January 8, 1997 for the non-firm service agreement with PSE&G, and accordingly seeks waiver of the Commission's requirements. Copies of this filing were served upon WEPCO, PSE&G, and the Illinois Commerce Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 20. Wisconsin Electric Power Company

[Docket No. ER97-1229-000]

Take notice that on January 14, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Non-Firm Transmission Service Agreement between itself and PanEnergy Trading & Marketing Services, L.L.C. The Transmission Service Agreement allows PanEnergy Trading & Marketing Services, L.L.C. to receive non-firm transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 7.

Wisconsin Electric requests an effective date of sixty days from date of filing. Copies of the filing have been served on PanEnergy Trading & Marketing Services, L.L.C., the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 21. Southwestern Public Service Company

[Docket No. ER97-1230-000]

Take notice that on January 14, 1997, Southwestern Public Service Company (Southwestern), submitted an executed

service agreement under its open access transmission tariff with Western Resource Incorporated. The service agreement is for umbrella non-firm transmission service.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 22. Wisconsin Electric Power Company

[Docket No. ER97-1231-000]

Take notice that on January 14, 1997, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a Transmission Service Agreement between its transmission business unit and its Energy Marketing business unit. The Transmission Service Agreement allows the Energy Marketing business unit to receive non-firm transmission service under Wisconsin Electric's FERC Electric Tariff, Original Volume No. 7, accepted for filing in Docket No. OA96-196.

Wisconsin Electric requests an effective date of January 1, 1997 and waiver of the Commission's notice requirements to allow such effective date. Copies of the filing have been served on the Energy Marketing business unit, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 23. Niagara Mohawk Power Corporation

[Docket No. ER97-1232-000]

Take notice that on January 14, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Southern Energy Trading and Marketing, Inc. This Transmission Service Agreement specifies that Southern Energy Trading and Marketing, Inc. has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96-194-000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Southern Energy Trading and Marketing, Inc. to enter into separately scheduled transactions under which NMPC will provide transmission service for Southern Energy Trading and Marketing, Inc. as the parties may mutually agree.

NMPC requests an effective date of December 31, 1996. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service

Commission and Southern Energy Trading and Marketing, Inc.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 24. Florida Power Corporation

[Docket No. ER97-1233-000]

Take notice that on January 14, 1997, Florida Power Corporation (Florida Power), tendered for filing agreements providing for the construction and operation of facilities for the City of Bartow, Florida. The agreements are being filed pursuant to Rules 205 of the Federal Power Act, 16 U.S.C. 824d and Part 35 of the Commission's Regulations, 18 CFR 35, for informational purposes as agreements which relate to jurisdictional contracts already on file with the Commission.

Florida Power states that copies of the filing have been served on the City of Bartow and the Florida Public Service Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 25. Potomac Electric Power Company

[Docket No. ER97-1234-000]

Take notice that on January 14, 1997, Potomac Electric Power Company (Pepco), tendered for filing service agreements pursuant to Pepco FERC Electric Tariff, Original Volume No. 4, entered into between Pepco and Duke/Louis Dreyfus L.L.C., PanEnergy Trading and Market Services, L.L.C., Public Service Electric and Gas Company, Tennessee Power Company, UtiliCorp United Inc., Williams Energy Services Company, and Wisconsin Electric Power Company. An effective date of January 10, 1997 for these service agreements, with waiver of notice, is requested.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 26. Virginia Electric and Power Company

[Docket No. ER97-1235-000]

Take notice that on January 14, 1997, Virginia Electric and Power Company (the Company), tendered for filing a letter agreement implementing the rate schedules included in the Agreement for the Purchase of Electricity for Resale between the Company and the Virginia Municipal Electric Association Number 1 (VMEA).

Copies of the filing were served upon VMEA, the Virginia State Corporation Commission and the North Carolina Utilities Commission.



*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 27. Wisconsin Power and Light Company

[Docket No. ER97-1236-000]

Take notice that on January 14, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing a Form of Service Agreement for Non-Firm Point-to-Point Transmission Service establishing The Toledo Edison Company and The Cleveland Electric Illuminating Company as point-to-point transmission customers under the terms of WP&L's Transmission Tariff.

WP&L requests an effective date of December 17, 1996, and accordingly seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 28. Union Electric Company

[Docket No. ER97-1237-000]

Take notice that on January 14, 1997, Union Electric Company (UE), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service dated December 24, 1996 between Kansas City Power & Light Co. (KCP&L) and UE. UE asserts that the purpose of the Agreement is to permit UE to provide transmission service to KCP&L pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96-50.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 29. CSW Power Marketing, Inc.

[Docket No. ER97-1238-000]

Take notice that on January 14, 1997, as corrected on January 21, 1997, CSW Power Marketing, Inc. (PMI) filed with the Federal Energy Regulatory Commission its FERC Rate Schedule No. 1, an application for blanket authorizations and for certain waivers of the Commission's Regulations. PMI is not currently in the business of generating, transmitting or distributing electricity. PMI intends to engage in transactions in which PMI sells electricity at rates and on terms and conditions that are negotiated with the purchasing party.

PMI has requested expedited action on its filing so that the Commission may accept PMI's rate schedule for filing to become effective as soon as possible. PMI has served a copy of the application on all parties that intervened in PMI's pending market-based rate tariff proceeding in Docket No. ER96-1348-

000. PMI has also served a copy of the application on the state utility commissions that regulate its public utility affiliates, the Public Utility Commission of Texas, the Louisiana Public Service Commission, the Arkansas Public Service Commission, and the Oklahoma Corporation Commission.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 30. Northern Indiana Public Service Company

[Docket No. ER97-1239-000]

Take notice that on January 14, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement between Northern Indiana Public Service Company and Centerior Energy Corporation.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Centerior Energy Corporation pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. ER96-1426-000 and allowed to become effective by the Commission, and as amended in Docket No. OA96-47-000. *Northern Indiana Public Service Company*, 75 FERC ¶ 61,213 (1996). Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of January 31, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 11, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### 31. City of Alma, Michigan

[Docket No. SC97-4-000]

Take notice that on January 17, 1997, City of Alma, Michigan tendered for filing a Petition for Declaratory Order with a Petition for Exemption From Filing Fee in the above-referenced docket.

*Comment date:* February 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

#### Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions

or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97-2693 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-P

[Project No. 11463-001 Iowa]

#### White Hydropower Company; Notice of Surrender of Preliminary Permit

January 29, 1997.

Take notice that the White Hydropower Company, permittee for the Coralville Hydro Project No. 11463, located on the Iowa River in Johnson County, Iowa, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 23, 1994, and would have expired on May 31, 1997. The permittee states that the project would be economically infeasible.

The permittee filed the request on January 15, 1997, and the preliminary permit for Project No. 11463 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary,

[FR Doc. 97-2652 Filed 2-3-97; 8:45 am]

BILLING CODE 6717-01-M

#### ENVIRONMENTAL PROTECTION AGENCY

[FRL-5683-6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Confidentiality Rules. ICR #1665.02 OMB #2020-0003, expires 1/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 6, 1997.

**FOR FURTHER INFORMATION OR A COPY CALL:** Sandy Farmer at EPA, (202) 260-2740, and refer to EPA ICR No. #1665.02.

**SUPPLEMENTARY INFORMATION:**

**Title:** Confidentiality Rules (OMB Control No. 2020-0003) expiring 1/31/97. This is a request for an extension of a currently approved collection.

**Abstract:** EPA administers a variety of statutes pertaining to the protection of the environment, (e.g., the Toxic Substances Control Act, Resource Conservation and Recovery Act, Comprehensive Environmental Response, Compensation, and Liability Act, Clean Water Act, and Federal Water Pollution Control Act), each with differing data collection requirements and differing requirements for disclosure of information to the public. The Agency collects chemical, process, waste stream, financial, and other data from tens of thousands of facilities in many, if not most, sectors of American business. Companies frequently consider this information vital to their competitive position, and claim the information as confidential business information (CBI).

In the course of its daily business, the Agency often has a need to communicate this information in rulemaking, to its contractors, in response to requests pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, in litigation, etc.

To manage this volume of confidential information while protecting both the confidentiality of competitively valuable information and the rights of FOIA requestors, EPA instituted in 40 CFR Part 2, Subpart B a set of procedures for handling and disclosing CBI. These procedures derive their authority from FOIA, the Trade Secrets Act (18 U.S.C. 1905), and the confidentiality provisions of the environmental statutes that EPA administers.

**Burden Statement:** The annual public-reporting and recordkeeping burden for

this collection of information is estimated to average 9.4 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

**Respondents/Affected Entities:** Businesses.

**Estimated Number of Respondents:** 1008 claims; 1125 confidentiality agreements.

**Frequency of Response:** app. 300 claims/yr; 1 confidentiality agreement/yr.

**Estimated Total Annual Hour Burden:** 9475 hours/yr for claims; .1 hr/ confidentiality agreement.

**Estimated Total Annualized Cost Burden:** \$475,007.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1665.02 and OMB Control No. 2020-0003 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division, 401 M Street, SW (2137), Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: January 29, 1997.

Joseph Retzer,

Director, Regulatory Information Division, Office of Regulatory Management and Information (OPPE).

[FR Doc. 97-2655 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5683-7]

**Agency information Collection Activities: Submission for OMB Review; Comment Request; Invitation for Bids and Request for Proposals**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Invitation for Bids and Request for Proposals; OMB Control No. 2030-0007; expiration date 3/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 6, 1997.

**FOR FURTHER INFORMATION OR A COPY CALL:** Sandy Farmer at EPA, (202) 260-2740, and refer to EPA ICR No. 1038.09.

**SUPPLEMENTARY INFORMATION:**

**Title:** Invitation for Bids and Request for Proposals (OMB Control No. 2030-0007; EPA ICR No. 1038.09) expiring 3/31/97. This is a request for extension of a currently approved collection.

**Abstract:** Firms which are interested in providing supplies or services to EPA will furnish information on previous contracts performed, technical information, and cost or pricing information or data. They will submit this information when the Agency announces a need for supplies or services which they are capable of providing. EPA will use this information to determine which firm's offer is most suited to the Agency's requirements.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 10/24/96 (61 FR 55147). No comments were received.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 8 hours per bid and 290 hours per proposal. Burden means the total time, effort, or financial resources expended by persons to

generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to adjust the existing ways to comply with any previously applicable instructions and requirements; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

**Respondents/Affected Entities:**

Contractors seeking business with EPA.  
*Estimated Number of Respondents:* 1,731.

*Frequency of Response:* One response per bid or proposal.

*Estimated Total Annual Hour Burden:* 399,342 hours.

*Estimated Total Annualized Cost Burden:* \$20,770,435.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1038.09 and OMB Control No 2030-0007 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW., Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

Dated: January 29, 1997.

**Joseph Retzer,**

*Director, Regulatory Information Division.*

[FR Doc. 97-2656 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5684-5]

**Acid Rain Program: Notice of Written Exemptions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of written exemptions.

**SUMMARY:** The U.S. Environmental Protection Agency is issuing, as a direct final action, written exemptions from the Acid Rain permitting and monitoring requirements to 2 utility

units in accordance with the Acid Rain Program regulations (40 CFR part 72). Because the Agency does not anticipate receiving adverse comments, these exemptions are being issued as direct final actions.

**DATES:** The exemptions issued in this direct final action will be final on March 17, 1997, or 40 days after publication of a similar notice in a local newspaper, whichever is later, unless significant, adverse comments are received by March 6, 1997 or 30 days after publication of a similar notice in a local newspaper, whichever is later. If significant, adverse comments are timely received on an exemption in this direct final action, the exemption will be withdrawn through a notice in the *Federal Register*.

**ADDRESSES:** *Administrative Records.*

The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604.

*Comments:* Send comments to David Kee, Director, Air and Radiation Division, EPA Region 5, (address above). Submit comments in duplicate and identify the commenter's name, address, telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the unit covered by the exemption.

**FOR FURTHER INFORMATION CONTACT:**

Contact Cecilia Mijares, (312) 886-0968.

**SUPPLEMENTARY INFORMATION:** All public comment received on the exemptions in this direct final action in which significant, adverse comments are timely received will be addressed in a subsequent issuance or denial of exemption based on the relevant draft exemption in the notice of draft written exemptions that is published elsewhere in today's *Federal Register* and that is identical to this direct final action.

Under the Acid Rain Program regulations (40 CFR 72.7), utilities may petition EPA for an exemption from permitting and monitoring requirements for any new utility unit that serves one or more generators with total nameplate capacity of 25 MW or less and burns only fuels with a sulfur content of 0.05 percent or less by weight. On the earlier of the date a unit exempted under 40 CFR 72.7 burns any fuel with a sulfur content in excess of 0.05 percent by weight or 24 months prior to the date the exempted unit first serves one or more generators with total nameplate capacity in excess of 25 MW, the unit shall no longer be exempted under 40 CFR 72.7 and shall be subject to all

permitting and monitoring requirements of the Acid Rain Program.

EPA is issuing written exemptions to the following new units, effective from January 1, 1997 through December 31, 2001:

Oberlin Municipal Light and Power System unit 4 in Ohio, owned and operated by the City of Oberlin.

Village of Prospect unit Prospect 1 in Ohio, owned and operated by Prospect Municipal Electric Department.

Dated: January 27, 1997.

**Brian J. McLean,**

*Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.*

[FR Doc. 97-2705 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5684-4]

**Acid Rain Program: Notice of Draft Written Exemptions**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Draft Written Exemptions.

**SUMMARY:** The U.S. Environmental Protection Agency is issuing draft written exemptions from Acid Rain permitting and monitoring requirements to 2 new utility units. Under the Acid Rain Program regulations (40 CFR 72.7), utilities may petition EPA for an exemption from permitting and monitoring requirements for any new utility unit that serves one or more generators with a total nameplate capacity of 25 MW or less and burns only fuels with a sulfur content of 0.05 percent or less by weight. Because the Agency does not anticipate receiving adverse comments, the exemptions are being issued as direct final actions in the notice of written exemptions published elsewhere in today's *Federal Register*.

**DATES:** Comments on the exemptions proposed by this action must be received on or before March 6, 1997 or 30 days after publication of a similar notice in a local newspaper, whichever is later.

**ADDRESSES:** *Administrative Records.*

The administrative record for the exemptions, except information protected as confidential, may be viewed during normal operating hours at EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604.

*Comments.* Send comments to: David Kee, Director, Air and Radiation Division, EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604.

Submit comments in duplicate and identify the commenter's name, address, telephone number, and the commenter's interest in the matter and affiliation, if any, to the owners and operators of the unit covered by the exemption.

**FOR FURTHER INFORMATION CONTACT:** Contact Cecilia Mijares, (312) 886-0968.

**SUPPLEMENTARY INFORMATION:** If no significant, adverse comments are timely received, no further activity is contemplated in relation to the draft written exemptions and the exemptions will be issued as direct final actions in the notice of written exemptions published elsewhere in today's *Federal Register* and will automatically become final on the date specified in that notice. If significant, adverse comments are timely received on an exemption, that exemption in the notice of written exemptions will be withdrawn. Because the Agency will not institute a second comment period on this notice of draft written exemptions, any parties interested in commenting should do so during this comment period.

For further information and a detailed description of the exemptions, see the information provided in the notice of written exemptions elsewhere in today's *Federal Register*.

Dated: January 27, 1997.

**Brian J. McLean,**  
*Director, Acid Rain Division, Office of Atmospheric Programs, Office of Air and Radiation.*

[FR Doc. 97-2706 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-P

[OPPTS-00203; FRL-5579-5]

**Cleaner Technologies Substitutes Assessment, A Methodology and Resource Guide; Notice of Availability**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of Availability.

**SUMMARY:** EPA is announcing the availability of a document entitled "Cleaner Technologies Substitutes Assessment: A Methodology and Resources Guide." This document is a guide for conducting comparative substitute assessments examining performance, cost, human health and environmental risk and conservation. The approach described is used by the Design for the Environment (DfE) Program's Industry Projects.

**ADDRESSES:** The complete report is available by document number EPA (744-R-95-002). For a limited time, free copies can be obtained by contacting EPA's Pollution Prevention Information

Clearing House (PPIC), Environmental Protection Agency, 401 M St., SW., (3404), Washington, DC 20460.

Telephone (202) 260-1023; Fax (202) 260-0178, e-mail:

ppic@epamail.epa.gov. The guide will also be available on the DfE home page at <http://es.inel.gov/cte>.

**FOR FURTHER INFORMATION CONTACT:** Jed Meline, Economics, Exposure, and Technology Division, Office of Pollution Prevention and Toxics, (7401), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone (202) 260-1678, e-mail: meline.jed@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** The EPA's Design for the Environment (DfE) Program is working with several industries to identify cost-effective pollution prevention strategies that reduce risks to workers and the environment. The DfE Program has projects on-going with the flexography, lithography, printed wiring board and screen-printing industries evaluating cleaner products, processes and technologies. This publication presents the methods and resources needed to conduct a Cleaner Technologies Substitutes Assessment, a methodology for evaluating the comparative risk, performance, cost and conservation of alternatives to chemicals currently used by specific industry sectors. The overall goal of these projects is to encourage industry to incorporate environmental concerns into the traditional business decision-making process of cost and performance. With this notice, EPA is announcing the availability of the draft document entitled "Cleaner Technologies Substitutes Assessment: A Methodology and Resources Guide," detailing the methods and resources used to conduct substitute assessments by EPA's DfE Program.

**List of Subjects**

Environmental protection.

Dated: January 21, 1997.

**Mary Ellen Weber,**

*Director, Economics, Exposure and Technology Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 97-2716 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-F

[OPP-00461; FRL-5575-3]

**Self-Certification of Product Chemistry and Acute Toxicity Data; Notice of Availability**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of availability.

**SUMMARY:** EPA is soliciting comments on a proposed product chemistry self-certification program. The proposal is available in a draft Pesticide Regulation (PR) Notice entitled "Self-Certification of Product Chemistry Data" which is available upon request. Interested parties may request a copy of the Agency's proposed policy as set forth in the ADDRESSES unit of this notice.

**DATES:** Comments must be submitted on or before April 7, 1997.

**ADDRESSES:** Submit written comments identified by the docket control number OPP-00461 by mail to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments directly to the OPP docket which is located in Rm. 1132 of Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. The PR Notice is available by contacting the person whose name appears under FOR FURTHER INFORMATION CONTACT.

Comments may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form or encryption. Comments will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number "OPP-00461." No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the SUPPLEMENTARY INFORMATION unit of this document.

Information submitted as a comment concerning this document 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 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 Virginia address given above from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.



FOR FURTHER INFORMATION CONTACT: For information concerning product chemistry data: By mail: Sami Malak (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 4th Floor, CS-1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8392, e-mail: malak.sami@epamail.epa.gov.

For information concerning acute toxicity: By mail: Tina Levine (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 6th Floor, CS-1, 2800 Jefferson Davis Highway, Arlington, VA, (703) 308-8393, e-mail: levine.tina@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Product Chemistry Data

The proposed program entails self-certification of certain product chemistry data of manufacturing-use products and end-use products produced by a non-integrated formulation system. Products eligible for self-certification are formulated from registered sources. This program is voluntary and is intended to simplify and accelerate the processing of applications for registration and reregistration while maintaining protection of public health and the environment.

Under the self-certification program, applicants will submit a one-page summary of the product's physical/chemical characteristics, a self-certification statement, and a Good Laboratory Practices statement, but will no longer be required to submit the supporting data for those studies. However, registrants must retain in their possession studies conducted in substantial conformity with Agency guidelines and must submit such studies if requested by EPA. The requirements pertaining to the physical/chemical characteristics for chemical pesticides are outlined in a table under 40 CFR 158.190.

This Federal Register notice announces the availability of the draft PR Notice and solicits comment on the proposed policy. If, after reviewing any comments, EPA determines that changes to the Notice are warranted, the Agency will revise the draft PR Notice prior to release.

##### II. Acute Toxicity Data

In May 1996, EPA proposed a program whereby industry would self-certify the results of acute toxicity studies and product labeling for

products in Category III and IV [Notice of Availability (61 FR 26178, May 24, 1996) and Draft PR Notice entitled "Self-Certification of Acute Toxicity Studies" (May 15, 1996)]. Originally, EPA expected to implement the program this fall. However, comments received from industry, environmental groups, and others regarding this proposed program expressed concerns with the program. The environmental groups and others felt it would compromise the Agency's oversight role in this area and was a gateway to further erosion of Agency oversight. The industry believed that the proposed penalties were too severe. In addition, when the acute toxicity self-certification program was first considered, there were over 500 acute toxicity packages pending in the Agency. There was often a 2-year wait for these reviews. Due to many reinvention and process improvements which have been adopted, this is no longer the case. Currently, there are fewer than 90 active acute toxicity packages pending; fewer than 10 packages have been in review more than EPA's target review time of 90 days. As a result of these considerations, EPA has further evaluated the role of self-certification of acute toxicity data in OPP and has concluded that it is not necessary to implement this program. Rather, the Agency will continue to reinvent and improve its internal review processes to assure that acute toxicity reviews are performed and completed in a timely manner.

##### III. Public Record

A record has been established for this action under docket number "OPP-00461" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this action, as well as the public version, as described above will be kept in paper form.

Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the address in ADDRESSES at the beginning of this document.

##### List of Subjects

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

Dated: January 27, 1997.

Stephen L. Johnson,  
Director, Registration Division, Office of  
Pesticide Programs.

[FR Doc. 97-2713 Filed 2-3-97; 8:45 am]

BILLING CCDE 0550-50-F

[FRL-5683-9]

#### Notice of Modification to 1994 Publicker Site Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended

AGENCY: Environmental Protection  
Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that on December 19, 1996, the United States Environmental Protection Agency ("EPA") made effective a Modification to the 1994 purchaser agreement concerning the Publicker Industries Inc. Superfund Site located in Philadelphia, Pennsylvania. The purchaser agreement, which was executed on June 23, 1994, became effective on December 5, 1994 after a public comment period. The Modification, which was also executed by Delaware Avenue Enterprises, Inc., Cresmont Limited Partnership, Holt Cargo Systems, Inc. (collectively, the "Purchasers") and the Pennsylvania Department of Environmental Protection ("PADEP"), essentially approves the petition of the Purchasers to perform, with EPA oversight, the final, site-wide CERCLA remedy as selected by EPA in the December 28, 1995 Record of Decision (the "ROD" for Operable Unit 3, or "OU3 ROD"). The original purchaser agreement provided for this petition process, which enables the Purchasers to conduct an EPA-approved CERCLA remediation in an expeditious and cost-efficient manner.

Briefly, the OU3 ROD selected the abandonment of on-site ground water wells; the removal, treatment, and off-

disposal of liquids and sediments in contaminated electric utilities; the removal, treatment, and off-site disposal of liquids and sediments in contaminated stormwater trenches and utilities; and the removal, treatment, and off-site disposal of miscellaneous wastes. In exchange for this privately-performed remediation and as provided for in the purchaser agreement, EPA and PADEP will evaluate the Purchasers' costs related to the implementation of the OUS ROD and will determine the dollar value of the offsets to Purchasers' future cash payment installment obligations under the purchaser agreement.

**Availability:** The Modification and additional background information relating to the original purchaser agreement are available for public inspection at the U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

**FOR FURTHER INFORMATION CONTACT:** Brian M. Nishitani (3RC21), Senior Assistant Regional Counsel, Office of Regional Counsel, U.S. Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, (215) 566-2675.

Dated: January 28, 1997.

W. Michael McCabe,

Regional Administrator, U.S. Environmental Protection Agency, Region III.

[FR Doc. 97-2708 Filed 2-3-97; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5683-8]

**Draft National Pollutant Discharge Elimination System (NPDES); General Permits for the Eastern Portion of the Outer Continental Shelf (OCS) of the Gulf of Mexico (GMC280000)**

**AGENCY:** Environmental Protection Agency (EPA)

**ACTION:** Extension of public comment period.

**SUMMARY:** On December 9, 1996, EPA Region 4 provided notice of the draft National Pollutant Discharge Elimination System (NPDES) general permit for the Outer Continental Shelf (OCS) of the Gulf of Mexico (General Permit No. GMC280000) for discharges in the Offshore Subcategory of the Oil and Gas Extraction Point Source Category (40 CFR part 435, subpart A). Additionally, the Region 4 made available for public review the administrative record consisting of Ocean Discharge Criteria Evaluation, Draft Environmental Impact Statement, and Biological Assessment for

comments to be received on the proposed action. Public Hearings have been scheduled on the proposed action in Biloxi, MS on January 28, 1997, in Gulf Shores, Alabama on January 29, 1997, in Pensacola, Florida on January 30, 1997 and Tampa, Florida on February 4, 1997. At the request of interested parties, EPA is today providing notice that the public notice comment period has been extended.

**DATES:** Original public notice issuance date: December 9, 1996. Extended public notice expiration date March 17, 1997.

**ADDRESSES:** *Public comments:* Interested person may submit written comments on the Draft NPDES General Permits, draft Environmental Impact Statement, 403(c) evaluation and other supporting documents related to this proposed general permit reissuance to: The Office of Public Affairs, United States Environmental Protection Agency, Region 4, Atlanta Federal Center, 100 Alabama Street, S.W. Atlanta, GA 30303-3104. Attention: Ms. Lena Scott.

Comments must be submitted to EPA on or before the extended expiration date which is Monday, March 17, 1997.

*Administrative Record:* The complete administrative record for the draft permit is available for public review at the EPA Regional Office listed above. Copies of the draft NPDES general permit, fact sheet, EIS, Biological Assessment, 403(c) evaluation are available upon request from Region 4, by writing the above address, or by calling Ms. Lena Scott at (404) 562-9607.

**FOR FURTHER INFORMATION CONTACT:** Mr. Larry Cole, Environmental Engineer, telephone (404) 562-9307.

Dated: January 28, 1997.

Robert F. McGhee,

Director, Water Management Division.

[FR Doc. 97-2707 Filed 2-3-97; 8:45 am]

BILLING CODE: 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collections Approved by Office of Management and Budget

January 22, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104-13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information

unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418-1379.

### Federal Communications Commission

OMB Control No.: 3060-0168.

Expiration Date: 12/31/99.

Title: Reports of Proposed Changes in Depreciation Rates—Section 43.43.

Form No.: N/A.

Estimated Annual Burden: 78,000 total annual hours; 6500 hours per respondent (avg.); 12 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Description: Section 220(b) of the Communications Act of 1934, as amended, requires the Commission to prescribe depreciation charges for the subject carriers. Section 219 of the Act requires annual and other reports from the carriers. Section 43.43 of the Commission's Rules establishes the reporting requirements for depreciation prescription purposes. Communication common carriers with annual operating revenues of \$100 million or more that the Commission has found to be dominant must file information specified in Section 43.43 before making any change in the depreciation rates application to their operating plant. The information filed is used by the Commission to establish proper depreciation rates to be charged by the carriers, pursuant to Section 220(b) of the Act. The information serves as the basis for depreciation analyses made by the Common Carrier Bureau in establishing the aforementioned rates. Without this information the validity of the carriers' depreciation policies could not be ascertained.

OMB Control No.: 3060-0749.

Expiration Date: 01/31/2000.

Title: Disclosure and Dissemination of Pay-Per-Call Information, 47 CFR Section 64.1509.

Form No.: N/A.

Estimated Annual Burden: 10,250 total annual hours; 136.67 hours per respondent; 75 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Description: Section 228 of the Communications Act of 1934, as amended, establishes federal requirements governing common carriers' transmission and billing and collection of interstate pay-per-call and other information services. Section 64.1509 of the Commission's Rules incorporates the requirements of Sections 228(c)(2) and 228(d)(2)-(3) of the Communications Act. Under these sections, common carriers that assign telephone numbers to pay-per-call

services must disclose to all interested parties, upon request a list of all assigned pay-per-call numbers. For each assigned number, carriers must also make available (a) a description of the pay-per-call service; (2) the total cost per minute or other fees associated with the service; and (3) the service provider's name, business address, and telephone number. In addition, carriers handling pay-per-call services must establish a toll-free number that consumer may call to receive information about pay-per-call services. The Commission requires carriers to provide statements of pay-per-call rights and responsibilities to new telephone subscribers at the time service is established and, although not required by statute, to all subscribers annually. The disclosure requirements are intended to ensure that consumers are able to obtain information that will enable them to make informed choices about their use of pay-per-call services.

*OMB Control No.:* 3060-0752.

*Expiration Date:* 1/31/2000.

*Title:* Billing Disclosure Requirements for Pay-Per Call and Other Information Services, 47 CFR Section 64.1510

*Form No.:* N/A.

*Estimated Annual Burden:* 54,000 total annual hours; 40 hours per respondent; 1,350 respondents.

*Estimated Annual Reporting and Recordkeeping Cost Burden:* \$0.

*Description:* Section 228 of the Communications Act of 1934, as amended, establishes federal requirements governing common carriers' transmission and billing and collection of interstate pay-per-call and other information services. Under Section 64.1510 of the Commission's rules telephone bills containing charges for interstate pay-per-call and other information services must include information detailing consumers' rights and responsibilities with respect to these charges. Specifically, telephone bills carrying pay-per-call charges must include a consumer notification stating that: (1) the charges are for non-communication services; (2) local and long distance telephone services may not be disconnected for failure to pay pay-per-call charges; (3) pay-per-call (900 number) blocking is available upon request; and (4) access to pay-per-call services may be involuntarily blocked for failure to pay pay-per-call charges. In addition, each call billed must show the type of service, the amount of the charge, and the date, time, and duration of the call. The bill must display a toll-free number which subscribers may call to obtain information about pay-per-call services. The billing disclosure requirements contained in Section

64.1510 are intended to ensure that telephone subscribers billed for pay-per-call or other information services are able to understand the charges levied and are informed of their rights and responsibilities with respect to payment of such charges.

*OMB Control No.:* 3060-0755.

*Expiration Date:* 01/31/2000.

*Title:* Policy and Rules Concerning the Implementation of the Infrastructure Sharing Provision in the Telecommunications Act of 1996—CC Docket No. 96-237.

*Form No.:* N/A.

*Estimated Annual Burden:* 2,175 total annual hours; 29 hours per respondent; 75 respondents.

*Estimated Annual Reporting and Recordkeeping Cost Burden:* \$0.

*Description:* In the Notice of Proposed Rulemaking, Implementation of Infrastructure Sharing Provisions in the Telecommunications Act of 1996, CC Docket No. 96-237, the Commission proposes, in implementing Section 259 of the Communications Act of 1934, as added by the Telecommunications Act of 1996 requiring incumbent local exchange carriers (LECs) to file any tariffs, contracts, or other arrangements showing the conditions under which they make infrastructure and functions available to qualifying carriers. Another provision requires incumbent LECs to provide information on the deployment of new services and equipment to parties to Section 259 agreements.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to the Records Management Branch, Washington, DC. 20554.

Federal Communications Commission

**William F. Caton,**

*Acting Secretary.*

[FR Doc. 97-2617 Filed 2-3-97; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL MARITIME COMMISSION

### Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission,

Washington, DC 20573, within 10 days of the date this notice appears in the Federal Register.

*Agreement No.:* 217-011565

*Title:* Hybur/Tropical Slot Charter

*Agreement*

*Parties:*

Hybur Ltd.

Tropical Shipping & Construction Co., Ltd.

*Synopsis:* Under the proposed agreement, Hybur Ltd. will charter space abroad its vessels to Tropical Shipping in the trade between ports in Florida and ports in Belize.

*Agreement No.:* 224-201015

*Title:* ACFSA & Tri-State Associations Discussion Agreement

*Parties:*

American CFS & Transportation Association ("ACFSA") (Agreement No. 224-200975)

Tri-State Container Freight Station Association ("Tri-State")

(Agreement No. 224-200935)

*Synopsis:* The proposed Agreement permits the parties of both the ACFSA and Tri-State to create a marine terminal discussion agreement. The parties may confer, discuss and make recommendations on rates, charges, practices and other matters of concern in the industry; however, the Agreement does not confer joint rate-making authority and any action taken pursuant to this Agreement will not be binding on the parties.

*Dated:* January 29, 1997.

By order of the Federal Maritime Commission.

**Joseph C. Polking,**

*Secretary.*

[FR Doc. 97-2622 Filed 2-3-97; 8:45 am]

**BILLING CODE 6730-01-M**

### Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Roldan Products Corporation, 13545 Barrett Parkway Drive, Suite 302, St. Louis, MO 63021, Officers: Tony Rodan, President, Joseph G. Roldan, Chairman

Samson Transport (USA) Inc., d/b/a Samson Forwarding, 441 Schiller

Street, Elizabeth, NJ 07206, Officers: Robert Walsh, President, Jonas Hansen, CEO

Logistics Management International, Inc., 850 Tomlinson Terrace, Lake Mary, FL 32746, Officers: Segundo L. Menendez, President, Hildeciza Menendez, Vice President

Penn Int'l Co., 22533 S. Vermont Ave., Unit #20, Torrance, CA 90502, Jeffrey Oh, Sole Proprietor

Trans Pacific Shipping, Inc., 350 South Crenshaw Blvd. #A105, Torrance, CA 90503, Officer: Keun Ju Lee, President

Grand Bell Maritime, U.S.A., 623 E. Artesia Blvd., Carson, CA 90746, Officer: Shin Wha Park, President

Dated: January 29, 1997.

Joseph C. Polking,  
Secretary.

[FR Doc. 97-2621 Filed 2-3-97; 8:45 am]

BILLING CODE 6730-01-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 February 18, 1997.

**A. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *George H. Broadrick*, Charlotte, North Carolina, as Trustee for Carmen P. Holding, Atlanta, Georgia, and Caroline R. Holding, Raleigh, North Carolina; to acquire an additional 18.12 percent, for a total of 38.91 percent, of the voting shares of Fidelity BancShares (N.C.), Inc., Fuquay-Varina, North Carolina, and thereby indirectly acquire The Fidelity Bank, Fuquay-Varina, North Carolina.

2. *George H. Broadrick*, Charlotte, North Carolina; as Trustee for Carmen P.

Holding, Atlanta, Georgia, and Caroline R. Holding, Raleigh, North Carolina; to acquire an additional 8.24 percent, for a total of 25.26 percent, of the voting shares of First Citizens BancShares, Inc., Raleigh, North Carolina, and thereby indirectly acquire Bank of Marlinton, Marlinton, West Virginia; Bank of White Sulphur Springs, White Sulphur Springs, West Virginia; and First-Citizens Bank and Trust Company, Raleigh, North Carolina.

**B. Federal Reserve Bank of Dallas** (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Michael A. Myers*, Dallas, Texas; to acquire an additional 25.1 percent, for a total 48.9 percent, of the voting shares of Myers Bancshares, Inc., Dallas, Texas, and thereby indirectly acquire Continental State Bank, Boyd, Texas.

Board of Governors of the Federal Reserve System, January 29, 1997.

Jennifer J. Johnson,  
Deputy Secretary of the Board.

[FR Doc. 97-2657 Filed 2-3-97; 8:45 am]

BILLING CODE 6210-01-F

### 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 § 225.25 of Regulation Y (12 CFR 225.25) 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, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or

unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

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 February 18, 1997.

**A. Federal Reserve Bank of New York** (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *Toronto-Dominion Bank*, Toronto, Ontario, Canada, and Waterhouse Investor Services, Inc., New York, New York; to engage *de novo* through its subsidiary, Waterhouse Securities, Inc., New York, New York, in the purchase and sale of securities on the order of customers as riskless principal. See *Stichting Prioriteit ABN AMRO Holding*, 81 Fed. Res. Bull. 1134 (1995); *J.P. Morgan & Company Incorporated*, 76 Fed. Res. Bull. 26 (1990); and *Banc One Corporation*, 77 Fed. Res. Bull. 61 (1991). These activities will be conducted worldwide.

**B. Federal Reserve Bank of San Francisco** (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105-1579:

1. *Regency Bancorp*, Fresno, California; to acquire Regency Investment Advisors, Inc., Fresno, California, and thereby engage in securities brokerage and investment advisory services, pursuant to § 225.25(b)(15) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, January 29, 1997.

Jennifer J. Johnson,  
Deputy Secretary of the Board.  
[FR Doc. 97-2658 Filed 2-3-97; 8:45 am]  
BILLING CODE 6210-01-F

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 11:00 a.m., Monday, February 10, 1997.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.



**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: January 31, 1997.

**Jennifer J. Johnson,**

*Deputy Secretary of the Board.*

[FR Doc. 97-2897 Filed 1-31-97; 3:39 pm]

**BILLING CODE 6210-01-P**

**GENERAL SERVICES ADMINISTRATION**

**Office of Government Policy, FAR Secretariat; Revision of Standard Form, SF 294, Subcontracting Report for Individual Contracts and SF 295, Summary Subcontract Report**

**AGENCY:** General Services Administration.

**ACTION:** Notice.

**SUMMARY:** The General Services Administration, FAR Secretariat, recently revised Standard Form, SF 294, Subcontracting Report for Individual Contracts and SF 295, Summary Subcontract Report, as part of FAR Case 95-307. This revision changed the Contractor Establishment Code to the Contractor Identification Number. Since these forms are authorized for local reproduction, you can obtain a camera copy of each in two ways:

On the internet. Address: <http://www.gsa.gov/forms>,

On the U.S. Government Management

Policy CD-ROM, or;

From CARM, Attn: Barbara Williams, (202) 501-0581.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Linda Klein, General Services Administration, (202) 501-3775 for information concerning FAR Case 95-307.

**DATES:** Effective February 4, 1997.

Dated: January 24, 1997.

**Theodore D. Freed,**

*Standard and Optional Forms Management Officer.*

[FR Doc. 97-2625 Filed 2-3-97; 8:45 am]

**BILLING CODE 6820-34-M**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Statement of Organization, Functions, and Delegations of Authority**

Part N, National Institutes of Health, of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 61 FR 54451, October 18, 1996, and redesignated from Part HN as Part N at 60 FR 56605, November 9, 1995), is amended as set forth below to reflect the reorganization of the National Institute of Mental Health as follows: In the Office of the Director, transfer the program analysis function from the Office of Resource Management (ORM) to the Office of Science Policy and Program Planning, and revise ORM's functional statement.

Section N-B, Organization and Functions, under the heading National Institute of Mental Health (N7, formerly HN7), Office of the Director (N71, formerly HN71), insert the following:

Office of Resource Management (N719, formerly HN719). Directs and coordinates the Institute's resource allocation, management improvement, and technical services processes by overseeing: (a) program planning and financial management; (b) grant and acquisition activities; (c) information resource management; (d) management policy and procedure development, interpretation, and implementation; (e) the provision of general administration services throughout the Institute; (f) personnel operations; and (g) visual and audiovisual information services and technical guidance.

Dated: January 22, 1997.

**Harold Varmus,**

*Director, National Institutes of Health.*

[FR Doc. 97-2722 Filed 2-3-97; 8:45 am]

**BILLING CODE 4140-01-M**

**Centers for Disease Control and Prevention**

[INFO-97-02]

**Proposed Data Collections Submitted for Public Comment and Recommendations**

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic

summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639-7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Projects**

1. Employee Vital Status Letter (0920-0035)—Extension—The employee vital status letter is an update of a letter originally approved by OMB in 1977 and last approved in 1994. The vital status letter is used for a type of study known as "retrospective mortality." The retrospective mortality study involves the identification of a study population of present and former workers who were exposed to a toxic substance in the workplace that is suspected of causing a long term adverse health effect to the exposed workers. The adverse health effects may be identified by observing the cause of specific mortality in the study population and comparing that to the expected mortality. The study populations are identified through employment records of past and present workers in given industries where the suspected toxins are found. In order to identify these deaths, it is necessary to determine the vital status (i.e., whether the individual is alive or deceased) of all members of the study population as of a given cut-off date and then obtain the medical certification of cause of death on all deceased members. This letter is sent to study cohort members as a last resort. If the vital status of an individual cannot be determined from a number of available data sources (such as the National Death Index and the Social Security Administration), the letter is sent to determine if the respondent is deceased or alive—if deceased, the data and place of death is requested from next of kin. The total cost to respondents for the three year period is \$1,890.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Workers .....	756	1	.166	126
Total .....				126

2. Airways Disease in Miners—(0920-0349)—Extension—A relationship between coal mining exposure and lung function loss has been demonstrated. Both smoking and coal mine dust exposure are associated with clinically important respiratory dysfunction. Their separate contributions to obstructive airway disease in coal miners appear to be additive. However, much of the apparent variation in the health risks of coal mine dust exposure remains unexplained. Miners exposed to similar levels of coal mine dust demonstrate large variations in lung function loss. Intrinsic susceptibility to the dust or some environmental factor not yet identified must be sought to explain why some individuals suffer severe lung damage and others experience stable or age related changes in lung function in

responses to inhalation of respirable dust. The spectrum of respiratory disease in coal miners is certainly broad. Pneumoconiosis is widely accepted as specific to mine dust exposure. It has been observed that emphysema is more common and severe in coal miners than non-miners. Symptoms of chronic bronchitis are common in miners and the risk of their development has been related to exposure to the mine environment. Over 50% of non-smoking coal miners with identifiable airflow obstruction may have asthma. Questions that remain include: What are the predictable factors which relate variations in airflow obstruction in miners to measured respirable coal mine dust exposure? What are the specific processes responsible for lung function losses in miners?

The goals of this investigation are to: 1) Improve our understanding of the processes and mechanisms involved in the development of pulmonary diseases and accelerated lung function losses in underground coal miners and other dust exposed workers, and to further define the consequences of inhalation of coal mine and other dusts; and 2) Identify potential risk factors in the development of excessive respiratory function loss as a basis for interventions to reduce morbidity and mortality associated with respirable dust in the work place. The data collected in this study will be used to provide a basis for improving the understanding of pulmonary disease processes in dust exposed workers, and as a basis for intervention strategies to reduce morbidity in the coal mining and possibly other industries. The total cost to respondents is \$0.00.

Respondents	No of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Physicians .....	40	1	0.17	7
Volunteers .....	36	1	7.0	252
Total .....				259

3. Former Waste-To-Energy Facility, Columbus, Ohio: Dioxin and Cadmium Exposure Study—New—The Agency for Toxic Substances and Disease Registry is announcing the request for a three year OMB approval for a new information collection entitled: "Former Waste-To-Energy Facility, Columbus, Ohio: Dioxin and Cadmium Exposure Study." The purpose of this proposed study is to determine whether blood serum dioxin and urine cadmium levels

of an adult population residing near the Waste-To-Energy Facility are elevated compared to an adult population not residing near the Waste-To-Energy Facility. A scientifically valid exposure assessment is crucial in determining whether the health of exposed populations may have been adversely impacted. The two study groups, target population and comparison population, will be selected using environmental

data, census data, systematic sampling method, and eligibility criteria. The statistical analysis will include the comparison of serum dioxin and urine cadmium average concentration levels for target and comparison populations while adjusting for factors that affect the concentration levels. This study's average concentration will be compared to the levels of other similar health studies. Other than their time, there will be no cost to the respondents.

Respondents	No. of respondents	No. of respondents/respondents	Average burden/response (in hrs.)	Total burden (in hrs.)
Systematic Phone Census Survey .....	2000	1	.10	200
Verify Participant Eligibility .....	800	1	.15	120
Medical Questionnaire .....	440	1	.15	66
Specimen Collection .....	440	1	.25	110
Total .....				496

3. Former Waste-To-Energy Facility, Columbus, Ohio: Dioxin and Cadmium Exposure Study—New—The Agency for Toxic Substances and Disease Registry is announcing the request for a three year OMB approval for a new information collection entitled: "Former Waste-To-Energy Facility, Columbus, Ohio: Dioxin and Cadmium Exposure Study." The purpose of this proposed study is to determine whether blood serum dioxin and urine cadmium levels

of an adult population residing near the Waste-To-Energy Facility are elevated compared to an adult population not residing the Waste-To-Energy Facility. A scientifically valid exposure assessment is crucial in determining whether the health of exposed populations may have been adversely impacted.

The two study groups, target population and comparison population, will be selected using environmental data, census data, systematic sampling

method, and eligibility criteria. The statistical analysis will include the comparison of serum dioxin and urine cadmium average concentration levels for target and comparison populations while adjusting for factors that affect the concentration levels. This study's average concentration will be compared to the levels of other similar health studies. Other than their time, there will be no cost to the respondents.

Respondents	No. of respondents	No. of responses/respondents	Average burden/responses (in hrs.)	Total burden (in hrs.)
Systematic Phone Census Survey .....	2000	1	.10	200.0
Verify Participant Eligibility .....	800	1	.15	120.0
Medical Questionnaire .....	440	1	.15	66.0
Specimen Collection .....	440	1	.25	110.0
<b>Total .....</b>				<b>496.0</b>

4. Risk And Protective Factors of Intimate Partner Violence Survey—New—The purpose of the project is to identify early warning signs and protective factors in intimate violence prevention by conducting a random-digit-dial national survey. Findings from a preliminary focus group study reveal that: (1) There may exist a pattern of early warning signs that women can use to avoid intimate partner violence, (2) certain individual and societal characteristics (which we call risk and protective factors), such as family history of abuse or the support of friends or institutions, may increase or reduce the risk of violence in women's

lives, (3) these risk and protective factors may influence women's ability to detect early warning signs for physical violence perpetrated by an intimate partner, and (4) there may be differences between African-American women and Caucasian women regarding helping relationships and services utilized by abused women.

The survey will include a stratification methodology to include six specific categories of women across the United States who are over 18 years of age. The six categories of women are African-American and Caucasian women who: (1) have never been in a violent relationship, (2) are currently in

a violent relationship, and (3) have previously been in a violent relationship, but have been living free of violence for at least one year. The survey will gather data from approximately 1,800 women using an interview protocol which was developed and pilot tested in conjunction with the focus group study and has been defined by experts and CDC program staff. The total cost to respondents is \$1,979.84, which is based on a median wage of women over 16 in the United States (includes non-working and part-time employed women) of \$3.99 per hour [source: Bureau of Labor Statistics, 1997]

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Never Abused in a Relationship .....			10	
African Am. ....	300	1	.167	50
Caucasian .....	300	1	.167	50
Currently in Abusive Relationship .....			20	
African Am. ....	300	1	.33	99
Caucasian .....	300	1	.33	99
Formerly in Abusive Relationship .....			20	
African Am. ....	300	1	.33	99
Caucasian .....	300	1	.33	99
<b>Total .....</b>				<b>496</b>

Dated: January 29, 1997.

**Wilma G. Johnson,**

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97-2681 Filed 2-3-97; 8:45 am]

BILLING CODE 4163-18-M

**Injury Research Grant Review Committee: Conference Call Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following conference call committee meeting.

Name: Injury Research Grant Review Committee (IRGRC).

Time and Date: 1 p.m.-3 p.m., February 27, 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: 1 p.m.–1:15 p.m., February 27, 1997. Closed: 1:15 p.m.–3 p.m., February 27, 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 announcements, discussion of review procedures, future meeting dates, and review of grant applications.

Beginning at 1:15 p.m., through 3 p.m., February 27, the Committee will meet to conduct a review of grant applications. This portion of the meeting 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.

For More Information Contact: Richard W. Sattin, M.D., Executive Secretary, IRGRC, NCIPC, CDC, 4770 Buford Highway, NE, M/ S K58, Atlanta, Georgia 30541-3724, telephone 770/468-4580.

Dated: January 28, 1997.

Carolyn J. Russell, Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 97-2676 Filed 2-3-97; 8:45 am]

BILLING CODE 4163-10-M

**Administration for Children and Families**

**Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)**

Title: Standard Federally-approved form for use by the State Child Support

Enforcement (CSE) programs: "Interstate Subpoena".

OMB No.: New.

Description: PRWORA '96 (Pub. L. 104-193), section 324, requires the Secretary of DHHS to promulgate an interstate administrative subpoena form to be used by the State CSE programs to collect wage and income information for use in the establishment, modification and enforcement of child support orders.

Respondents: States, Guam, Virgin Islands, Puerto Rico and District of Columbia.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Interstate subpoena .....	15,391	1	.5	7,696

Estimated Total Annual Burden Hours: 7,696.

Additional Information: ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by February 28, 1997. A copy of this information collection, with applicable supporting documentation, may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Douglas J. Godesky at (202) 401-4852.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office

of Management and Budget, Paperwork Reduction Project, 725 17th Street N.W., Washington, D.C. 20503, (202) 395-7316.

Dated: January 29, 1997.

Douglas J. Godesky, Reports Clearance Officer.

[FR Doc. 97-2683 Filed 2-3-97; 8:45 am]

BILLING CODE 4164-01-M

**Agency Recordkeeping/Reporting Requirements Under Emergency Review by the Office of Management and Budget (OMB)**

Title: Standard Federally-approved form for use by the State Child Support

Enforcement (CSE) programs: "Notice of Interstate Lien".

OMB No.: New.

Description: PRWORA '96 (P.L. 104-193), section 324, requires the Secretary of DHHS to promulgate an interstate lien form to be used by the State CSE programs to secure delinquent child support obligations.

Respondents: States, Guam, Virgin Islands, Puerto Rico and District of Columbia.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Interstate lien .....	53,254	1	.25	13,313

Estimated Total Annual Burden Hours: 13,313.

Additional Information: ACF is requesting that OMB grant a 180 day approval for this information collection under procedures for emergency processing by February 28, 1997. A copy of this information collection, with applicable supporting documentation,

may be obtained by calling the Administration for Children and Families, Reports Clearance Officer, Douglas J. Godesky at (202) 401-4852.

Comments and questions about the information collection described above should be directed to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ACF, Office

of Management and Budget, Paperwork Reduction Project, 725 17th Street NW., Washington, DC 20503, (202) 395-7316.

Dated: January 29, 1997.

Douglas J. Godesky, Reports Clearance Officer.

[FR Doc. 97-2684 Filed 2-3-97; 8:45 am]

BILLING CODE 4164-01-M



## Health Resources and Services Administration

### Program Announcement for Cooperative Agreements for Basic/Core Area Health Education Center Programs, and Model Area Health Education Center Programs for Fiscal Year 1997

The Health Resources and Services Administration (HRSA) announces that applications will be accepted for fiscal year (FY) 1997 Cooperative Agreements for Basic/Core Area Health Education Center (AHEC) Programs authorized under section 746(a)(1), and Model State-Supported Area Health Education Center Programs authorized under section 746(a)(3), title VII of the Public Health Service Act. To receive support, these programs must meet the requirements of the regulations as set forth in 42 CFR part 57, subpart MM, to the extent they are not superseded by Statutory Amendment to section 746.

This announcement for the above stated programs is subject to reauthorization of the legislative authority. In fiscal year (FY) 1997 the total amount available for the AHEC Program, including Basic/Core AHEC and Model State-Supported AHEC awards, is \$28.495M of which approximately \$12.0 M will be available for competing awards. It is estimated that awards will be made to 12-15 competing applicants including renewals and new starts. These include approximately 7-9 Basic/Core AHEC Program awards and 5-6 Model AHEC Program awards.

In FY 1996, the average award for the Basic/Core AHEC Program was \$1,033,130; and the average award for the Model AHEC Program was \$211,111. These awards support AHEC programs that employ a statewide or regional approach.

### Cooperative Agreements for Basic/Core Area Health Education Center (AHEC) Program; Section 746(a)(1)

#### Purpose

Section 746(a)(1) of the PHS Act authorizes Federal assistance to schools of medicine (allopathic and osteopathic) which have cooperative arrangements with one or more public or nonprofit private area health education centers for the planning, development and operation of area health education center programs.

#### Eligibility

To be eligible to receive support for an area health education center cooperative agreement, the applicant must be a public or nonprofit private

accredited school of medicine (allopathic or osteopathic) or consortium of such schools, or the parent institution on behalf of such school(s).

#### Period of Support

Applicants may request up to 3 years of support with the expectation that AHECs planned and developed in years 1 and 2 would be fully operational no later than the 3rd year. The period of Federal support should not exceed 12 years for an area health education center program and 6 years for an area health education center.

#### General Requirements:

To obtain funds for a basic AHEC under section 746(b), a medical school (allopathic or osteopathic) must:

- (a) Maintain preceptorship educational experiences for health science students;
- (b) Maintain community-based primary care residency programs or be affiliated with such programs;
- (c) Maintain continuing education programs for health professionals or coordinate with such programs;
- (d) Maintain learning resource and dissemination systems for information identification and retrieval;
- (e) Have agreements with community-based organizations for the delivery of education and training in the health professions;
- (f) Be involved in the training of health professionals (including nurses and allied health professionals), except to the extent inconsistent with the law of the State in which the training is conducted; and
- (g) Carry out recruitment programs for the health science professions, or programs for health-career awareness, among minority and other elementary or secondary students from the areas the program has determined to be medically underserved;

#### Provisions Regarding Funding

1. Section 746(e)(1)(B) of the Act requires that not more than 75 percent of total operating funds of a program in any year shall be provided by the Federal Government. However, as provided in section 746(e)(2), for an AHEC center developed as part of an AHEC program first funded under the basic AHEC authority on or after October 13, 1992, a ceiling of 55 percent of any fifth or sixth year of the development or operation of a center is established.

2. The participating medical schools must provide for the active participation of at least two schools or programs of other health professions (including a

school of dentistry), if there is one affiliated with the medical school's university, and a graduate program of mental health practice, if there is one affiliated with the university.

3. At least 75 percent of the total funds provided to a school under any AHEC program authority (Basic/Core AHEC Program(s), or Model State-Supported AHEC Program(s)) must be expended by the AHEC program in AHEC centers and the school is required to enter into an agreement with each of such centers for purposes of specifying the allocation of the 75 percent of funds.

#### Review Criteria

The following review criteria apply to the Basic/Core AHEC Programs, section 746(a)(1) and the Model AHEC Programs, section 746(a)(3). These review criteria were established after public comment at 60 FR 24638, dated May 9, 1995.

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project adequately provides for the program requirements set forth in sections 746(a)(1) and 746(a)(3);
2. The capability of the applicant to carry out the proposed project activities in a cost-efficient manner;
3. The extent of the need which the proposed AHEC program is addressing in the area to be served by the area health education center(s);
4. The potential of the proposed AHEC program and participating center(s) to continue on a self-sustaining basis; and
5. The extent to which the proposed project adequately responds to AHEC Program performance measures and outcome indicators.

#### Substantial Programmatic Involvement

The Bureau of Health Professions, within the Health Resources and Services Administration, has substantial programmatic involvement in the planning, development, and administration of the Basic/Core AHEC and Model AHEC projects by:

1. Reviewing and approving plans upon which continuation of the cooperative agreement is contingent in order to permit appropriate direction and redirection of activities;
2. Reviewing and approving all contracts and agreements among recipient medical or osteopathic schools, other health professions schools and the community-based AHEC centers;
3. Participating with project staff in the development of funding projections;
4. Developing, with project staff, individual project data collection systems and procedures; and

5. Participating with project staff in the design of project evaluation protocols and methodologies.

#### Model Area Health Education Center Programs Section 746(a)(3)

##### Purpose and Eligibility

Section 746(a)(3) authorizes Federal assistance to any school of medicine (allopathic or osteopathic) that is operating an area health education centers program and that is not receiving financial assistance under section 746(a)(1). Applicants must meet the eligibility conditions of programs as set forth in section 746(b), and the AHEC centers they wish to have included must meet eligibility requirements in accordance with section 746(d).

Therefore, applicants in States where more than one eligible entity exists are encouraged to collaborate in the submission of a single Model AHEC Program application, which reflects a consortium of Statewide programs to coordinate community-based health professions training activities.

##### Requirements for Model AHEC Programs

- Coordinate the activities of the program with the activities of any office of rural health established by the State or States in which the program is operating;
- Conduct health professions education and training activities consistent with national and State priorities in the area served by the program in coordination with the National Health Service Corps, entities receiving funds under section 329 (Migrant Health Centers) or 330 (Community Health Centers) and public health departments; and
- Cooperate with any entities that are in operation in the area served by the program and that receive Federal or State funds to carry out activities regarding the recruitment and retention of health care providers.

##### Matching Funds Requirement

With respect to the costs of operating the Model State-Supported AHEC program, the school must make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount that is not less than 50 percent of such costs. These funds must be for the express use of the AHEC Program and Centers, and not funds designated for other categorical or specific purposes.

Section 746(a)(3)(D) states that schools must maintain expenditures of

non-Federal amounts at a level that is not less than the level of such expenditures for the fiscal year preceding the first fiscal year for which the school receives an award. The non-Federal contribution to the AHEC program(s) in the current year is at least equal to the amount to be received from the Federal program as required by section 746(a)(3)(B).

##### Other Considerations

The principal objective of this legislation is to encourage State coordination and support for AHEC activities. An effective approach for obtaining support from State legislatures is to present a unified plan showing how all the programs are working together to provide the needed services in the State. Competitive applications from one State tend to be divisive rather than unifying in reaching common goals.

##### Criteria for Allocation of Available Funds

The following criteria for allocation of funds were established in the Federal Register on September 14, 1993, (at 58 FR 48068) after public comment and are being continued in FY 1997.

HRSA will fund approved applications based on the following formula:

- Annually, the total amount available for funding under section 746(a)(3) will be divided by the total number of AHEC centers in approved applications. This will yield the per center allocation.
- In accordance with the provisions of section 746(e)(1)(A), at least 75 percent of the awarded funds must be spent by an AHEC program in approved AHEC centers. The remaining 25 percent may be allocated to the AHEC program office and/or other participating schools.
- A school may expend not more than 10 percent of an award for demonstration project purposes as defined in section 746(a)(3)(E).

##### National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Health People 2000, a PHS-led national activity for setting priority areas. The Basic/Core Area Health Education Centers (AHEC) Program and the Model State-Supported AHEC Program are related to the priority area of *Educational and Community-Based Programs*. Potential applicants may obtain a copy of *Healthy People 2000* (Full Report; Stock No. 017-001-00474-

0) or *Healthy People 2000* Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9325 (Telephone 202-783-3238).

##### Academic and Community Partnerships

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service supported education programs and programs which provide comprehensive primary care services to the underserved.

##### Smoke Free Workplace

The Public Health Service strongly encourages all grant and cooperative agreement recipients to provide a smoke-free workplace and promote the non-use 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.

##### Application Availability

Application materials are available on the World Wide Web at address: "<http://www.hrsa.dhhs.gov/bhpr/grants.html>". In Fiscal Year 1997, the Bureau of Health Professions (BHP) will use Adobe Acrobat to publish the grants documents on the Web page. In order to download, view and print these grants documents, you will need a copy of Adobe Acrobat Reader. This can be obtained without charge from the Internet by going to the Adobe Web page ("<http://www.adobe.com>") and downloading the version of the Adobe Acrobat Reader which is appropriate for your operating system, i.e., Windows, Unix, Macintosh, etc. A set of more detailed instructions on how to download and use the Adobe Acrobat Reader can be found on the BHP Grants Web page under "Notes on this WWW Page".

If additional programmatic information is needed, please contact Carol S. Gleich, Ph.D. Chief, AHEC and Special Programs Branch, ([cgleich@hrsa.dhhs.gov](mailto:cgleich@hrsa.dhhs.gov)) Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9A-27, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443-6950, FAX: (301) 443-8890. Questions regarding grants policy and business management issues should be directed to Ms. Wilma Johnson, Acting Chief, Centers and Formula Grants Section ([wjohnson@hrsa.dhhs.gov](mailto:wjohnson@hrsa.dhhs.gov)),

Grants Management Branch, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-26, 5600 Fishers Lane, Rockville, Maryland 20857.

For applicants who are unable to access application materials electronically, a hard copy will be provided by contacting the HRSA Grants Application Center. The Center may be contacted by: Telephone Number: 1-888-300-HRSA; FAX Number: 301-309-0579; Email Address: HRSA.GAC@X.NETCOM.COM.

Completed applications should be returned to: Grants Management Officer (CFDA\*), HRSA Grants Application

Center, 40 West Gude Drive, Suite 100, Rockville, Maryland 20850.

#### Paperwork Reduction Act

The standard application form PHS 6025-1, HRSA Competing Training Grant Application, General Instructions and supplement for these grant programs have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB Clearance Number is 0915-0060.

#### Deadline Date

The deadline dates for receipt of applications for each of these programs are shown in Table 1. Applications will be considered to be "on time" if they are either:

(1) Received on or before the established deadline date, or

(2) Sent on or before the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late applications not accepted for processing will be returned to the applicant. In addition, applications which exceed the page limitation and/or do not follow format instructions will not be accepted for processing and will be returned to the applicant.

TABLE 1

PHS Section No., Title, CFDA No., Regulation	Type of assistance	Period of support (years)	Deadline date
746(a)(1), Basic/Core AHEC, 93.824, 42 CFR part 57 subpart MM .....	Cooperative Agreement .....	3	3/21/97
746(a)(3), State Supported Model AHEC, 93.107 .....	Cooperative Agreement .....	3	3/21/97

These programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100) or the Public Health System Reporting Requirements.

Dated: January 28, 1997.

Ciro V. Sumaya,

Administrator.

[FR Doc. 97-2682 Filed 2-3-97; 8:45 am]

BILLING CODE 4160-15-P

#### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the following National Heart, Lung, and Blood Institute Special Emphasis Panel.

The meeting will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Person listed below in advance of the meeting.

*Name of Panel:* Heart and Vascular Diseases Research Opportunities.

*Dates of Meeting:* March 26, 1997.

*Time of Meeting:* 8:30 a.m.

*Place of Meeting:* NIH, Building 31, C Wing, Conference Room 6, 31 Center Drive, Bethesda Maryland 20892.

*Agenda:* Discussion of Future Initiatives with Emphasis on Critical Health Care Needs

and Research Opportunities Related to Heart and Vascular Diseases.

*Contact Person:* Frank Altieri, Ph.D., NHLBI/DHVD, Two Rockledge Center, 6701 Rockledge Drive, Rm. 9166, MSC 7940, Bethesda, Maryland 20892, (301) 435-0494.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 29, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97-2725 Filed 2-3-97; 8:45 am]

BILLING CODE 4140-01-M

#### National Heart, Lung, and Blood 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 Heart, Lung, and Blood Special Emphasis Panel (SEP) meetings:

*Name of SEP:* Conjugated Pneumococcal Vaccine in Sickle Cell Disease.

*Date:* February 25, 1997.

*Time:* 8:00 a.m.

*Place:* Hyatt Regency Hotel, One Metro Center, Bethesda, Maryland 20814.

*Contact Person:* Ivan Baines, Ph.D., Two Rockledge Center, Room 7184, 6701 Rockledge Drive, Bethesda, MD 20892-7924, (301) 435-0277.

*Purpose/Agenda:* To review and evaluate grant applications.

This notice is being published less than fifteen days prior to this meeting due to the

urgent need to meet timing limitations imposed by the grant review and funding cycle.

*Name of SEP:* Collaborative Study on the Genetics of Asthma.

*Date:* March 18, 1997.

*Time:* 8:00 a.m.

*Place:* Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, Virginia 22202.

*Contact Person:* C. James Scheirer, Ph.D., Two Rockledge Center, Room 7220, 6701 Rockledge Drive, Bethesda, MD 20892-7924, (301) 435-0266.

*Purpose/Agenda:* To review and evaluate grant applications.

These meetings will be closed in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: January 29, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.

[FR Doc. 97-2727 Filed 2-3-97; 8:45 am]

BILLING CODE 4140-01-M

### National Heart, Lung, and Blood 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 Initial Review Group (IRG) meeting:

*Name if IRG:* Heart, Lung, and Blood Program Project Review Committee.

*Date:* March 27, 1997.

*Time:* 8:00 a.m.

*Place:* Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

*Contact Person:* Dr. Jeffrey H. Hurst, Scientific Review Administrator, NHLBI/ Review Branch, 6701 Rockledge Drive, Rm. 7208, Bethesda, Maryland 20892, (301) 435-0303.

*Purpose/Agenda:* To review and evaluate program project grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. 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 Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

*Dated:* January 29, 1997.

**Paula N. Hayes,**

*Acting Committee Management Officer, NIH.*  
[FR Doc. 97-2728 Filed 2-3-97; 8:45 am]

**BILLING CODE 4140-01-M**

### National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting.

*Name of Committee:* National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

*Date:* February 21, 1997.

*Time:* 11:00 am to adjournment.

*Place:* 6120 Executive Blvd., Rockville MD 20892, (telephone conference call).

*Contact Person:* Richard S. Fisher, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, Bethesda MD 20892-7180, 301-496-8693.

*Purpose/Agenda:* To review and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or

proposals and the discussion 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. 93.173 Biological Research Related to Deafness and Communication Disorders)

*Dated:* January 29, 1997.

**Paula N. Hayes,**

*Acting Committee Management Officer, NIH.*  
[FR Doc. 97-2723 Filed 2-3-97; 8:45 am]

**BILLING CODE 4140-01-M**

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

*Name of SEP:* Collaborations for Advanced Strategies in Opportunistic Infections.

*Date:* March 7, 1997.

*Time:* 8:30 a.m.

*Place:* Bethesda Ramada Hotel & Conference Center, Parlor, 8400 Wisconsin Avenue, Bethesda, MD 20814, (301) 654-1000.

*Contact Person:* Dr. Vassil Georgiev, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C04, Bethesda, MD 20892, (301) 496-8206.

*Purpose/Agenda:* To evaluate 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/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 Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

*Dated:* January 29, 1997.

**Paula N. Hayes,**

*Acting Committee Management Officer, NIH.*  
[FR Doc. 97-2724 Filed 2-3-97; 8:45 am]

**BILLING CODE 4140-01-M**

### National Institute of Environmental Health Sciences; Notice of a Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Environmental Health Sciences Special Emphasis Panel (SEP) meeting:

*Name of SEP:* Studies to Evaluate the Toxic and Carcinogenic Potential of Selected Chemicals in Laboratory Animals via Inhalation.

*Date:* March 5, 1997.

*Time:* 9:00 A.M.

*Place:* National Institute of Environmental Health Sciences, South Campus, Conference Center 101-A, Research Triangle Park, NC.

*Contact Person:* Dr. John Braun, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541-1446.

*Purpose/Agenda:* To review and evaluate contract proposals.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health.)

*Dated:* January 29, 1997.

**Paula N. Hayes,**

*Acting Committee Management Officer, NIH.*  
[FR Doc. 97-2726 Filed 2-3-97; 8:45 am]

**BILLING CODE 4140-01-M**

### National Institute of Neurological Disorders and Stroke Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).

*Date:* February 27, 1997.

*Time:* 2:30 p.m.

*Place:* National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, Maryland 20892.

*Contact Person:* Dr. Howard Weinstein, Scientific Review Administrator, National Institutes of Health, 7550 Wisconsin Avenue,



Room 9C10, Bethesda, MD 20892, (301) 496-9223.

*Purpose/Agenda:* To review and evaluate 1 SBIR Phase I Topic 027 Contract Proposal.

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. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences).

Dated: January 29, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.  
[FR Doc. 97-2730 Filed 2-3-97; 8:45 am]

BILLING CODE 4140-01-M

#### Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

*Purpose/Agenda:* To review individual grant applications.

*Name of SEP:* Clinical Sciences.

*Date:* February 20, 1997.

*Time:* 11:00 a.m.

*Place:* Holiday Inn, Chevy Chase, MD.

*Contact Person:* Dr. Jerrold Fried, Scientific Review Administrator, 6701 Rockledge Drive, Room 4126, Bethesda, Maryland 20892, (301) 435-1777.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* March 6 1997.

*Time:* 2:00 p.m.

*Place:* NIH, Rockledge 2, Room 6168, Telephone Conference.

*Contact Person:* Dr. Syed Amir, Scientific Review Administrator, 6701 Rockledge Drive, Room 6168, Bethesda, Maryland 20892, (301) 435-1043.

*Name of SEP:* Clinical Sciences.

*Date:* March 18, 1997.

*Time:* 12:00 p.m.

*Place:* NIH, Rockledge 2, Room 4126, Telephone Conference.

*Contact Person:* Dr. Jerrold Fried, Scientific Review Administrator, 6701 Rockledge Drive, Room 4126, Bethesda, Maryland 20892, (301) 435-1777.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure

of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 29, 1997.

Paula N. Hayes,

Acting Committee Management Officer, NIH.  
[FR Doc. 97-2729 Filed 2-3-97; 8:45 am]

BILLING CODE 4140-01-M

#### Substance Abuse and Mental Health Services Administration

##### Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS (Formerly: National Institute on Drug Abuse, ADAMHA, HHS).

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services notifies Federal agencies of the laboratories currently meeting to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Giselle Hersh, Division of Workplace Programs, Room 13A-54, 5600 Fishers Lane, Rockville, Maryland 20857; Tel.: (301) 443-6014.

**SUPPLEMENTARY INFORMATION:** Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to

conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

- Aegis Analytical Laboratories, Inc., 624 Grassmere Park Rd., Suite 21, Nashville, TN 37211, 615-331-5300
- Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800-541-4931 / 334-263-5745
- American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 22021, 703-802-6900
- Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119-5412, 702-733-7866 / 800-433-2750
- Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801-583-2787 / 800-242-2787
- Baptist Medical Center—Toxicology Laboratory 9601 I-630, Exit 7, Little Rock, AR 72205-7299, 501-227-2783, (formerly: Forensic Toxicology Laboratory Baptist Medical Center)
- Bayshore Clinical Laboratory 4555 W. Schroeder Dr., Brown Deer, WI 53223, 414-355-4444 / 800-877-7016
- Cedars Medical Center, Department of Pathology 1400 Northwest 12th Ave., Miami, FL 33136, 305-325-5784
- Centinela Hospital Airport Toxicology Laboratory 9601 S. Sepulveda Blvd., Los Angeles, CA 90045, 310-215-6020
- Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215-2802, 800-445-6917
- CompuChem Laboratories, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919-549-8263/800-833-3984, (Formerly: CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory, Roche CompuChem Laboratories, Inc., A Member of the Roche Group)
- Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800-

- 876-3652/417-269-3093, (formerly: Cox Medical Centers)  
 Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, PO Box 88-6819, Great Lakes, IL 60088-6819, 847-688-2045/847-688-4171
- Diagnostic Services Inc., dba DSI, 4048 Evans Ave., Suite 301, Fort Myers, FL 33901, 5941-418-4700/800-735-5416
- Doctors Laboratory, Inc., PO Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912-244-4468
- DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 800-898-0180/206-386-2672, (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)
- DrugScan, Inc., PO Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215-674-9310
- ELSOHLY Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601-236-2609
- General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608-267-6267
- Harrison Laboratories, Inc., 9930 W. Highway 80, Midland, TX 79706, 800-725-3784/915-563-3300, (formerly: Harrison & Associates Forensic Laboratories)
- Jewish Hospital of Cincinnati, Inc., 3200 Burnet Ave., Cincinnati, OH 45229, 513-569-2051
- LabOne, Inc., 8915 Lenexa Dr., Overland Park, Kansas 66214, 913-888-3927/800-728-4064, (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)
- Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702-334-3400, (formerly: Sierra Nevada Laboratories, Inc.)
- Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 800-437-4986, (Formerly: Roche Biomedical Laboratories, Inc.)
- Laboratory Specialists, Inc., 113 Jarrell Dr., Belle Chasse, LA 70037, 504-392-7961
- Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715-389-3734/800-331-3734
- MedExpress/National Laboratory Center, 4022 Willow Lake Blvd., Memphis, TN 38118, 901-795-1515/800-526-6339
- Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419-381-5213
- Medlab Clinical Testing, Inc., 212 Cherry Lane, New Castle, DE 19720, 302-655-5227
- MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 800-832-3244/612-636-7466
- Methodist Hospital of Indiana, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317-929-3587
- Methodist Medical Center Toxicology Laboratory, 221 N.E. Glen Oak Ave., Peoria, IL 61636, 800-752-1835/309-671-5199
- MetroLab-Legacy Laboratory Services, 235 N. Graham St., Portland, OR 97227, 503-413-4512, 800-237-7808(x4512)
- Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612-725-2088
- National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805-322-4250
- Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800-322-3361
- Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440-0972, 541-687-2134
- Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509-926-2400/800-541-7891
- PharmChem Laboratories, Inc., 1505-A O'Brien Dr., Menlo Park, CA 94025, 415-328-6200/800-446-5177
- PharmChem Laboratories, Inc., Texas Division, 7606 Pebble Dr., Fort Worth, TX 76118, 817-595-0294, (formerly: Harris Medical Laboratory)
- Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913-338-4070/800-821-3627
- Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619-279-2600/800-882-7272
- Premier Analytical Laboratories, 15201 I-10 East, Suite 125, Channelview, TX 77530, 713-457-3784/800-888-4063, (formerly: Drug Labs of Texas)
- Presbyterian Laboratory Services, 1851 East Third Street, Charlotte, NC 28204, 800-473-6640
- Puckett Laboratory, 4200 Mamie St., Hattiesburgh, MS 39402, 601-264-3856/800-844-8378
- Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800-526-0947/972-916-3376, (formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)
- Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220-3610, 800-574-2474/412-920-7733, (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)
- Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810-373-9120, (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
- Quest Diagnostics Incorporated, 1355 Mittel Blvd., Wood Dale, IL 60191, 630-595-3888, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)
- Quest Diagnostics Incorporated, 2320 Schuetz Rd., St. Louis, MO 63146, 800-288-7293/314-991-1311, (formerly: Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)
- Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201-393-5590, (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
- Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410-536-1485, (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)
- Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108-4406, 800-446-4728/619-686-3200, (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
- Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804-378-9130
- Scott & White Drug Testing Laboratory, 600 S. 25th St., Temple, TX 76504, 800-749-3788
- S.E.D. Medical Laboratories, 500 Walter NE, Suite 500, Albuquerque, NM 87102, 505-727-8800 / 800-999-LABS
- SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818-989-2520 / 800-877-2520
- SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352-787-9006, (formerly: Doctors & Physicians Laboratory)
- SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770-452-1590, (formerly: SmithKline Bio-Science Laboratories)
- SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847-447-4379/800-447-4379, (formerly: International Toxicology Laboratories)

SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 800-523-0289/610-631-4600 (formerly: SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301, (formerly: SmithKline Bio-Science Laboratories)

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219-234-4176

Southwest Laboratories, 2727 W. Baseline Rd., Suite 6, Tempe, AZ 85283, 602-438-8507

St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 N. Lee St., Oklahoma City, OK 73102, 405-272-7052

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573-882-1273

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305-593-2260

TOXWORX Laboratories, Inc., 6160 Variel Ave., Woodland Hills, CA 91367, 818-226-4373 / 800-966-2211, (formerly: Laboratory Specialists, Inc.; Abused Drug Laboratories; MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc.)

UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 800-492-0800 / 818-996-7300, (formerly: MetWest-BPL Toxicology Laboratory)

UTMB Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555-0551, 409-772-3197

Richard Kopanda,  
Executive Officer, Substance Abuse and  
Mental Health Services Administration.

[FR Doc. 97-2748 Filed 2-3-97; 8:45 am]

BILLING CODE 4160-20-U

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### Marine Mammal Annual Report Availability, Calendar Year 1993

AGENCY: Fish and Wildlife Service,  
Interior.

ACTION: Notice of availability of calendar year 1993 marine mammal annual report.

SUMMARY: The U.S. Fish and Wildlife Service has issued its 1993 annual

report on administration of the marine mammals under its jurisdiction, as required by section 103(f) of the Marine Mammal Protection Act of 1972. The report covers the period January 1 to December 31, 1993, and was submitted to Congress on January 10, 1997. By this notice, the public is informed that the 1993 report is available and that individuals may obtain a copy by written request to the Service.

ADDRESSES: Written requests for copies should be addressed to: Publications Unit, U.S. Fish and Wildlife Service, Mail Stop 130-WEBB, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Horwath, Division of Fish and Wildlife Management Assistance, Telephone (703) 358-1718.

SUPPLEMENTARY INFORMATION: The Service is responsible for eight species of marine mammals under the jurisdiction of the Department of the Interior, as assigned by the Marine Mammal Protection Act of 1972. These species are polar bear, sea and marine otters, walrus, manatees (three species) and dugong. Administrative actions discussed include appropriations, marine mammals in Alaska, endangered and threatened marine mammal species, law enforcement activities, scientific research and public display permits, certificates of registration, research, Outer Continental Shelf environmental studies and international activities.

Dated: January 27, 1997.

John G. Rogers,  
Acting Director.

[FR Doc. 97-2659 Filed 2-3-97; 8:45 am]

BILLING CODE 4310-65-M

### Bureau of Land Management

[AK-910-0777-74]

AGENCY: Bureau of Land Management,  
Interior.

ACTION: Notice of Alaska Resource  
Advisory Council meeting.

SUMMARY: The Alaska Resource Advisory Council will conduct an open meeting Tuesday, March 11, 1997 from 9 a.m. to 5 p.m. and Wednesday, March 12, 1997 from 8:30 a.m. until 4 p.m. The purpose of the meeting is to discuss mining issues on the Fortymile Wild and Scenic River. The meeting will be held at the BLM Northern District Office, 1150 University Avenue, Fairbanks, AK. Public comments pertaining only to mining access and occupancy on navigable and wild portions of the Fortymile will be taken from 3-4 p.m. Tuesday, March 11.

Written comments may be submitted at the meeting.

ADDRESSES: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, Alaska 99513-7599.

FOR FURTHER INFORMATION CONTACT:  
Teresa McPherson at (907) 271-5555.

Dated: January 28, 1997.

Tom Allen,  
State Director.

[FR Doc. 97-2677 Filed 2-3-97; 8:45 am]

BILLING CODE 4310-SA-M

[NV-050-1020-001]

### Mojave-Southern Great Basin Resource Advisory Council—Notice of Meeting Locations and Times

AGENCY: Bureau of Land Management,  
Interior.

ACTION: Resource Advisory Council  
meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), council meeting of the Mojave-Southern Great Basin Resource Advisory Council (RAC) will be held as indicated below. The agenda includes a public comment period, and discussion of public land issues.

The Resource Advisory Council develops recommendations for BLM regarding the preparation, amendment, and implementation of land use plans for the public lands and resources within the jurisdiction of the council. For the Mojave-Great Basin RAC this jurisdiction is Clark, Esmeralda, Lincoln and Nye counties in Nevada. Except for the purposes of long-range planning and the establishment of resource management priorities, the RAC shall not provide advice on the allocation and expenditure of Federal funds, or on personnel issues.

The RAC may develop recommendation for implementation of ecosystem management concepts, principles and programs, and assist the BLM to establish landscape goals and objectives.

All meetings are open to the public. The public may present written comments to the council. Public comments should be limited to issues for which the RAC may make recommendations within its area of jurisdiction. Depending on the number of persons wishing to comment, and time available, the time for individual

oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Michael Dwyer at the Las Vegas District Office, 4765 Vegas Dr., Las Vegas, NV 89108, telephone, (702) 647-5000.

**DATES, TIMES:** Date is February 28, 1997, from 8:30 a.m. to approximately 4:30 p.m. The council will meet at the BLM Las Vegas District Office, located at 4765 Vegas Dr., Las Vegas, NV 89108. The public comment period will begin at 3 p.m.

**FOR FURTHER INFORMATION CONTACT:** Lorraine Buck, Public Affairs Specialist, Las Vegas District, telephone: (702) 647-5000.

Dated: January 23, 1997.

**James W. Abbott,**

*Associate District Manager.*

[FR Doc. 97-2700 Filed 2-3-97; 8:45 am]

**BILLING CODE 4310-HC-M**

[OR-958-0777-54; GP6-0216; OR-22221 (WA)]

**Public Land Order No. 7240; Revocation of Secretarial Order Dated June 28, 1943; Washington**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes in its entirety a Secretarial order which withdrew 4.25 acres of public land for the Bureau of Land Management's Powersite Classification No. 342. The land is no longer needed for the purpose for which it was withdrawn. The land is included in another existing withdrawal and remains closed to surface entry and mining. The land has been and remains open to mineral leasing.

**EFFECTIVE DATE:** February 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-952-6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Secretarial Order dated June 28, 1943, which established Powersite Classification No. 342, is hereby revoked in its entirety:

**Willamette Meridian**

T. 11 N., R. 4 E.,

Sec. 2, lot 1.

The area described contains 4.25 acres in Lewis County.

2. The land is included in Power Project No. 2016 and remains withdrawn from operation of the public land laws, including the mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Signed: January 23, 1997.

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

[FR Doc. 97-2666 Filed 2-3-97; 8:45 am]

**BILLING CODE 4310-33-P**

[OR-958-0777-63; GP6-0215; OR-19604 (WA)]

**Public Land Order No. 7239; Revocation of Executive Order Dated February 6, 1915; Washington**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes in its entirety an Executive order which withdrew 38.90 acres of public lands for the Bureau of Land Management's Powersite Reserve No. 479. The lands are no longer needed for the purpose for which they were withdrawn. Of the lands being revoked, 25 acres will remain closed to surface entry and mining due to another existing withdrawal. These lands have been and will remain open to mineral leasing. The remaining 13.90-acres have been conveyed out of Federal ownership with a reservation for coal, and will not be restored to the operation of the public land laws, including the mining laws.

**EFFECTIVE DATE:** February 4, 1997.

**FOR FURTHER INFORMATION CONTACT:** Betty McCarthy, BLM Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208-2965, 503-952-6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated February 6, 1915, which established Powersite Reserve No. 479, is hereby revoked in its entirety:

**Willamette Meridian**

T. 12 N., R. 5 E.,

Sec. 32, lots 8 and 9.

The areas described aggregate 38.90 acres in Lewis County.

2. The following described land has been conveyed out of Federal ownership, with a reservation of coal to

the United States, and will not be restored to the operation of the public land laws, including the mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws for coal.

**Willamette Meridian**

T. 12 N., R. 5 E.,

Sec. 32, lot 8.

The area described contains 13.90 acres in Lewis County.

3. The following described land is included in Power Project No. 2016 and remains withdrawn from operation of the public land laws, including the mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws:

**Willamette Meridian**

T. 12 N., R. 5 E.,

Sec. 32, lot 9.

The area described contains 25 acres in Lewis County.

Signed: January 23, 1997

**Bob Armstrong,**

*Assistant Secretary of the Interior.*

[FR Doc. 97-2667 Filed 2-3-97; 8:45 am]

**BILLING CODE 4310-33-P**

**Minerals Management Service**

**Electronic Commerce in the Minerals Management Service**

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of an Electronic Commerce Presentation.

**SUMMARY:** The Minerals Management Service (MMS) is giving an Electronic Commerce (EC) presentation in Dallas, Texas, on February 27, 1997. This presentation will assist those individuals considering EC implementation or pilot testing with MMS.

**FOR FURTHER INFORMATION CONTACT:** Mr. Timothy C. Allard, Systems Management Division, Minerals Management Service, Royalty Management Program, P. O. Box 25165, MS 3140, Denver, Colorado, 80225-0165, telephone numbers (800) 619-4593, (303) 275-7007, fax number (303) 275-7099, e-mail

Timothy\_Allard@smtp.mms.gov or Ms. Carolyne Ridge, Information Technology Division, Minerals Management Service, Offshore Minerals Management, 381 Elden Street, Herndon, VA 20170-4817, telephone number (703) 787-1775, fax number (703) 787-1675, e-mail Carolyne\_Ridge@smtp.mms.gov.

**DATES:** The EC presentation is Thursday, February 27, 1997.



**LOCATION:** Hyatt Regency Dallas, 300 Reunion Blvd., Dallas, Texas 75207, telephone number: (214) 651-1234. The Hyatt Regency Dallas is located at the intersection of Reunion Blvd. and Hotel Drive, near Reunion Tower.

**SUPPLEMENTARY INFORMATION:** MMS is offering an EC presentation at no cost to companies and interested parties that are considering EC implementation or pilot testing with MMS. The presentation will be held in conjunction with the American Petroleum Institute (API), Petroleum Industry Data Exchange (PIDX), Spring User Group Meetings in Dallas, Texas.

If you plan to attend the API PIDX User Group meetings scheduled for February 24 through 27, 1997, a registration fee may apply. Instructors are MMS employees of the Royalty Management Program, Systems Management Division, and the Offshore Minerals Management, Information Technology Division.

#### Agenda

*Morning Session:* 9:00 a.m.—11:30 a.m.

*Subject:* MMS EC activities, capabilities, current status and implementation planning and schedules.

*Afternoon Session:* 1:00 p.m.—4:00 p.m.

*Subject:* EDI technical issues and mapping walk-through for the transmittal of regulatory report data via Accredited Standards Committee (ASC) X12 EDI standards. The mapping walk-through will focus on Forms MMS-2014, Report of Sales and Royalty Remittance, MMS-126, Semiannual Well Test Report, and MMS-128, Well Potential Test Report and Request for Maximum Production Rate (MPR). Currently EDI for Forms MMS-126 and MMS-128 is in a pilot test phase. Before full implementation can occur additional pilot tests are necessary.

Attendees of the afternoon session will be provided copies of the new *MMS EDI Handbook for Payors and Reporters* for the following reporting forms and electronic payments:

Report of Sales and Royalty Remittance, Form MMS-2014  
 Monthly Report of Operations, Form MMS-3160  
 Oil and Gas Operations Report (OGOR), Form MMS-4054-A, B, and C, MMS Bill for Collection, Invoice Form DI-1040  
 Semiannual Well Test Report, Form MMS-126  
 Well Potential Test Report and Request for MPR, Form MMS-128  
 National Automated Clearing House Association (NACHA) Electronic Payments

If you plan to attend the Electronic Commerce presentation, please leave a message for Tim Allard or Carolyne Ridge at the telephone and FAX numbers or the e-mail address in the information contact section of this notice no later than February 21, 1997.

Dated: January 29, 1997.

**Lucy R. Querques,**

*Associate Director for Royalty Management.*

[FR Doc. 97-2678 Filed 2-3-97; 8:45 am]

BILLING CODE 4310-MR-P

#### National Park Service

##### 60-day Notice of Intention to Request Clearance of Information Collection—Opportunity for Public Comment

**AGENCY:** Department of the Interior, National Park Service, Isle Royale National Park, Arches National Park, 8 Other Units of the National Park System.

**ACTION:** Notice and request for comments.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. 3507) and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service invites public comments on three proposed information collection requests (ICR). Comments are invited on: (1) the need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

The Primary Purpose of the Proposed ICRs: One information collection survey will be conducted to obtain information about visitors and their reactions to new visitor fee programs being conducted on a trial basis in eight national park units representing a cross section of the parks in the National Park System of the United States. Results of this survey will be used by the National Park Service, the Department of the Interior, and the Congress to evaluate the trial fee programs.

A second information collection survey will be conducted at Isle Royale National Park to identify indicators and standards of visit quality through the assessment of visitor perceptions and preferences. Results of this survey will be used by park managers in their ongoing planning and management activities to improve visitor services,

protect park resources, and better serve the park's visitors.

A third information collection survey that uses computer modified photographs will be conducted at Arches National Park to evaluate standards of what constitutes a quality visitor experience. Results of this survey will be used by park managers in their ongoing planning and management activities to improve visitor services, protect park resources, and better serve the park's visitors.

**DATES:** Public comments on these three proposed ICRs will be accepted on or before April 7, 1997.

**ADDRESSES:** Send comments to David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall, 1530 N. Cleveland Ave., St. Paul, MN 55108.

All responses to this notice will be summarized and included in the requests for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. Copies of the proposed ICR requirements and draft surveys can be obtained from David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall, 1530 N. Cleveland Ave., St. Paul, MN 55108.

**FOR FURTHER INFORMATION CONTACT:** Dave Lime, 612-624-2250, or Jerrilyn Thompson, 612-624-3699.

#### SUPPLEMENTARY INFORMATION:

*Title:* Monitoring Public Reactions To Trial Fee Programs Being Tested During 1997 in the National Park System.

*Form:* None.

*OMB Number:* To be requested.

*Expiration date:* To be requested.

*Type of request:* Visitor survey.

*Description of need:* For evaluating trial fee programs being conducted in the National Park System during 1997.

*Description of respondents:* Individuals who visit the parks.

*Estimated annual reporting burden:* 96 burden hours.

*Estimated average burden hours per response:* 6 minutes.

*Estimated average number of respondents:* 960 (8 parks, 120 respondents/park).

*Estimated frequency of response:* Once.

*Title:* Isle Royale National Park Visitor Use Study: Phase II.

*Form:* None.

*OMB Number:* To be requested.

*Expiration date:* To be requested.

*Type of request:* Visitor survey.

*Description of need:* For park planning and management.

*Description of respondents:* Individuals who visit the park.

*Estimated annual reporting burden:* 100 burden hours.

*Estimated average burden hours per response:* 20 minutes.

*Estimated average number of respondents:* 300.

*Estimated frequency of response:* Once.

*Title:* Establishing Standards of Quality of the Visitor Experience at Arches National Park.

*Form:* None.

*OMB Number:* To be requested.

*Expiration date:* To be requested.

*Type of request:* Visitor survey.

*Description of need:* For park planning and management.

*Description of respondents:* Individuals who visit the park.

*Estimated annual reporting burden:* 150 burden hours.

*Estimated average burden hours per response:* 15 minutes.

*Estimated average number of respondents:* 600.

*Estimated frequency of response:* Once.

Dated: January 29, 1997.

Terry N. Tesar,

Information Collection Clearance Officer,  
Accountability and Audits Team, National  
Park Service.

[FR Doc. 97-2619 Filed 2-3-97; 8:45 am]

BILLING CODE 4310-70-M

National Park Service dedicated to the performing arts. It is managed as a public/private partnership between the National Park Service and the Wolf Trap Foundation for the Performing Arts, a private not-for-profit corporation. The Draft General Management Plan proposes basic philosophy and management concepts for the park and guidelines for park operations.

Public meetings to review the plan and receive comments will be led by officials of the National Park Service and representatives from the Wolf Trap Foundation at the following times: February 13, 1997, at 2:00 PM and 7:00 PM. Both meetings will be held at Wolf Trap Farm Park, 1551 Trap Road, Vienna, Virginia.

For further information please contact Richard Wilt, Director, Wolf Trap Farm Park at (703) 255-1808. Requests for copies of the draft plan or written comments may be addressed to Mr. Wilt at Wolf Trap Farm Park, 1551 Trap Road, Vienna, VA 22182. Comments must be received by March 3, 1997, to be addressed by the Final General Management Plan/Development Concept Plan/Environmental Impact Statement.

Dated: January 27, 1997.

Terry R. Carlstrom,

Acting Field Director, National Capital Area.

[FR Doc. 97-2618 Filed 2-3-97; 8:45 am]

BILLING CODE 4310-70-M

## COLORADO

Mesa County

Land's End Observatory, Land's End Rd., 10 mi. W of CO 65, Whitewater vicinity, 97000124

## FLORIDA

Osceola County

Grand Army of the Republic Memorial Hall, 1101 Massachusetts Ave., St. Cloud, 97000097

Volusia County

Coronado Historic District, Roughly bounded by Columbus, Due E., and Pine Aves., and the Indian River, New Smyrna Beach, 97000098

## GEORGIA

Lowndes County

Ewell Brown General Store, RR Ave., jct. with Lawrence St., Lake Park, 97000099

Richmond County

First Presbyterian Church of Augusta, 642 Telfair St., Augusta, 97000100

## IOWA

Polk County

Greek Orthodox Church of Saint George (Architectural Legacy of Proudfoot & Bird in Iowa MPS), 1118 35th St., Des Moines, 97000101

## MARYLAND

Carroll County

Orendorff, John, Farm, 412 Old Bachman's Valley Rd., Westminster vicinity, 97000102

## NEBRASKA

Pawnee County

Farwell Archeological District, Address Restricted, DuBois vicinity, 97000132

Phelps County

C B & Q Holdrege Depot, 700 Ironhorse St., Holdrege, 97000131

## NEW JERSEY

Cape May County

South Tuckahoe Historic District, Roughly, along NJ 557 and NJ 50 from the Tuckahoe River to Kendall Ln., Upper Twtnshp., Tuckahoe vicinity, 97000103

Hunterdon County

Taylor's Mill Historic District (Boundary Increase), Potterstown and Rockaway Cr. Rds., northern half of dam and mill pond site, Tewksbury Twtnshp., Oldwick vicinity, 97000105

Morris County

Jenkins—Mead House, 14 Revere Rd., Morristown, 97000106

Ocean County

Torrey—Larrabee Store, 11 Union Ave., Lakehurst, 97000104

## NEW YORK

Albany County Verdooy Schoolhouse (Colonie Town MRA) 207 Old Niskayuna Rd., Colonie, 97000117

## DEPARTMENT OF INTERIOR

### National Park Service

#### Wolf Trap Farm Park Draft General Management Plan/Development Concept Plan/Environmental Impact Statement, Vienna, VA

AGENCY: National Park Service, Interior.

ACTION: Release of draft general management plan/development concept plan/environmental impact statement for public review, and announcement of public meetings.

SUMMARY: Pursuant to Council on Environmental Quality regulations and National Park Service policy, the National Park Service (NPS) announces release for public review the Draft General Management Plan/Development Concept Plan/Environmental Impact Statement for Wolf Trap Farm Park. Public meetings will be held during the review period.

Wolf Trap Farm Park, a unit of the National Park Service and home to the Filene Center, is the only unit of the

## DEPARTMENT OF THE INTERIOR

### National Park Service

#### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 25, 1997. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127. Written comments should be submitted by February 19, 1997.

Carol D. Shull,

Keeper of the National Register.

## ALABAMA

Baldwin County

People's Supply Company, 21950 Broad St., Silverhill, 97000096

**Onondaga County**

Church of the Good Shepherd (Historic Churches of the Episcopal Diocese of Central New York MPS), NY 11A, S of jct. with Webster Rd., Onondaga Reservation, Syracuse vicinity, 97000113  
 Saint Mark's Church, (Historic Churches of the Episcopal Diocese of Central New York MPS), 6492 E. Seneca Trnkp., Jamesville, 97000114

**Rensselaer County**

Koon, Henry, House, 171 Pawling Ave., Troy, 97000112

**Seneca County**

Saint Paul's Church (Historic Churches of the Episcopal Diocese of Central New York MPS), 101 E. Williams St., Waterloo, 97000115

**Ulster County**

District School No. 14, Academy St., S of jct. with Birch Cr. Rd., Pine Hill, 97000111

Dupuy, J., Stone House (Rochester MPS), Krum Rd., W of jct. with Queens Hwy., Rochester, 97000110

Hoonbeck, Jacob, Stone House (Rochester MPS), Boice Mill Rd., jct. with Krum Rd., Rochester, 97000108

Morton Memorial Library, Elm St., SW of NY 28, Pine Hill, 97000119

Sahler, J., House (Rochester MPS), NY 209, SW of jct. with Co. Rd. 63, Rochester, 97000118

Schoonmaker Stone House and Farm (Rochester MPS), Samsonville Rd., near jct. of NY 76 and Cherrytown Rd., Rochester, 97000109

Schoonmaker, C. K., Stone House (Rochester MPS), 294 Queens Hwy., Rochester, 97000107

**Westchester County**

Mount Kisco Municipal Complex, 100-120 Main St., Mount Kisco, 97000116

**Ohio****Miami County**

Elizabeth Township Rural Historic District, Roughly bounded by Lost Cr., Miami and Clark Co. line, and Casstown Clark Co. and Elizabeth Bethel Rds., Casstown vicinity, 97000160

**Oregon****Benton County**

Willamette Valley and Coast Railroad Depot—Coravallis, 500 S. W. 7th St., Corvallis, 97000137

**Clackamas County**

Johnston, Andrew J. and Anna B., Farmstead, 18025 S. Harding Rd., Oregon City vicinity, 97000140

**Coos County**

Marshfield City Hall, 375 W. Central Ave., Coos Bay, 97000125

**Deschutes County**

Odem, Milton, House, 623 S. W. 12th St., Redmond, 97000139

**Douglas County**

Hamilton House, 759 S. E. Kane St., Roseburg, 97000141

**Jackson County**

Egan, H. Chandler and Alice B., House, 2620 Poothill Rd., Medford vicinity, 97000126  
 Faber, Edward Charles, House, 445 Manzanita St., Central Point, 97000138  
 Whittle Garage Building, 101 Oak St., Ashland, 97000142

**Josephine County**

Hotel Josephine Annex, 118 N.W. E St., Grants Pass, 97000133

**Lane County**

Our Lady of Perpetual Help Roman Catholic Church, 147 N. H St., Cottage Grove, 97000127

**Marion County**

Pierce, Edgar T., House, 1610 Fir St., S. Salem, 97000136

**Multnomah County**

Burrell Heights Apartments (Middle Class Apartments in East Portland MPS), 2903-2919 SE Clay St., Portland, 97000120

Crook, Charles, House, 6127 N. Williams Ave., Portland, 97000130

Mills, Lewis H., House, 1350 S.W. Military Rd., Portland vicinity, 97000135

Olympic Apartment Building, 707 N.W. 19th St., Portland, 97000128

San Farlando Apartments (Middle Class Apartments in East Portland MPS), 2903-2925 SE Hawthorne Blvd., Portland, 97000122

Senate Court Apartments, 203-223 N.E. 22nd Ave., Portland, 97000129

Stephens, James B., House, 1825 S.E. 12th St., Portland, 97000134

Thompson Court Apartments (Middle Class Apartments in East Portland MPS), 2304-2314 NE 11th Ave., Portland, 97000121

**South Dakota****Hamlin County**

First State Bank of Hazel, Main St., W of jct. with SD 22, Hazel, 97000147

**Lincoln County**

Grand Valley Schoolhouse, District No. 12, 285th St., approximately .5 mi. E of jct. with SD 11, Canton vicinity, 97000143

**McCook County**

Ortman Hotel, 201 W. Main St., Canistota, 97000144

**Pennington County**

Feigl House, 328 E. New York St., Rapid City, 97000145

**Spink County**

Redfield City Hall, Old, 517 N. Main St., Redfield, 97000146

**Virginia****Amherst County**

Bear Mountain Indian Mission School, Jct. of VA 643 and VA 780, SW corner, Amherst vicinity, 97000152

**Charles City County**

Hilton, Aaron, Site, Address Restricted, Charles City vicinity, 97000148

**Clarke County**

Greenway Historic District (Boundary Increase), E side of VA 255, approximately

.2 mi. N of jct. with VA 723, Millwood, 97000154

**Culpeper County**

Burgandine House, 807 S. Main St., Culpeper vicinity, 97000153

**Frederick County**

Rose Hill Farm, 1985 Jones Rd., Winchester vicinity, 97000149

**Grayson County**

Grayson County Courthouse and Clerk's Office, Old, Jct. of Greenville and Justice Rds., Galax vicinity, 97000151

**Loudoun County**

Rich Bottom Farm, 16860 Hillsboro Rd., 1.5 mi. N of Purcellville, Purcellville vicinity, 97000156

**Shenandoah County**

Hupp House, 551 N. Massanutten St., Strasburg, 97000155

**Bristol Independent City**

Virginia High School, 501 Piedmont Ave., Bristol, 97000159

**Lynchburg Independent City**

Saint Paul's Vestry House, 308 7th St., Lynchburg, 97000157

**Martinsville Independent City**

Little Post Office, 207 Starling Ave., Martinsville, 97000150

Scuffle Hill, 311 E. Church St., Martinsville, 97000158.

[FR Doc. 97-2692 Filed 2-3-97; 8:45 am]

BILLING CODE 4310-70-P

**INTERNATIONAL TRADE COMMISSION****Sunshine Act Meeting**

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 14, 1997 at 11:00 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meeting.
  2. Minutes.
  3. Ratification List.
  4. Inv. No. 731-TA-746 (Final) (Beryllium Metal and High-Beryllium Alloys from Kazakhstan)—briefing and vote.
  5. Outstanding action jackets: none.
- In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: January 29, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97-2828 Filed 1-31-97; 12:52 pm]

BILLING CODE 7020-02-M

## DEPARTMENT OF JUSTICE

**Notice of Lodging of Consent Decree Pursuant to the Oil Pollution Act**

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States and State of California v. ARCO Pipe Line Company*, CV 97-0361 JMI (C.D. Cal.), was lodged on January 17, 1997 with the United States District Court for the Central District of California. In the complaint in that action, the United States and State of California seek natural resource damages, reimbursement of response costs and damage assessment costs, and civil penalties from defendant ARCO Pipe Line Company ("APL"), relating to ruptures of an APL pipeline near Los Angeles in January 1994, that resulted in oil being discharged to the Santa Clara River, among other locations.

Pursuant to the Consent Decree, APL will pay to the federal and state natural resource trustees \$7.1 million for natural resource damages, to be used for restoration of natural resources damaged from the oil spills; \$1.3 million in payments to California for use in various state environmental projects and accounts in settlement of penalty claims; reimbursement of the United States' and California's response and damage assessment costs; a \$25,000 civil penalty pursuant to the Endangered Species Act; and payments totaling \$500,000 to the Los Angeles District Attorney's office and other environmental entities in settlement of the District Attorney's claim for penalties.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044; and refer to *United States v. ARCO Pipe Line Company*, DOJ Ref. #90-5-1-1-4347.

The proposed consent decree may be examined at the office of the United States Attorney, Central District of California, 300 N. Los Angeles Street, Los Angeles, California 90012; and at the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005, (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street NW., 4th Floor, Washington, DC 20005. In requesting a copy please refer to the referenced case and enclose a check in

the amount of \$6.75 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel Gross,  
Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division.  
[FR Doc. 97-2664 Filed 2-3-97; 8:45 am]

BILLING CODE 4410-15-M

**Notice of Lodging of Consent Decree Pursuant to the Clean Air Act**

In accordance with the Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States v. Atlantic Richfield Company and Vastar Resources, Inc.*, Civil Action No. 97-B-35, was lodged on January 9, 1997, with the United States District Court for the District of Colorado.<sup>1</sup> The proposed Consent Decree addresses the Clean Air Act violations of Vastar Resources, Inc. at Vastar's coalbed degasification operations in the Ignacio Blanco Fruitland field, which is part of the South Ute Indian Reservation in LaPlata County, Colorado. Specifically, the complaint filed with the settlements alleges that Vastar violated the Prevention of Significant Deterioration ("PSD") regulations, 40 CFR 52.21 (b)-(w), of the Clean Air Act, 42 U.S.C. 7413 *et seq.*, by failing to install proper pollution control equipment to limit emissions of carbon monoxide from engines used in the natural gas production operations it took over the operations from the Atlantic Richfield Company ("ARCO") in 1993. These violations of the Clean Air Act were discovered by the company during a routine environmental audit and were disclosed to the government in October 1995 pursuant to EPA's interim "Incentives for Self-Policing" policy.

The proposed Consent Decree requires Vastar Resources, Inc. to pay a penalty of \$137,949.00 pursuant to EPA's Incentives for Self-Policing Policy. Under the Consent Decree, until EPA issues final PSD permits to Vastar, Vastar is required to maintain and operate the control equipment already in place at the facilities in a manner consistent with that set forth in its pending permit applications and undertake any additional injunctive relief ordered by EPA to meet the PSD requirements. Once PSD permits are issued to Vastar, Vastar must maintain and operate the facilities in a manner consistent with the terms of the permits.

<sup>1</sup> The United States' claims against the Atlantic Richfield Company in this case were resolved by Stipulation which is not subject to public comment pursuant to 28 CFR 50.7.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed settlement. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, D.C. 20044, and should refer to *United States v. Atlantic Richfield Company and Vastar Resources, Inc.*, DOJ Ref. #90-5-2-1-2073.

The proposed settlement document may be examined at the Office of the United States Attorney, District of Colorado, 1961 Stout Street, Suite 1200, Denver, Colorado; Region VIII Office of the Environmental Protection Agency, 999 18th Street, Denver, Colorado; and at the Consent Decree Library, 1120 "G" Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624-0892. A copy of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library at the address listed above. In requesting a copy, please refer to the referenced case and number, the document requested (Consent Decree) and enclose a check in the amount of \$3.00 for the Consent Decree (25 cents per page reproduction costs), payable to the Consent Decree Library.

Joel M. Gross,  
Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division.  
[FR Doc. 97-2662 Filed 2-3-97; 8:45 am]  
BILLING CODE 4410-15-M

**Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, As Amended**

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in the action entitled *United States and State of New Jersey versus Irving I. Ellis*, Civil Action No. 93-1661 (GEB) (D.N.J.), was lodged on January 16, 1997 with the United States District Court for the District of New Jersey. The proposed consent decree resolves the claims by the United States and the State of New Jersey under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 9601-9675, on behalf of the U.S. Environmental Protection Agency and the New Jersey Department of Environmental Protection against the defendant, Irving I. Ellis. These claims are for recovery of response costs



incurred and to be incurred by the United States and the State of New Jersey in connection with the Ellis Property Superfund Site ("Site") in Burlington County, New Jersey.

Under the terms of the proposed consent decree, Mr. Ellis, the owner of the Site, will sell the Site after its remediation and pay 43 percent of the proceeds of the sale to the United States and 17 percent of the proceeds to the State of New Jersey in reimbursement of response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States and State of New Jersey versus Irving I. Ellis*, Civil Action No. 93-1661 (GEB), DOJ Ref. No. 90-11-3-1140.

The proposed consent decree may be examined at the Office of the United States Attorney, 970 Broad Street, Newark, New Jersey 07102; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007-1866; and the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, telephone (202) 624-0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please refer to the referenced case and enclose a check in the amount of \$7.25 (25 cents per page reproduction costs) made payable to Consent Decree Library.

Joel Gross,

Chief, Environmental Enforcement Section,  
Environment and Natural Resources Division.  
[FR Doc. 97-2665 Filed 2-3-97; 8:45 am]

BILLING CODE 4410-15-M

#### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Consistent with Departmental Policy, 28 CFR 50.7, notice is hereby given that on January 13, 1997, a proposed consent decree in *United States of America v. Monsanto Company, et al.*, Civil Action No. 97-110 (DRD), was lodged with the United States District Court for the District of New Jersey. The United States' complaint sought recovery of response costs under the Comprehensive Environmental Response, Compensation, and Liability

Act (CERCLA), 42 U.S.C. 9601, *et seq.*, against three corporations responsible for hazardous substances found at the White Chemical Corporation Superfund Site located at 660 Frelinghuysen Avenue, Newark, New Jersey.

The consent decree provides that the settling defendants will reimburse the Environmental Protection Agency (EPA) for \$600,000 in past response costs incurred by the United States in connection with the White Chemical Corporation Superfund Site. In addition, the consent decree provides that the defendants will dismiss their petitions submitted to EPA pursuant to Section 106(b)(2)(A) of CERCLA, 42 U.S.C. §606(b)(2)(A), for reimbursement of costs of compliance with an administrative order issued by EPA Region II under CERCLA Section 106(a).

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States v. Monsanto Company et al.*, D.J. Ref. 90-11-2-642A.

The proposed consent decree may be examined at the office of the United States Attorney, 970 Broad St., Room 502, Newark, N.J. 07102 and at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278. The proposed consent decree may also be examined at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005 (202-624-0892). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of \$4.50 (25 cents per page reproduction cost) payable to the "Consent Decree Library."

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement  
Section, Environment and Natural Resources  
Division.

[FR Doc. 97-2660 Filed 2-3-97; 8:45 am]

BILLING CODE 4410-15-M

#### Notice of Lodging of Consent Decree Pursuant to Multiple Environmental Statutes

In accordance with United States Department of Justice policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Puerto Rico Electric Power*

*Authority*, No. 93-2527, was lodged on January 10, 1997, with the United States District Court for the District of Puerto Rico. The consent decree resolves the United States' claims against the Puerto Rico Electric Authority ("PREPA") that are identified in a complaint filed on October 27, 1993. In that complaint, the United States cited PREPA for violations of multiple federal and Commonwealth environmental statutes and regulations, including: (1) the air quality and emission limitations requirements of the Clean Air Act, 42 U.S.C. 7401-7431; (2) the effluent limitations and National Pollutant Discharge Elimination System requirements of Sections 301 and 402 of the Federal Water Pollution Control Act (the "Clean Water Act"), 33 U.S.C. 1311, 1342; (3) the oil pollution prevention requirements promulgated at 40 CFR Part 110 pursuant to Section 311 of the Clean Water Act; (4) the inventory reporting requirements for hazardous chemicals pursuant to Section 312 of the Emergency Planning and Community-Right-to-Know Act ("EPCRA"), 42 U.S.C. 11022; (5) the hazardous substance release reporting requirements promulgated at 40 CFR Part 302 pursuant to section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9603; (6) the hazardous substance release reporting requirements of Section 304 of EPCRA; and (7) the underground storage tank requirements promulgated at 40 CFR Part 280 pursuant to Section 9003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6991b. The United States sought civil penalties and injunctive relief for the violations alleged in the complaint.

In the proposed consent decree, PREPA agrees to pay a civil penalty of \$1.5 million; to implement environmental projects costing \$3.5 million; to spend \$1 million to hire an Environmental Review Contractor to oversee and monitor PREPA's implementation and compliance with the proposed consent decree; and to undertake extensive injunctive relief designed to assure PREPA's compliance with environmental laws and regulations.

The Department of Justice will receive, for a period of sixty (60) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Puerto Rico Electric Power Authority*,

DOJ Ref. Number 90-5-2-1-1750 (PREPA).

The proposed consent decree may be examined at the Office of the United States Attorney, Degeteau Federal Building, 150 Chardon Avenue, Room 452, Hato Rey, Puerto Rico, 00918; the U.S. Environmental Protection Agency, Region II Caribbean Environmental Protection Division, Centro Europa Building, 1492 Ponce de Leon Avenue, Suite 417, Santurce, Puerto Rico 00907; the Region II Office of the U.S. Environmental Protection Agency, 290 Broadway, New York, New York, 10278; and the Consent Decree Library, 1120 G Street, Northwest, Fourth Floor, Washington, District of Columbia 20005, (202) 624-0892. Also, a summary of the consent decree may be examined at the locations previously listed. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy of the consent decree, please refer to the case identified above and enclose a check, payable to the Consent Decree Library, in the amount of \$35.75 for the consent decree only (reproduction costs at twenty-five cents (\$.25) per page) or \$67.50 for both the consent decree and all attachments and appendices to the consent decree (reproduction costs at twenty-five cents (\$.25) per page). A copy of the consent decree summary may also be obtained in person or by mail from the Consent Decree Library. In requesting a copy of the consent decree summary, please refer to the case identified above and enclose a check, payable to the Consent Decree Library, in the amount of \$3.25 for the consent decree summary (reproduction costs at twenty-five cents (\$.25) per page).

**Bruce S. Gelber,**

*Deputy Section Chief, Environmental Enforcement Section.*

[FR Doc. 97-2661 Filed 2-3-97; 8:45 am]

BILLING CODE 4410-15-M

#### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—United States Automotive Manufacturers Occupant Safety Research Partnership

Notice is hereby given that, on December 30, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, U.S.C. 4301 *et seq.* ("the Act"), General Motors Corporation filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing an expansion of the scope of the United

States Automotive Manufacturers Occupant Safety Research Partnership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, in addition to the nature and objectives originally published, the parties will combine their efforts to accelerate research on so-called "smart" air bags. To accomplish this objective, the parties, working in conjunction with government entities, universities and suppliers, will collect and examine field data that shows how occupants behave in air bag-equipped vehicles, work on understanding the nature and frequency of "out-of-position" occupant injuries from air bags, work with government agencies on new regulatory standards for vulnerable occupants and research the various complex technology ideas for "smart" air bags. The parties may also perform other acts allowed by the National Cooperative Research and Production Act that would advance these goals.

No other changes have been made in either the membership or planned activity of the joint venture. Membership in the venture remains open, and General Motors intends to file additional written notifications disclosing all changes in membership.

On July 7, 1992, General Motors filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to Section 6(b) of the Act on August 11, 1992 (57 FR 35845). On August 21, General Motors filed its last notification, changing the name but not the scope of the joint venture. A notice of that name change was published on October 6, 1992 (57 FR 46047).

**Constance K. Robinson,**

*Director of Operations, Antitrust Division.*

[FR Doc. 97-2663 Filed 2-3-97; 8:45 am]

BILLING CODE 4410-11-M

#### DEPARTMENT OF LABOR

#### Labor Advisory Committee for Trade Negotiations and Trade Policy; Meeting Notice

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463 as amended), notice is hereby given of a meeting of the Steering Subcommittee of the Labor Advisory Committee for Trade Negotiations and Trade Policy.

*Date, time and place:* February 13, 1997, 10:00 am-12:00 noon, U.S. Department of

Labor, Room S-1011, 200 Constitution Ave., NW, Washington, D.C. 20210.

*Purpose:* The meeting will include a review and discussion of current issues which influence U.S. trade policy. Potential U.S. negotiating objectives and bargaining positions in current and anticipated trade negotiations will be discussed. Pursuant to section 9(B) of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(9)(B) it has been determined that the meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions. Accordingly, the meeting will be closed to the public.

*For Further Information Contact:* Jorge Perez-Lopez, Director, Office of International Economic Affairs, Phone: (202) 219-7597.

Signed at Washington, D.C. this 27th day of January 1997.

**Andrew J. Samet,**

*Acting Deputy Under Secretary International Affairs.*

[FR Doc. 97-2738 Filed 2-3-97; 8:45 am]

BILLING CODE 4510-28-M

#### Employment and Training Administration

#### Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 14, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Program Manager, Office of Trade Adjustment Assistance, at the address

shown below, not later than February 14, 1997.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade

Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC this 6th day of January, 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

## APPENDIX—PETITIONS INSTITUTED ON 01/06/97

TA-W	Subject firm (Petitioners)	Location	Date of petition	Product(s)
33,054	Kerr-McGee Corp (Comp)	Oklahoma City, OK	12/19/96	Crude oil and natural gas.
33,055	4 In One Screwdrivers (Wkrs)	Jamestown, NY	12/09/96	Screwdrivers.
33,056	Diana Manufacturing Co (Comp)	Westville, NJ	12/12/96	Skirts.
33,057	Modine Heat Transfer, Inc (Comp)	Camdenton, MO	12/16/96	Tube plate fin heat transfer surface.
33,058	Texaco Trading & Trans. (Comp)	Casper, WY	11/27/96	Trucking transportation.
33,059	Barry Hazan Sportswear (Wkrs)	New York, NY	12/16/96	Ladies' clothing.
33,060	Atlantic Steel Industries (USWA)	Cartersville, GA	12/13/96	Steel products.
33,061	Ball-Foster Glass (Wkrs)	Laurens, SC	12/20/96	Glass containers.
33,062	U.A. Technologies (Wkrs)	Brownsville, TX	12/12/96	Gauges, welding fixtures.
33,063	Ball Corp (USWA)	Columbus, IN	12/02/96	Metal food cans.
33,064	Kranco Browning, Inc (Wkrs)	Big Bend, WI	12/12/96	Overhead cranes.
33,065	Richland Development (Wkrs)	Houston, TX	12/12/96	Oil and gas.
33,066	Grey Fox Technical Serv. (Wkrs)	Arden Hills, MN	12/05/96	Test electronic components.
33,067	Lilly Industries (UNITE)	Jamestown, NY	12/06/96	Paint.
33,068	Smith and Wesson (Comp)	Springfield, MA	12/13/96	Firearms.
33,069	System One Amedeus (Comp)	Miami, FL	11/18/96	Sell computer software systems.
33,070	Go/Dan Industries (Wkrs)	Peru, IL	12/19/96	Heater cores.
33,071	Laurel Engineering, Inc (Wkrs)	San Diego, CA	12/09/96	Conveyor systems for mining.
33,072	Tetley USA (Wkrs)	Morris Plains, NJ	12/09/96	Iced tea.
33,073	Rugged Sportswear, LLC (Wkrs)	Lawrenceville, VA	12/12/96	Men's and ladies' shorts.
33,074	R and W Apparel (Wkrs)	Scottsboro, AL	12/18/96	Knit children's activewear.
33,075	Didde Web Press Corp (Comp)	Emporia, KS	12/18/96	Printing presses.
33,076	Highlander Golf (Comp)	Sioux Falls, SD	12/10/96	Golf bags.
33,077	Cranston Print Works Co (Comp)	New York, NY	12/16/96	Art designers, administration, sales, etc.
33,078	Westinghouse Electric (Comp)	Fort Payne, AL	12/18/96	Stator coils, rotor coils.
33,079	Topps Co (The) (Comp)	Duryea, PA	12/16/96	Novelty items: ring pops, baseball cards.
33,080	Kellogg Brush Mig Co (Comp)	Easthampton, MA	12/17/96	Brushes, brooms and mops.
33,081	Rohn and Haas Co (Comp)	Bristol, PA	12/27/96	Amberlite powdered resins.
33,082	World Airways (IBT)	Hemdon, VA	12/17/96	Airline flight attendants.
33,083	Sparkle Sportswear (Comp)	Rahway, NJ	12/04/96	Girl's jeans & knit tops.

[FR Doc. 97-2733 Filed 2-3-97; 8:45 am]

BILLING CODE 4510-30-M

#### Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Program Manager of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether

the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 14, 1997.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Program Manager, Office of Trade Adjustment Assistance, at the address shown below, not later than February 14, 1997.

The petitions filed in this case are available for inspection at the Office of the Program Manager, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

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

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

## APPENDIX—PETITIONS INSTITUTED ON 01/13/97

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
33,084	Mallinckrodt Medical, Inc (Wkrs)	Argyle, NY	01/29/97	Airway products (tracheal tubes).

## APPENDIX—PETITIONS INSTITUTED ON 01/13/97—Continued

TA-W	Subject firm (petitioners)	Location	Date of petition	Product(s)
33,085	Montana Power (Wkrs)	Butte, MT	12/26/96	Gas electricity.
33,086	Mesa, Inc. (Wkrs)	Amarillo, TX	11/27/96	Oil and gas.
33,087	Vandenbergh Foods (Wkrs)	Vernon, CA	12/23/96	Margarine.
33,088	MRI Everite Knitting Mill (Wkrs)	Lebanon, PA	12/12/96	Clothing manufacturer.
33,089	Industrial Dynamics (Wkrs)	Torrance, CA	12/21/96	Inspection & automated test equipment.
33,090	SGL Carbon (Wkrs)	St. Marys, PA	12/30/96	Electric brushes for motors.
33,091	Girls Will Be Girls (Wkrs)	Athens, TN	01/02/97	Children's clothing.
33,092	Spalding Knitting Mills (Wkrs)	Griffin, GA	01/02/97	Children's socks.
33,093	Omega (Co.)	Roy, UT	01/03/97	Information storage devices.
33,094	Amphenol Corporation (IAM&AW)	Sidney, NY	12/20/96	Electrical and environmental connectors.

[FR Doc. 97-2734 Filed 2-3-97; 8:45 am]

BILLING CODE 4510-30-M

**[TA-W-33,109]****Montana Power Company, Butte, Montana; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on January 21, 1997, in response to a worker petition which was filed on January 21, 1997 on behalf of workers at Montana Power Company, Butte, Montana.

The petitioning group of workers is subject to an ongoing investigation for which a determination has not yet been issued (TA-W-33,085). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, DC, this 24th day of January, 1997.

**Russell T. Kile,**

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 97-2732 Filed 2-3-97; 8:45 am]

BILLING CODE 4510-30-M

**[TA-W-32,532; TA-W-32, 532G; TA-W-32, 532H; TA-W-32, 532I; TA-W-32, 532J; TA-W-32, 532K]**

**Orbit Industries, Inc., Helen, Georgia, et al.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 9, 1996, applicable to all workers of Orbit Industries, Incorporated located in Helen, Georgia. The notice was published in the *Federal Register* on September 13, 1996 (61 FR 48504). The worker certification was

amended September 30, 1996 and again on November 21, 1996, to include other manufacturing facilities of the subject firm. Those notices were published in the *Federal Register* on October 16, 1996 (61 FR 53937) and December 5, 1996 (61 FR 64538), respectively.

At the request of the company, the Department reviewed the certification for workers of the subject firm. Based on new information received by the company, the Department is once again amending the certification to cover workers at affiliate plants of the subject firm, Claco Manufacturing Company, Hayesville, North Carolina; Hiawassee Garment Company, Hiawassee, Georgia; Academy Garment Company, Conelia, Georgia; and Orbit Industries, Inc. locations in Alto, Georgia and New York, New York. Each of these plants have closed. The workers were engaged in employment related to the production of apparel.

The intent of the Department's certification is to include all workers of Orbit Industries adversely affected by increased imports of apparel.

The amended notice applicable to TA-W-32,532 is hereby issued as follows:

All workers of Orbit Industries, Incorporated, Helen, Georgia (TA-W-32,532), Claco Manufacturing, Hayesville, North Carolina (TA-W-532G), Hiawassee Garment Company, Hiawassee, Georgia (TA-W-32,532H), Academy Garment Company, Conelia, Georgia (TA-W-32,532I), Orbit Industries, Inc., New York, New York (TA-W-32,532J) and Orbit Industries, Inc., Alto, Georgia (TA-W-32,532K), who became totally or partially separated from employment on or after June 24, 1995 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 21st day of January 1997.

**Russell T. Kile,**

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 97-2735 Filed 2-3-97; 8:45 am]

BILLING CODE 4510-30-M

**[TA-W-33,016]****Paramount Headwear Mountain Grove, Missouri; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, and investigation was initiated on December 16, 1996 in response to a worker petition which was filed October 17, 1996 on behalf of workers at Paramount Headwear, Mountain Grove, Missouri (TA-W-33,016).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA-W-32,433G). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 23rd day of January 1997.

**Russell T. Kile,**

*Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.*

[FR Doc. 97-2731 Filed 2-3-97; 8:45 am]

BILLING CODE 4510-30-M

**[TA-W-32,433; TA-W-32,433D; TA-W-32,433E; TA-W-32,433F; TA-W-32,433G; TA-W-32,433H; TA-W-32,433I; TA-W-32,433J; TA-W-32,433K]**

**Paramount Headwear, Incorporated; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 19, 1996, applicable to all workers of Paramount Headwear, Incorporated located in Bernie, Missouri. The notice was published in the *Federal Register* on August 6, 1996 (61 FR 40852). The worker certification was amended August 14, 1996, to include other locations of the subject firm. The notice



of the amendment was published in the Federal Register on August 26, 1996 (61 FR 43781).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The company reports worker separations have occurred at other Paramount Headwear production facilities at various Missouri locations. Based on this new information, the Department is again amending the certification to cover Paramount Headwear, Incorporated, located in the following Missouri locations: Dixon, Ellington, Lockwood, Marble Hill, Mountain Grove, Salem, Van Buren and Winona. The workers were engaged in employment related to the production of hats and caps.

The intent of the Department's certification is to include all workers of Paramount Headwear, Incorporated adversely affected by increased imports.

The amended notice applicable to TA-W-32,433 is hereby issued as follows:

All workers of Paramount Headwear, Incorporated, Bernie, Missouri (TA-W-32,433) and in other cities in Missouri as follows: Dixon (TA-W-32,433D), Ellington (TA-W-32,433E), Lockwood (TA-W-32,433F), Marble Hill (TA-W-32,433G), Mountain Grove (TA-W-32,433H), Salem (TA-W-32,433I), Van Buren (TA-W-32,433J) and Winona (TA-W-32,433K), who became totally or partially separated from employment on or after June 2, 1995, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of January 1997.

Russell T. Kile,

Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 97-2737 Filed 2-3-97; 8:45 am]

BILLING CODE 4510-30-M

## NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

### Institute of Museum and Library Services; Submission for OMB Emergency Review, Comment Request

January 24, 1997.

**AGENCY:** Institute of Museum and Library Services.

**ACTION:** Notice.

**SUMMARY:** The Institute of Museum and Library Services has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35).

A copy of this ICR with applicable supporting documentation may be obtained by calling the Institute of Museum and Library Services, Director of Public and Legislative Affairs, Mamie Bittner (202) 606-8536. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606-8636 between 9:00 a.m. and 4:00 p.m. Eastern time, Monday through Friday. **BACKGROUND:** Public Law 104-208 enacted on September 30, 1996 contains the Library Services and Technology Act, a reauthorization and refocusing of federal library programs. This legislation retains the state-based approach to library programs and sharpens the focus to two key priorities: information access through technology and information empowerment through special services. The Institute requires emergency clearance for this paperwork to comply with the legislative requirement that, in order to be eligible to receive a grant, State library administrative agencies must submit a State plan to the director of IMLS no later than April 1, 1997.

Public Law 104-208 authorizes the Director of the Institute of Museum and Library Services to make grants to States to assist them to—

- (1) Consolidate Federal library service programs;
- (2) Stimulate excellence and promote access to learning and information resources in all types of libraries for individuals of all ages;
- (3) Promote library services that provide all users access to information through State, regional, national and international electronic networks;
- (4) Provide linkages among and between libraries;
- (5) Promote targeted library services to people of diverse geographic, cultural, and socioeconomic backgrounds, to individuals with disabilities, and to people with limited functional literacy or information skills.

Under Section 224(a)(2), the State plan shall cover a period of 5 years. Section 224(b) requires that the State plan shall

- (1) Establish goals, and specify priorities, for the State consistent with the purposes of the subtitle;
- (2) Describe activities that are consistent with the goals and priorities established under paragraph (1), the purposes of this subtitle, and section 231, that the State library administrative agency will carry out during such year using such grant;
- (3) Describe the procedures that such agency will use to carry out the activities described in paragraph (2);
- (4) Describe the methodology that such agency will use to evaluate the

success of the activities established under paragraph (2) in achieving the goals and meeting the priorities described in paragraph (1);

(5) Describe the procedures that such agency will use to involve libraries and library users throughout the State in policy decisions regarding implementation of this subtitle; and

(6) Provide assurances satisfactory to the Director that such agency will make such reports, in such form and containing such information, as the Director may reasonably require to carry out this subtitle and to determine the extent to which funds provided under this subtitle have been effective in carrying out the purposes of this subtitle.

Section 224(c) requires each State library administrative agency receiving a grant under this subtitle to independently evaluate, and report to the Director regarding, the activities assisted under this subtitle, prior to the end of the 5-year plan.

**DATES:** Comments must be submitted by February 18, 1997.

**ADDRESSES:** Comments must be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for the Institute of Museum and Library Services, NEOB, Washington, DC 20503, (202) 395-7316.

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
  - Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
  - Enhance the quality, utility and clarity of the information to be collected; and
  - Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.
- Agency:** Institute of Museum and Library Services.  
**Title:** Library Services and Technology Act Five Year Plan.  
**OMB Number:** New.  
**Agency Number:** 3137.  
**Frequency:** Once.  
**Affected Public:** State Library Administrative Agencies.

*Number of Respondents:* 55.  
*Estimated Time Per Respondent:* 90 hours.

*Total Burden Hours:* 4,950.

*Total Annualized capital/startup costs:* 0.

*Total Annual Costs:* 0.

*Description:* This State plan is needed to assist in determining each State's compliance with the enabling statute, and to provide information for the IMLS Director's Report to Congress on the status of library services nationwide.

**FOR FURTHER INFORMATION CONTACT:**

Mamie Bittner, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, N.W. Washington, DC 20506, telephone (202) 606-8539.

**Mamie Bittner,**

*Director of Legislative and Public Affairs.*  
[FR Doc. 97-2669 Filed 2-3-97; 8:45 am]

**BILLING CODE 7036-01-M**

**Institute of Museum and Library Services; Submission for OMB Review, Comment Request**

January 24, 1997.

**SUMMARY:** The Institute of Museum and Library Services has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35). A copy of this ICR with applicable supporting documentation may be obtained by calling the Institute of Museum and Library Services, Director of Public and Legislative Affairs, Mamie Bittner (202) 606-8536. Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 606-8636 between 9:00 a.m. and 4:00 p.m. Eastern time, Monday through Friday.

**COMMENTS:** Comments must be on or before March 6, 1997.

**ADDRESSES:** Comments should be sent to Office of Information and Regulatory Affairs, Attn.: OMB Desk Officer for the Institute of Museum and Library Services, NEOB, Washington, DC 20503, (202) 395-7316.

**SUPPLEMENTARY INFORMATION:** The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information including the validity of the methodology and assumptions used;

- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

*Agency:* Institute of Museum and Library Services.

*Title:* Final Financial Status Report.

*OMB Number:* 3137-0025.

*Agency Number:* 3137.

*Frequency:* Once.

*Affected Public:* Parties affected by this information collection are museums that have received grants from the Institute of Museum and Library Services.

*Number of Respondents:* 624.

*Estimated Time Per Respondent:* 1 hour.

*Total Burden Hours:* 624.

*Total Annualized capital/startup costs:* 0.

*Total Annual Costs:* 0.

*Description:* This form is an abbreviated version of the OMB SF 269 (Financial Status Report). It is needed for use of museums unfamiliar with federal government requirements. Only the information required by IMLS is requested on this form.

**FOR FURTHER INFORMATION CONTACT:**

Dr. Rebecca Danvers, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, telephone (202) 606-8539.

Dated: January 24, 1997.

**Diane Frankel,**

*Director.*

[FR Doc. 97-2670 Filed 2-3-97; 8:45 am]

**BILLING CODE 7036-01-M**

**National Endowment for the Arts**

**Federal Advisory Committee on International Exhibitions Advisory Meeting**

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Federal Advisory Committee on International Exhibitions will be held on February 11, 1997 from 10:00 a.m. to 4:00 p.m. This meeting will be held in Room 716, at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

Portions of this meeting will be open to the public from 10:00 a.m. to 11:00 a.m. for welcome and introductions and from 3:00 p.m. to 4:00 p.m. for a policy discussion.

The remaining portion of this meeting from 11:00 a.m. to 3:00 p.m. is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of June 22, 1995, this session will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TDY-TDD 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, DC, 20506, or call 202/682-5691.

Dated: January 28, 1997.

**Kathy Plowitz-Worden,**

*Panel Coordinator, Panel Operations, National Endowment for the Arts.*

[FR Doc. 97-2701 Filed 2-3-97; 8:45 am]

**BILLING CODE 7537-01-M**

**Institute of Museum and Library Services; Name Change**

**AGENCY:** Institute of Museum and Library Services.

**ACTION:** Notice of name change for Institute of Museum Services.

**SUMMARY:** The Museum and Library Services Act of 1996, Public Law 104-208 (H.R. 3610) enacted on September 30, 1996 established within the National Foundation on the Arts and Humanities, an Institute of Museum and Library Services. The Act reauthorizes Federal library programs through the Library Services and Technology Act and Federal museum programs through the

Museum Services Act. It moves the administration of library programs from the Department of Education to the Institute of Museum and Library Services.

**DATES:** The action is effective September 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mamie Bittner, mbittner@ims.fed.us, Director of Legislative and Public Affairs, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

Dated: January 24, 1997.

**Diane B. Frankel,**

*Director.*

[FR Doc. 97-2668 Filed 2-3-97; 8:45 am]

**BILLING CODE 7036-01-M**

## NATIONAL TRANSPORTATION SAFETY BOARD

### Sunshine Act Meeting

**TIME:** 9:30 a.m., Tuesday, February 11, 1997.

**PLACE:** The Board Room, 5th Floor, 490 L'Enfant Plaza, S.W., Washington, D.C. 20594.

**STATUS:** Open.

#### MATTERS TO BE DISCUSSED:

6804 Aviation Accident Report: Continental Airlines Flight 1943, Douglas DC-9-32, Wheels-Up Landing at Houston, Texas, February 19, 1996.

**NEWS MEDIA CONTACT:** Telephone: (202) 314-6100.

**FOR MORE INFORMATION CONTACT:** Bea Hardesty, (202) 314-6065.

Dated: January 31, 1997.

**Bea Hardesty,**

*Federal Register Liaison Officer.*

[FR Doc. 97-2850 Filed 1-31-97; 1:11 pm]

**BILLING CODE 7533-01-P**

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-286]

### Power Authority of the State of New York (Indian Point Nuclear Generating Unit No. 3); Amendment to Exemption

#### I

The Power Authority of the State of New York (the licensee) is the holder of Facility Operating License No. DPR-64, which authorizes operation of the Indian Point Nuclear Generating Unit No. 3 (IP3). The license provides that the licensee is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility consists of a pressurized-water reactor at the licensee's site located in Westchester County, New York.

#### II

By letter dated October 1, 1996, as supplemented December 5, 1996, the licensee requested an amendment to the Technical Specifications (TSs) and an amendment to an existing exemption issued on February 19, 1993. The TS and existing exemption allow the licensee to conduct Type C containment isolation valve leak tests (Type C tests or LLRTs) at intervals up to 30 months as opposed to the 2-year interval specified by 10 CFR Part 50, Appendix J, Paragraph III.D.3. The requested amendments to the TS and to this exemption would allow a one-time extension of 4½ months to the Type C test interval.

The TS and the existing exemption allow the licensee to operate with a 24-month fuel cycle. Due to a lengthy outage period, the current fuel cycle has been extended by several months. The amendments to the TS and to the exemption would allow the licensee to complete the current fuel cycle without another outage. The next refueling outage is scheduled to begin in April 1997.

#### III

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR Part 50 when (1) the exemptions are authorized by law, will not present any undue risk to public health and safety, and are consistent with the common defense and security and (2) when special circumstances are present. Special circumstances are present whenever, according to 10 CFR 50.12(a)(2)(ii), "Application of the regulation in the particular circumstance would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. \* \* \*"

The underlying purpose of the requirement to perform Type C tests at intervals not to exceed 2 years is to ensure that any potential leakage pathways through the containment boundary are identified within a time span that is short enough to detect significant degradation and long enough to allow the tests to be conducted during scheduled refueling outages. This interval was originally published in Appendix J when refueling cycles were conducted at approximately annual intervals and has not been changed to reflect 2-year operating

cycles; therefore, the staff issued Generic Letter 91-04, "Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle." This generic letter provides guidance to licensees on how to prepare requests for TS amendments and exemptions that are needed to accommodate a 24-month cycle. Enclosure 3 to Generic Letter 91-04 noted that two issues should be addressed when justifying the extended Type C test interval: (1) a possible reduction in the combined leakage limit for Type B and Type C leakage tests, and (2) the basis for concluding that the containment leakage rate would be maintained within the acceptable limits with an extended test interval. The licensee's letters of July 17, 1992, and December 23, 1992, in which it applied for the existing exemption, addressed both of these issues. The licensee's letter of December 5, 1996, addressed both issues in light of the 4½ month extension.

The first issue is a reduction in the combined containment penetration and isolation valve leakage rate limit for Type B and Type C tests that increases the margin to the maximum allowable leakage rate. The maximum allowable leakage rate, which is referred to as  $L_a$ , is specified in the facility's TS. The acceptance criterion for Type B and C tests is that the combined leakage rate shall be less than 0.60  $L_a$ . This constitutes a margin of 0.40  $L_a$  (40 percent of  $L_a$ ). Enclosure 3 to Generic Letter 91-04 states that in order to justify an exemption to the Appendix J requirements and extend Type C test intervals up to 30 months, licensees should either (1) use leakage test data to demonstrate that the margin of 0.40  $L_a$  will not be reduced as a result of the test interval increase or (2) propose an acceptance criterion limit of less than 0.60  $L_a$  as a TS change. The licensee has proposed an acceptance criterion limit of 0.50  $L_a$  for IP3. This constitutes a 25 percent increase in margin (40 percent to 50 percent). The staff has reviewed the proposed reduction in the combined leakage rate limit to 0.50  $L_a$  and finds it is consistent with the recommendations of Enclosure 3 to Generic Letter 91-04 and is, therefore, acceptable. A one-time extension of the test interval by 4½ months does not change the staff's determination in this matter.

The second issue is the basis for concluding that containment leakage will be maintained within acceptable limits with an extended test interval. At the time of issuance of the existing amendment, ten LLRTs had been performed during the lifetime of IP3.

The as-found results of the first two tests (1978 and 1979) did not meet the acceptable leakage limit due to excessive leakage from one valve in 1978 and from four valves in 1979. The as-found results of the next six tests were below the acceptable leakage limit. The as-found results of the 1989 and 1990 tests did not meet the acceptable leakage limit due to excessive leakage from three valves in 1989 and from one valve in 1990. For each of the tests that did not meet the leakage limits, repairs to the noted valves were conducted, and the as-left values were well below acceptable leakage limits. The licensee reviewed the results of these ten LLRTs and concluded that the failures, except for one valve which was replaced in 1990, were random and non-recurring. The licensee concluded that these failures were not indicative of a poor performance trend. The staff reviewed the LLRT data provided by the licensee as well as the methodology used by the licensee to extrapolate LLRT data to a 30-month test interval and the staff concluded that there is reasonable assurance that the containment leakage rate would be maintained within acceptable limits with an LLRT interval increase to 30 months.

Since the request for the exemption allowing a 30-month LLRT test interval, two more tests have been conducted. In the first such test, conducted in 1992, the leakage for all valves was less than the minimum detectable for the test rig in use. In the second such test, conducted in 1994, the total leakage was 88 percent of the allowable value. The test rig used in the 1994 LLRT allowed the licensee to identify the valves that contributed most to total leakage. Maintenance was performed on these valves and the as-left leakage was less than 40 percent of the allowable limit. Based on its review of all of the LLRT data, the staff has concluded that there is reasonable assurance that the containment leak rate will remain within acceptable limits if the LLRT interval is extended by 4½ months; therefore, the application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule.

#### IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, that (1) the exemption described in Section III are authorized by law, will not endanger life or property, and are otherwise in the public interest and (2) special circumstances exist pursuant to 10 CFR 50.12(a)(2)(iii). Therefore, the Commission hereby grants the following

amendment to the exemption dated February 19, 1993: The Power Authority of the State of New York is exempt from the requirement of 10 CFR Part 50, Appendix J, Paragraph III.D.3, in that the current interval between Type C tests may be extended beyond 30 months for the Indian Point Nuclear Generating Unit No. 3. The Type C tests must be conducted during an outage beginning no later than May 31, 1997. This amendment applies to the current test interval only.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment (62 FR 3538).

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

**Frank J. Miraglia,**

*Acting Director, Office of Nuclear Reactor Regulation.*

Dated at Rockville, Maryland, this 28th day of January 1997.

[FR Doc. 97-2688 Filed 2-3-97; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 30-02764-MLA; ASLBP No. 97-722-01-MLA]

#### University of Cincinnati; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the *Federal Register*, 37 F.R. 28710 (1972), and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

#### University of Cincinnati (Denial of License Amendment)

The hearing, if granted, will be conducted pursuant to 10 C.F.R. Subpart L of the Commission's Regulations, "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings." This proceeding concerns a denial by NRC Staff of a request by the University of Cincinnati for a license amendment and a hearing petition pursuant to 10 C.F.R. Section 2.1205(b).

The Presiding Officer in this proceeding is Administrative Judge G. Paul Bollwerk III. Pursuant to the provisions of 10 C.F.R. 2.722, Administrative Judge Jerry R. Kline has

been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Bollwerk and Judge Kline in accordance with C.F.R. 2.701. Their addresses are:

Administrative Judge G. Paul Bollwerk III, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555  
Administrative Judge Jerry R. Kline, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Issued at Rockville, Maryland, this 29th day of January 1997.

**B. Paul Cotter, Jr.,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 97-2690 Filed 2-3-97; 8:45 am]

BILLING CODE 7590-01-P

[Docket Nos. 50-266 and 50-301]

#### Wisconsin Electric Power Company; Notice of Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-24 and DPR-27 issued to Wisconsin Electric Power Company (the licensee), for operation of the Point Beach Nuclear Power Plant, Units 1 and 2, located in Manitowoc County, Wisconsin.

The proposed amendments would change Technical Specification requirements related to the low temperature overpressure protection (LTOP) system. Specifically, the reactor coolant system (RCS) temperature below which LTOP is required to be enabled and the temperature below which one high pressure safety injection pump is required to be rendered inoperable would be changed from less than 275 degrees Fahrenheit to less than 355 degrees Fahrenheit. Additionally, the restriction of "less than the minimum pressurization temperature for the inservice pressure test as defined in Figure 15.3.1-1" would be deleted and the specific temperature limit of less than 355 degrees Fahrenheit would be specified. The setpoint for the pressurizer power-operated relief valves (PORVs) would be changed from less than or equal to 425 pounds per square inch gage (psig) to less than or equal to 440 psig to allow for instrument



inaccuracies and increased margin allowed by the use of American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code Case N-514. These modified requirements for LTOP ensure that RCS materials meet the requirements of Title 10 of the Code of Federal Regulations, Section 50.60, "Acceptance Criteria for Fracture Prevention Measures for Lightwater Nuclear Power Reactors for Normal Operation" (10 CFR 50.60) in accordance with 10 CFR Part 50, Appendices G and H, and in accordance with the exemption granted on January 27, 1997, which allows the use of ASME Code Case N-514 as an acceptable alternative. Finally, editorial changes would be made to rename the "Overpressure Mitigating System" to the "Low Temperature Overpressure Protection System." The proposed amendment requests revise a previous submittal dated September 19, 1996, as supplemented November 18, 1996. The September 19, 1996, application was noticed in the *Federal Register* on October 1, 1996 (61 FR 51308).

On January 27, 1997, the NRC granted an exemption request submitted by the licensee on July 1, 1996. The licensee submitted the revised amendment requests, based on receiving the exemption, to eliminate the restriction on reactor coolant pump operation and to revise PORV setpoints. The licensee's January 13, 1997, submittal, as supplemented on January 27, 1997, stated that the conclusions provided in the September 19, 1996, "No Significant Hazards Consideration" were not altered by the additional information provided in its January 13, 1997, submittal, as supplemented on January 27, 1997.

The January 27, 1997, submittal requested the proposed amendments be handled on an exigent basis based on the current schedule which indicates that reactor vessel head tensioning will begin on February 10, 1997. An operable LTOP system is required after the head is tensioned to ensure safe operation unless adequate venting capability is provided.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in

accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review is presented below.

(1) The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes will explicitly define the temperature at which LTOP is required to be enabled, raise the temperature at which one high pressure safety injection pump is required to be rendered inoperable, and increase the setpoint of the PORVs. The changes do not affect any accident analyses since the LTOP is required only when RCS temperatures are low. LTOP is not required during power operation. The consequences or probability of a previously evaluated accident will, therefore, not significantly be increased.

(2) The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes will still meet the requirements for fracture toughness requirements required by 10 CFR 50.60 as modified by the use of ASME Code Case N-514 which was approved as an alternative to describe requirements in 10 CFR Part 50, Appendices G and H. Therefore, a new or different kind of accident is not created.

(3) The proposed changes do not result in a significant reduction in the margin of safety.

The proposed changes increase the range of the temperature region where the LTOP system is needed, while increasing the allowed setpoint pressure by only 3.5 percent. Therefore, these changes do not involve a significant reduction in a margin of safety.

Based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be

considered in making any final determination.

Normally, the Commission will not issue the amendments until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 15-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the *Federal Register* a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 6, 1997, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. If a request for a hearing or petition for leave to intervene is filed by the above date, the

Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to

relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendments are issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment requests involve no significant hazards consideration, the Commission may issue the amendments and make them immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendment requests involve a significant hazards consideration, any hearing held would take place before the issuance of any amendments.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John N. Hannon: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this *Federal Register* notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the applications for amendment dated September 19, 1996, as supplemented November 18, 1996, and revised January 13, 1997, and supplemented on January 27, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Dated at Rockville, Maryland, this 30th day of January 1997.

For the Nuclear Regulatory Commission.

**Linda L. Gundrum,**  
Project Manager, Project Directorate III-1,  
Division of Reactor Projects—III/IV, Office of  
Nuclear Reactor Regulation.

[FR Doc. 97-2685 Filed 2-3-97; 8:45 am]

BILLING CODE 7590-01-P

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATE:** Weeks of February 3, 10, 17, and 24, 1997.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

#### Matters To Be Considered:

*Week of February 3*

Tuesday, February 4

9:30 a.m. Briefing by Maine Yankee, NRR and Region I (Public Meeting) (Contact: Daniel Dorman, 301-415-1429)

Wednesday, February 5

NOON Affirmation Session (Public Meeting) (if needed)

*Week of February 10—Tentative*

Thursday, February 13

2:00 p.m. Briefing on Operating Reactor Oversight Program and Status of Improvements in NRC Inspection Program (Public Meeting) (Contact: Bill Borchardt, 301-415-1257)

3:30 p.m. Affirmation Session (Public Meeting) (if needed)

*Week of February 17—Tentative*

Tuesday, February 18

1:00 p.m. Briefing on BPR Project on Redesignated Materials Licensing Process (Public Meeting) (Contact: Don Cool, 301-415-7197)

2:30 p.m. Briefing on Analysis of Quantifying Plant Watch List Indicators (Public Meeting) (Contact: Rich Barrett, 301-415-7482)

Wednesday, February 19

2:00 p.m. Briefing on Millstone and Maine Yankee Lessons Learned (Public Meeting) (Contact: Steve Stein, 301-415-1296)

3:30 p.m. Affirmation Session (Public Meeting) (if needed)

Thursday, February 20

2:00 p.m. Briefing on EEO Program (Public Meeting) (Contact: Ed Tucker, 301-415-7382)

Week of February 24

Wednesday, February 26

11:30 a.m. Affirmation Session (Public Meeting) (if needed)

\*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: Bill Hill (301) 415-1661.

\* \* \* \* \*

**ADDITIONAL INFORMATION:** By a vote of 5-0 on January 29, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that "Affirmation of Louisiana Energy Services—Intervenor's Motion for Partial Reconsideration of CLI-96-8" be held on January 29, and on less than one week's notice to the public.

\* \* \* \* \*

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations

Branch, Washington, D.C. 20555 (301) 415-1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [wmh@nrc.gov](mailto:wmh@nrc.gov) or [dkwnrc.gov](mailto:dkwnrc.gov).

\* \* \* \* \*

**William M. Hill, Jr.,**  
SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97-2860 Filed 1-31-97; 1:46 pm]

BILLING CODE 7590-01-M

**OFFICE OF MANAGEMENT AND BUDGET**

**Cumulative Report on Rescissions and Deferrals**

January 1, 1997.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of January 1, 1997, of seven deferrals contained in the first special message for FY 1997. This message was transmitted to Congress on December 4, 1996.

**Rescissions**

As of January 1, 1997, no rescission proposals had been transmitted to the Congress.

**Deferrals (Attachments A and B)**

As of January 1, 1997, \$3,524 million in budget authority was being deferred from obligation. Attachment D shows the status of each deferral reported during FY 1997.

**Information From Special Messages**

The special message containing information on the rescission proposals and deferrals that are covered by this cumulative report is printed in the editions of the Federal Register cited below:

61 FR 66172, Monday, December 16, 1996.

**Franklin D. Raines,**

Director.

Attachments

**ATTACHMENT A—STATUS OF FY 1997 DEFERRALS**  
(in millions of dollars)

	Budgetary resources
Deferrals proposed by the President .....	3,544.3
Routine Executive releases through January 1, 1997 (OMB/ Agency releases of \$20.3 million.) .....	-20.3
Overtaken by the Congress .....	.....
Currently before the Congress .....	3,524.0

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**ATTACHMENT B**  
**Status of FY 1997 Deferrals - As of January 1, 1997**  
 (Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted		Date of Message	Releases(-)		Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 1-1-97
		Original Request	Subsequent Change (+)		Cumulative OMB/Agency	Congressionality Required			
<b>FUNDS APPROPRIATED TO THE PRESIDENT</b>									
International Security Assistance Economic support fund and International Fund for Ireland .....	D97-1	1,256,292		12-4-96	200				1,256,092
Foreign military financing program .....	D97-2	1,412,375		12-4-96					1,412,375
Foreign military financing loan program .....	D97-3	60,000		12-4-96					60,000
Foreign military financing direct loan financing account .....	D97-4	540,000		12-4-96					540,000
Agency for International Development International disaster assistance, Executive .....	D97-5	147,800		12-4-96	5,090				142,710
<b>DEPARTMENT OF STATE</b>									
Other United States emergency refugee and migration assistance fund .....	D97-6	118,486		12-4-96	15,000				103,486
<b>SOCIAL SECURITY ADMINISTRATION</b>									
Limitation on administrative expenses .....	D97-7	7,365		12-4-96					7,365
<b>TOTAL DEFERRALS</b> .....		<b>3,544,318</b>	<b>0</b>		<b>20,290</b>			<b>0</b>	<b>3,524,028</b>



**SECURITIES AND EXCHANGE  
COMMISSION**

[Release No. 35-26656]

**Filing Under the Public Utility Holding  
Company Act of 1935, as amended  
("Act")**

January 29, 1997.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by February 24, 1997, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

**American Electric Power Company,  
Inc. et al. (70-8991)**

**Notice of Proposal to Amend Articles of  
Incorporation and Authorize Registered  
Holding Company to Acquire Preferred  
Stock of Utility Subsidiaries; Order  
Authorizing Solicitation of Proxies**

American Electric Power Company, Inc. ("AEP"), 1 Riverside Plaza, Columbus, Ohio 43215, a registered holding company, and its wholly-owned public utility subsidiaries, Appalachian Power Company ("APCo"), 40 Franklin Road, Roanoke, Virginia 24022, Indiana Michigan Power Company ("I&M"), One Summit Square, Fort Wayne, Indiana 46801, and Ohio Power Company ("OPCo"), 301 Cleveland Avenue, S.W., Canton, Ohio 44702, have filed an application-declaration under sections 6(a), 7, 9(a), 10 and 12(b)-(e) of the Act

and rules 43, 44, 51, 54, 62 and 65 thereunder.<sup>1</sup>

**APCo**

APCo has outstanding 13,499,500 shares of common stock, no par value per share ("APCo Common Stock"), all of which are held by AEP. APCo's outstanding preferred stock consists of 2,198,150 shares of cumulative preferred stock, no par value per share ("APCo Preferred Stock"), issued in five series<sup>2</sup> (each, an "APCo Series"), all of which are publicly held. APCo Common Stock and APCo Preferred Stock of each APCo Series are entitled to one vote per share. No other class of APCo equity securities is outstanding.

APCo's restated articles of incorporation ("APCo Articles") currently provide that, so long as any shares of APCo's cumulative preferred stock in any series are outstanding, without the consent of the holders of a majority of the total number of votes which holders of the outstanding shares of APCo Preferred Stock of all APCo Series are entitled to cast, APCo shall not issue or assume any evidence of indebtedness, secured or unsecured (other than for purposes of refunding or renewing outstanding evidences of indebtedness or redeeming or otherwise retiring all outstanding shares of APCo Preferred Stock and other than first mortgage bonds and certain secured indebtedness) if, immediately after such issue or assumption, (a) the total principal amount of all such indebtedness issued or assumed by APCo and then outstanding would exceed 20% of the aggregate of (1) the total principal amount of all then-outstanding bonds or other secured debt of APCo (other than certain bonds issued under a mortgage) and (2) the stated capital and surplus of APCo as stated in APCo's books, or (b) the total principal amount of all unsecured debt would exceed 20% of the aggregate of (1) the total principal amount of all then-outstanding bonds or other secured debt of APCo and (2) the stated capital and surplus of APCo as stated on APCo's books, or (c) the total outstanding principal amount of all secured debt of maturities of less than ten years would exceed 10% of the

<sup>1</sup> APCo, I&M and OPCo are sometimes referred to herein individually as a "Subsidiary" or collectively as "Subsidiaries."

<sup>2</sup> The five series of APCo Preferred Stock consist of a 4½% series, of which 298,150 shares are outstanding ("4½% Series"); a 5.90% series, of which 500,000 shares are outstanding ("5.90% Series"); a 5.92% series, of which 600,000 shares are outstanding ("5.92% Series"); a 6.85% series, of which 300,000 shares are outstanding ("6.85% Series"); and a 7.80% series, of which 500,000 shares are outstanding ("7.80% Series").

aggregate of (1) the total principal amount of all then-outstanding bonds or other secured debt of APCo and (2) the stated capital and surplus of APCo as stated on APCo's books ("APCo Restricted Provisions").

APCo proposes to solicit proxies from the holders of outstanding shares of APCo Common Stock and APCo Preferred Stock ("APCo Proxy Solicitation") for use at a special meeting of its stockholders ("APCo Special Meeting") to consider a proposed amendment to APCo's Articles that would eliminate in its entirety the APCo Restriction Provision ("APCo Proposed Amendment") from the APCo Articles. Approval of the APCo Proposed Amendment requires the affirmative vote at the APCo Special Meeting of the holders of not less than two-thirds of the total number of the then-outstanding shares of (1) the APCo Preferred Stock of all APCo Series, voting together as one class, and (2) the APCo Common Stock. AEP will vote its shares of APCo Common Stock in favor of the APCo Proposed Amendment.

If the APCo Proposed Amendment is adopted, APCo would make a special cash payment of \$1.00 per share ("APCo Cash Payment") to each holder of APCo Preferred Stock who voted (in person by ballot or by proxy) his shares of APCo Preferred Stock (each, an "APCo Share") in favor of the APCo Proposed Amendment at the APCo Special Meeting (except that no APCo Cash Payment will be made with respect to any APCo Share validity tendered pursuant to the concurrent tender offer described below). APCo will disburse APCo Cash Payments out of its general funds following adoption of the APCo Proposed Amendment.

Concurrently with the APCo Proxy Solicitation, and subject to the terms and conditions stated in an Offer to Purchase and Proxy Statement and accompanying Letter of Transmittal (together, "APCo Offer Documents"), AEP proposes to make a cash tender offer ("APCo Tender Offer") to acquire any and all outstanding shares of APCo Preferred Stock and each APCo Series, at cash purchase prices which AEP anticipates will include a market premium for each APCo Series (each, an "APCo Purchase Price"). The APCo Tender Offer consists of separate offers for each of the five APCo Series, with the offer for each APCo Series being independent of the offer for any other APCo Series. The applicable APCo Purchase Price and the other terms and conditions of the APCo Tender Offer apply equally to all holders of APCo Preferred Stock of each APCo Series ("APCo Preferred Stockholders").

AEP anticipates that the APCo Tender Offer will expire on February 28, 1997, the date of the APCo Special Meeting ("APCo Expiration Date"), unless otherwise extended. The APCo Tender Offer is not conditioned upon any minimum number of shares of APCo Preferred Stock being tendered. APCo Preferred Stockholders who wish to tender their APCo Preferred Stock pursuant to the APCo Tender Offer are not required to vote in favor of the APCo Proposed Amendment; however, one of the conditions of the APCo Tender Offer requires that the APCo Amendment be approved and adopted at the APCo Special Meeting.

#### I&M

I&M has outstanding 1,400,000 shares of common stock, par value \$100 per share ("I&M Common Stock"), all of which are held by AEP. I&M's outstanding preferred stock consists of 1,569,767 shares of cumulative preferred stock, par value \$100 per share ("I&M Preferred Stock"), issued in seven series<sup>3</sup> (each, an "I&M Series"), all of which are publicly held. I&M Common Stock and I&M Preferred Stock of each I&M Series are entitled to one vote per share. No other class of I&M equity securities is outstanding.

I&M's amended articles of acceptance ("I&M Articles") currently provide that, so long as any shares of I&M's cumulative preferred stock of any series are outstanding, without the consent of the holders entitled to cast a majority of the total number of votes which holders of the outstanding shares of I&M Preferred Stock of all I&M Series are entitled to cast, I&M shall not issue or assume any unsecured debt securities (other than for purposes of the reacquisition, redemption or other retirement of any evidences of indebtedness previously issued or assumed by I&M or the reacquisition, redemption or other retirement of all outstanding shares of I&M Preferred Stock) if, immediately after such issue or assumption, the total principal amount of all unsecured debt securities (other than the principal amount of all long-term unsecured debt securities not in excess of 10% of the capitalization of

I&M<sup>4</sup>) issued or assumed by I&M and then outstanding would exceed 10% of the capitalization of I&M ("I&M Restriction Provision").

I&M proposes to solicit proxies from the holders of outstanding shares of I&M Common Stock and I&M Preferred Stock ("I&M Proxy Solicitation") for use at a special meeting of its stockholders ("I&M Special Meeting") to consider a proposed amendment to I&M Articles that would eliminate in its entirety the I&M Restriction Provision ("I&M Proposed Amendment") from the I&M Articles. Approval of the I&M Proposed Amendment requires the affirmative vote at the I&M Special Meeting of the holders of not less than two-thirds of the total number of the then-outstanding shares of (1) the I&M Preferred Stock of all I&M Series, voting together as one class, and (2) the I&M Common Stock. AEP will vote its shares of I&M Common Stock in favor of the I&M Proposed Amendment.

If the I&M Proposed Amendment is adopted, I&M would make a special cash payment of \$1.00 per share ("I&M Cash Payment") to each holder of I&M Preferred Stock who voted (in person by ballot or by proxy) his shares of I&M Preferred Stock (each, an "I&M Share") in favor of the I&M Proposed Amendment at the I&M Special Meeting (except that no I&M Cash Payment will be made with respect to any I&M Share validly tendered pursuant to the concurrent tender offer described below). I&M will disburse I&M Cash Payments out of its general funds following adoption of the I&M Proposed Amendment.

Concurrently with the I&M Proxy Solicitation, and subject to the terms and conditions stated in an Offer to Purchase and Proxy Statement and accompanying letter of Transmittal (together, "I&M Offer Documents"), AEP proposes to make a cash tender offer ("I&M Tender Offer") to acquire any and all outstanding shares of I&M Preferred Stock of each I&M Series, at cash purchase prices which AEP anticipates will include a market premium for each I&M Series (each, an "I&M Purchase Price"). The I&M Tender Offer consists of separate offers for each of the seven I&M Series, with the offer for each I&M Series being independent of the offer for any other I&M Series. The applicable I&M Purchase Price and the other terms and conditions of the I&M Tender Offer

<sup>4</sup> "Capitalization" means an amount equal to the sum of (i) the total principal amount of all bonds or other secured debt securities issued or assumed by I&M outstanding at the time of determination and (ii) the aggregate of the stated capital of all classes of I&M stock outstanding at the time of determination and surplus of I&M at such time.

apply equally to all holders of I&M Preferred Stock of each I&M Series (I&M Preferred Stockholders").

AEP anticipates that the I&M Tender Offer will expire on February 28, 1997, the date of the I&M Special Meeting ("I&M Expiration Date"), unless otherwise extended. The I&M Tender Offer is not conditioned upon any minimum number of shares of I&M Preferred Stock being tendered. I&M Preferred Stockholders who wish to tender their I&M Preferred Stock pursuant to the I&M Tender Offer are not required to vote in favor of the I&M Proposed Amendment; however, one of the conditions of the I&M Tender Offer requires that the I&M Proposed Amendment be approved and adopted at the I&M Special Meeting.

#### OPCo

OPCo has outstanding 27,952,473 shares of common stock, no par value per share ("OPCo Common Stock"), all of which are held by AEP. OPCo's outstanding preferred stock consists of 1,484,316 shares of cumulative preferred stock, par value \$100 per share ("OPCo Preferred Stock"), issued in seven series<sup>5</sup> (each, an "OPCo Series"), all of which are publicly held. OPCo Common Stock and OPCo Preferred Stock of each OPCo Series are entitled to one vote per share. No other class of OPCo equity securities is outstanding.

OPCo's amended articles of incorporation ("OPCo Articles") currently provide that, so long as any shares of OPCo's cumulative preferred stock are outstanding, without the consent of the holders of a majority of the total number of votes which holders of the outstanding shares of OPCo Preferred Stock of all series are entitled to cast, OPCo shall not issue or assume any unsecured debt securities (other than for purposes of the reacquisition, redemption or other retirement of any evidences of indebtedness previously issued or assumed by OPCo or the reacquisition, redemption or other retirement of all outstanding shares of OPCo Preferred Stock) if, immediately after such issue or assumption, the total principal amount of all unsecured debt securities (other than the principal

<sup>5</sup> The seven series of OPCo Preferred Stock consist of a 4½% series, of which 202,403 shares are outstanding ("4½% Series"); a 4.08% series, of which 42,575 shares are outstanding ("4.08% Series"); a 4.20% series, of which 51,975 shares are outstanding ("4.20% Series"); a 4.40% series, of which 88,363 shares are outstanding ("4.40% Series"); a 5.90% series, of which 404,000 shares are outstanding ("5.90% Series"); a 6.02% series, of which 395,000 shares are outstanding ("6.02% Series"); and a 6.35% series, of which 300,000 shares are outstanding ("6.35% Series").

<sup>3</sup> The seven Series of I&M Preferred Stock consist of a 4½% series, of which 119,767 shares are outstanding ("4½% Series"); a 4.12% series, of which 40,000 shares are outstanding ("4.12% Series"); a 4.56% series, of which 60,000 shares are outstanding ("4.56% Series"); a 5.90% series, of which 400,000 shares are outstanding ("5.90% Series"); a 6¼% series, of which 300,000 shares are outstanding ("6¼% Series"); a 6¾% series, of which 300,000 shares are outstanding ("6¾% Series"); and a 6.30% series, of which 350,000 shares are outstanding ("6.30% Series").

amount of all long-term unsecured debt securities not in excess of 10% of the capitalization of OPCo<sup>6</sup>) issued or assumed by OPCo and then outstanding would exceed 10% of the capitalization of OPCo ("OPCo Restriction Provision").

OPCo proposes to solicit proxies from the holders of outstanding shares of OPCo Common Stock and OPCo Preferred Stock ("OPCo Proxy Solicitation") for use at a special meeting of its stockholders ("OPCo Special Meeting") to consider a proposed amendment to OPCo's Articles that would eliminate in its entirety the OPCo Restriction Provision ("OPCo Proposed Amendment") from the OPCo Articles. Approval of the OPCo Proposed Amendment requires the affirmative vote at the OPCo Special Meeting of the holders of not less than two-thirds of the total number of the then-outstanding shares of (1) the OPCo Preferred Stock of all OPCo Series, voting together as one class, and (2) the OPCo Common Stock. AEP will vote its shares of OPCo Common Stock in favor of the OPCo Proposed Amendment.

If the OPCo Proposed Amendment is adopted, OPCo would make a special cash payment of \$1.00 per share ("OPCo Cash Payment") to each holder of OPCo Preferred Stock who voted (in person by ballot or by proxy) his shares of OPCo Preferred Stock (each, an "OPCo Share") in favor of the OPCo Proposed Amendment at the OPCo Special Meeting (except that no OPCo Cash Payment will be made with respect to any OPCo Share validly tendered pursuant to the concurrent tender offer described below). OPCo will disburse OPCo Cash Payments out of its general funds following adoption of the OPCo Proposed Amendment.

Concurrently with the OPCo Proxy Solicitation, and subject to the terms and conditions stated in an Offer to Purchase and Proxy Statement and accompanying Letter of Transmittal (together, "OPCo Offer Documents"), AEP proposes to make a cash tender offer ("OPCo Tender Offer") to acquire any and all outstanding shares of OPCo Preferred Stock of each OPCo Series, at cash purchase prices which AEP anticipates will include a market premium for each OPCo Series (each, an "OPCo Purchase Price"). The OPCo Tender Offer consists of separate offers for each of the seven OPCo Series, with the offer for each OPCo Series being

independent of the offer for any other OPCo Series. The applicable OPCo Purchase Price and the other terms and conditions of the OPCo Tender Offer apply equally to all holders of OPCo Preferred Stock of each OPCo Series ("OPCo Preferred Stockholders").

AEP anticipates that the OPCo Tender Offer will expire on February 28, 1997, the date of the OPCo Special Meeting ("OPCo Expiration Date"), unless otherwise extended. The OPCo Tender Offer is not conditioned upon any minimum number of shares of OPCo Preferred Stock being tendered. OPCo Preferred Stockholders who wish to tender their OPCo Preferred Stock pursuant to the OPCo Tender Offer are not required to vote in favor of the OPCo Proposed Amendment; however, one of the conditions of the OPCo Tender Offer requires that the OPCo Proposed Amendment be approved and adopted at the OPCo Special Meeting.

In addition, OPCo proposes to solicit proxies to amend the OPCo Articles to clarify the authority of the OPCo Board of Directors to purchase or acquire cumulative preferred stock of OPCo ("OPCo Second Proposed Amendment"). The affirmative vote of the holders of at least a majority of the outstanding shares of OPCo's common stock and cumulative preferred stock, the common stock and preferred stock voting together as one class, is required to approve the OPCo Second Proposed Amendment.

Tenders of APCo Shares, I&M Shares and OPCo Shares (collectively, "Shares") made pursuant to the APCo Tender Offer, I&M Tender Offer and OPCo Tender Offer, respectively (individually, "Tender Offer" and collectively, "Tender Offers"), may be withdrawn at any time prior to the APCo Expiration Date, I&M Expiration Date and the OPCo Expiration Date, respectively (individually and collectively, "Expiration Date"). Thereafter, such tenders are irrevocable, subject to certain exceptions identified in the APCo Offer Documents, I&M Offer Documents and OPCo Offer Documents (individually and collectively, "Offer Documents"). AEP states that its obligations to proceed with the Tender Offers and to accept for payment and to pay for any Shares tendered will be made in accordance with rule 51 under the Act and are subject to various conditions enumerated in the Offer Documents, including the receipt of a Commission order under the Act authorizing the proposed transactions and the adoption of the APCo Proposed Amendment, I&M Proposed Amendment and the OPCo Proposed Amendment (individually,

"Proposed Amendment" and collectively, "Proposed Amendments") at the APCo Special Meeting, I&M Special Meeting and OPCo Special Meeting, respectively (individually and collectively, "Special Meeting").

Applicants undertake to comply with all requirements of the Securities Exchange Act of 1934 ("Exchange Act") and rules and regulations thereunder in connection with the APCo Proxy Solicitation I&M Proxy Solicitation and OPCo Proxy Solicitation, as applicable (individually, "Proxy Solicitation" and collectively, "Proxy Solicitations"), the proxy solicitation in connection with the OPCo Second Proposed Amendment and the Tender Offers, except to the extent applicants rely on exemptions from the requirements of Rule 13e-3 and Regulation 14A of the Exchange Act, and acknowledge that any authorization granted under the Act is conditioned upon such compliance. Shares validly tendered will be held by AEP until the Expiration Date (or returned in the event a Tender Offer is terminated). Subject to the terms and conditions of the Tender Offers, as promptly as practicable after the Expiration Date, AEP will accept for payment (and thereby purchase) and pay for Shares validly tendered and not withdrawn. AEP intends to use its general funds and/or incur short-term indebtedness in an amount sufficient to pay the APCo Purchase Price, I&M Purchase Price and OPCo Purchase Price (individually and collectively, "Purchase Price") for all tendered Shares. Merrill Lynch, Pierce, Fenner & Smith Incorporated and Salomon Brothers Inc. will act as dealer managers for AEP in connection with the Tender Offers.<sup>7</sup>

<sup>7</sup> AEP has agreed to pay the dealer managers a fee of \$.50 per share for any Shares tendered, accepted for payment and paid for pursuant to the Tender Offers, the Subsidiaries have agreed to pay the dealer managers a fee of \$.50 per share for any Shares that are not tendered pursuant to the Tender Offers but which vote in favor of the Proposed Amendment, and AEP has agreed to reimburse the dealer managers for their reasonable out-of-pocket expenses, including attorneys' fees.

In addition, AEP has agreed to pay soliciting brokers and dealers a separate fee of (i) \$1.50 per share for any Shares of the APCo 4 1/2% Series, the I&M 4 1/2% Series, 4.12% Series and 4.56% Series, and the OPCo 4 1/2% Series, 4.08% Series, 4.20% Series and 4.40% Series, tendered, accepted for payment and paid for pursuant to the Tender Offers (except that for transactions with beneficial owners equal to or exceeding 5,000 Shares, AEP will pay a solicitation fee of \$1.00 per share for Shares of such Series), and (ii) \$.50 per share for the remaining Shares of the APCo Series, I&M Series and OPCo Series. The Subsidiaries will pay a separate fee of \$.50 per share for any of their Shares of the APCo 4 1/2% Series, the I&M 4 1/2% Series, 4.12% Series and 4.56% Series, and the OPCo 4 1/2% Series, 4.08% Series, 4.20% Series and 4.40%

Continued

<sup>6</sup> "Capitalization" means an amount equal to the sum of (i) the total principal amount of all bonds or other secured debt securities issued or assumed by OPCo outstanding at the time of determination and (ii) the aggregate of the stated capital of all classes of OPCo stock outstanding at the time of determination and surplus of OPCo at such time.



If a Proposed Amendment is adopted at a Subsidiary's Special Meeting, promptly after consummation of the Tender Offer the Subsidiary will purchase the Shares sold to AEP pursuant to the Tender offer at the relevant Purchase Price plus expenses incurred in the Tender Offer, and the Subsidiary will retire and cancel such Shares.

If a Proposed Amendment is adopted not at the Special Meeting, AEP may elect, but is not obligated, to waive adoption of the Proposed Amendment as a condition to its obligation to proceed with the Tender Offer, subject to applicable law. In that case, as promptly as practicable after AEP's waiver of such condition and its purchase of Shares validly tendered pursuant to the Tender Offers, the affected Subsidiary anticipates that it would call another special meeting of its common and preferred stockholders to solicit proxies (to secure the requisite two-thirds affirmative vote of stockholders to amend the APCo Articles, I&M Articles and OPCo Articles (individually and collectively, "Articles"), as the case may be, to eliminate the APCo Restriction Provision, I&M Restriction Provision and OPCo Restriction Provision (collectively, "Restriction Provisions"), as the case may be. At each such meeting, AEP would vote any Shares acquired by it pursuant to the Tender Offer or otherwise<sup>8</sup> (as well as all of its shares of Common Stock of the affected Subsidiaries) in favor of the Proposed Amendment. If a Proposed Amendment is adopted at that meeting and in any event within one year from the Expiration Date (including any potential extension thereto pursuant to a Tender Offer), AEP will promptly after such meeting or at the expiration of such one-year period, as applicable, sell the Shares to the Subsidiary at the applicable Purchase Price plus expenses paid therefor pursuant to the Tender

Shares that are not tendered pursuant to the Tender Offers but which are voted in favor of the Proposed Amendment.

AEP proposes to pay First Chicago Trust Company of New York, in its capacity as a depository for the Tender Offers, a fee estimated at approximately \$50,000.

<sup>8</sup> Following the Expiration Date and the completion of the purchase of Shares pursuant to a Tender Offer, AEP may determine to purchase additional Shares on the open market, in privately negotiated transactions, through one or more tender offers or otherwise. AEP states that it will not undertake any such transactions without receipt of any required Commission authorizations under the Act. Likewise, in the event the additional special meeting is necessary, the affected Subsidiary would not undertake any proxy solicitation to amend its Articles prior to receipt of any required Commission authorizations under the Act.

Offer, and the Subsidiary will retire and cancel such Shares.

The applicants believe that regulatory, legislative, technological and market developments are likely to lead to a more competitive environment within the extremely capital-intensive electric utility industry. The applicants further contend that elimination of the Restrictions Provisions will produce competitive advantages, financing flexibility and cost benefits that outweigh the one-time costs of the Tender Offers and the Proxy Solicitations,<sup>9</sup> and will be in the best long-term competitive interests of their customers and shareholders.<sup>10</sup> Moreover, the applicants represent that the Proposed Amendments will allow the Subsidiaries to issue a greater amount of unsecured debt and also allow the Subsidiaries to issue a greater amount of total debt.<sup>11</sup>

To finance its proposed purchase of Shares pursuant to the Tender Offers, AEP plans to use general funds and/or incur short-term debt in an amount sufficient to pay the Purchase Price for all tendered Shares, an amount not expected to exceed \$540 million. Specifically, AEP requests authorization to issue up to \$400 million in short-term

<sup>9</sup> The Subsidiaries have engaged Morrow & Co., Inc. to act as information agent in connection with the Proxy Solicitations and the solicitation of proxies in connection with the OPCo Second Proposed Amendment for a fee and reimbursement of reasonable out-of-pocket expenses expected not to exceed approximately \$27,500.

<sup>10</sup> The applicants state that the proposed acquisition by AEP of Shares pursuant to the Tender Offers will benefit AEP's utility system customers and shareholders through the lowering of the Subsidiaries' cost of capital through the anticipated reduction in the aggregate amount payable of APCo Preferred Stock, I&M Preferred Stock and OPCo Preferred Stock (collectively, "Preferred Stock") dividends and additional cost savings associated with the redemption and replacement of a portion of the Subsidiaries' high-coupon debt with lower cost short-term debt. Moreover, the applicants maintain that tendering APCo Preferred Stockholders, I&M Preferred Stockholders and OPCo Preferred Stockholders, who do not vote in favor of adopting the Proposed Amendments, will benefit by having the option to sell their Preferred Stock at prices that AEP expects will be a premium to the market price and without the usual transaction costs associated with a sale.

<sup>11</sup> The Subsidiaries state that they will be at a competitive disadvantage if the Restriction Provisions are not eliminated, citing the industry's new competitors (i.e., power marketers, exempt wholesale generators, independent power producers and owners of cogeneration facilities) that generally are not subject to the type of financing restrictions the Articles impose upon the Subsidiaries. The applicants also point out that some potential utility competitors and other AEP public utility subsidiaries have no comparable provision restricting the use of unsecured debt. Under the Restriction Provisions, APCo, I&M and OPCo have available only approximately \$230 million, \$172 million and \$212 million, respectively, of unsecured debt capacity, based on capitalization as of September 30, 1996.

debt through the issuance and sale of notes to banks and commercial paper.<sup>12</sup> The additional \$400 million of short-term borrowing authority shall decrease by the amount paid to AEP by the Subsidiaries for the repurchase of Shares therefrom, and would expire no later than February 28, 1998.

AEP proposes to issue and sell notes with maturities not in excess of 270 days from date of issuance and bearing a maximum effective annual interest cost not to exceed 125% of the prime commercial rate in effect from time to time. Commercial paper issued by AEP will be in the form of promissory notes in denominations of not less than \$50,000 with maturities not in excess of 270 days from date of issuance.

The applicants also request authorization to deviate from the preferred stock provisions of the *Statement of Policy Regarding Preferred Stock Subject to the Public Utility Holding Company Act of 1935*, HCAR No. 13106 (Feb. 16, 1956), to the extent applicable with respect to the Proposed Amendments.

It appears to the Commission that the application-declaration, to the extent that it relates to the proposed Proxy Solicitations and the solicitation of proxies in connection with the OPCo Second Proposed Amendment should be granted and permitted to become effective forthwith pursuant to rule 62(d).

*It is ordered*, that the application-declaration, to the extent that it relates to the proposed Proxy Solicitations and the solicitation of proxies in connection with the OPCo Second Proposed Amendment be, and it hereby is, permitted to become effective forthwith, pursuant to rule 62 and subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 97-2628 Filed 2-3-97; 8:45 am]

BILLING CODE 9010-01-M

<sup>12</sup> In connection with its proposed purchase of the Shares, AEP anticipates that it also may use existing financing authorization. See Holding Co. Act Release No. 26424 (Dec. 8, 1995) (authorizing AEP to issue short-term debt up to \$150 million for general corporate purposes through December 31, 2000).



[Release No. 34-38213; File No. SR-CBOE-96-75]

January 28, 1997.

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to the Listing and Trading of Packaged Butterfly Spreads.**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 16, 1996, the ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to list for trading Packaged Butterfly Spreads based upon a broad-based index or indexes. A Packaged Butterfly Spread is a European-style option contract that replicates the behavior and payout of a butterfly spread composed of standard index option contracts. Initially, the proposed underlying indexes for the Packaged Butterfly Spreads are the S&P 100 and the S&P 500. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section (A), (B), and (C) below, of the most significant aspects of such statements.

**(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The Exchange proposes to list for trading Packaged Butterfly Spreads based upon the S&P 100 index and the S&P 500 index. A Packaged Butterfly

Spread is a packaged European-style option that replicates the behavior and payout of a butterfly spread<sup>3</sup> composed of standard index option contracts. A butterfly spread is a neutral strategy, *i.e.*, it is employed by one who thinks the underlying stock or index will not experience much of a net rise or decline by expiration. The Exchange proposes that the Packaged Butterfly Spreads on the S&P 100 and 500 indexes will have a multiplier of 100.<sup>4</sup> Because Packaged Spreads composed of puts are identical to those composed of calls the Exchange will not list both puts and calls; there will be only one option for each strike price and butterfly interval.

The Exchange believes Packaged Butterfly Spreads will provide advantages to the investing public that are not provided for by standard index options. First, the Exchange believes Packaged Butterfly Spreads offer investors, a relatively low risk security which results because Packaged Butterfly Spreads, by their nature, have a maximum gain and loss that can be realized regardless of the movement in the index level. Packaged Butterfly Spreads allow investors to profit from trendless markets with limited risk. Second, the "packaging" of a strategy of four option positions into one option product reduces transaction-related expenses because the investor will only have to enter into one transaction. Third, in the case of Packaged Butterfly Spreads overlying the S&P 100, the investor will have the opportunity to invest in an option product that has European-style exercise. Standard S&P 100 options ("OEX") have American-style exercise. The Exchange expects Packaged Butterfly Spreads to be supported enthusiastically by market-makers because butterfly spread trading is a familiar strategy to professional traders and the Packaged Butterfly Spreads can be easily incorporated into the overall risk profile of the market-maker's trading strategy in standard index options.

<sup>3</sup> A butterfly spread is a combination of four option positions and involves using three strike prices. For example, using only calls (a butterfly spread could also consist of a combination of puts and calls), a butterfly spread would consist of buying one call at the lowest strike price, selling two calls at the middle strike price and buying one call at the highest strike price. A butterfly spread might consist of one long December (expiration month) 670 (strike price) call option, two short December 700 call options, and one long December 730 call option.

<sup>4</sup> The Exchange in its original proposal erroneously proposed Packaged Butterfly Spreads with a multiplier of 500 in addition to the 100 multiplier. The Exchange intends to correct this error in a subsequent amendment. Telephone Conversation between Eileen Smith, CBOE and John Ayanian, Division of Market Regulation, Commission, on January 24, 1997.

The Exchange proposes to amend Rule 24.1 to describe the new product as well as the term "butterfly spread interval".

**Position and Exercise Limits.** The Exchange is proposing position limits for Packaged Butterfly Spreads overlying the S&P 100 of 100,000 contracts. Likewise, the Exchange is proposing position limits for Packaged Butterfly Spreads overlying the S&P 500 of 100,000 contracts. These position limits are consistent with the position limits that have been established for standard index options on the S&P 500 index. The exercise limits for Packaged Butterfly Spreads will be equal to the position limits set forth above in accordance with the terms of CBOE Rule 24.5.

**Margin.** With respect to margin, risk exposure is limited in Packaged Butterfly Spreads, and therefore, the maximum margin requirements should not exceed the maximum exposure amount which, for each Packaged Butterfly Spread option contract equals the spread interval times the index multiplier. The proposed amendments state that the maximum margin required for a Packaged Butterfly Spread option contract carried in a short position shall not exceed this maximum exposure amount. The rules will also provide that the required margin for a spread when the exercise price of the long call index option is greater than the exercise price of the short call index option where at least one leg of the spread is a CAPS or Packaged Butterfly Spread would be the lesser of (1) the difference in the aggregate exercise prices or (2) the cap interval or the butterfly spread interval as appropriate.

**Listing of Series.** The Exchange expects to list contracts having spread intervals of 30 points or some other appropriate value. Initially, the Exchange intends to list an at-the-money and various strikes around the at-the-money in the first two near-term months. New strikes will be added when the underlying trades through the highest or lowest strike available.

**Settlement.** The expiration date for Packaged Butterfly Spreads will be the Saturday immediately following the third Friday of the expiration month. Exercise will result in the delivery of cash on the business day following expiration. The exercise settlement amount is equal to the greater of (1) butterfly spread interval minus the difference between the index settlement value and the midpoint of the butterfly multiplied by the multiplier (\$100), and (2) \$0. Packaged Butterfly Spreads will have a European-style of exercise.

<sup>1</sup> 15 U.S.C. 76s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

*Miscellaneous.* CBOE will use the same surveillance methods it currently employs with respect to their broad-based index options.

CBOE has also been informed that the Options Price Reporting Authority recently added another outgoing high speed line from OPRA processor and thus, has the capacity to support the new series associated the listing of Packaged Butterfly Spreads.<sup>5</sup>

The Exchange believes that the proposal will provide investors with certain advantages over current products in the way of reduced transaction costs and risk reduction. The Exchange believes, therefore, that the proposal is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change will impose no burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-96-75 and should be submitted by February 25, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 97-2630 Filed 2-3-97; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-38214; File No. SR-CBOE-96-76]

#### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to the Listing and Trading of Vertical Spreads**

January 28, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on December 16, 1996, the ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The CBOE proposes to list for trading Vertical Spreads based on the S&P 100 and S&P 500 indexes. A Vertical Spread is a packaged European-style option which replicates the behavior and payout of a vertical spread composed of standard index option contracts. A Vertical Spread may have a multiplier of

100 (as with standard index option contracts overlying the S&P 100 and the S&P 500) or a multiplier of 500. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

#### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The exchange has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

#### *(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to amend Exchange rules to provide for the listing and trading of Vertical Spreads based upon the S&P 100 index and the S&P 500 index. A Vertical Spread is a packaged European-style option which replicates the behavior and payout of a vertical spread<sup>3</sup> composed of standard index option contracts. Vertical Spreads may have a multiplier of 100 (as with standard index options overlying the S&P 100 and the S&P 500) or a multiplier of 500.

The Exchange believes Vertical Spreads will provide advantages to the investing public that are not provided for by standard index options. First, the Exchange believes these Vertical Spreads offer investors a relatively low risk security where the risk reduction results because Vertical Spreads, by their nature, have a maximum gain and loss that can be realized regardless of the movement of the index level. In addition, with Vertical Spreads there is no early exercise risk. These options are the equivalent of standard vertical spreads (i.e., the combination of one long and one short options position with the same expiration) traded as a single security. Second, the "packaging" of a strategy of two option positions into one option product reduces transaction-related expenses because the investor

<sup>3</sup> A vertical spread is the combination of one long and one short options having the same expiration. A call vertical spread will have a lower strike price on the long option and a put spread will have a higher strike price on the long option. For example, a call vertical spread might consist of one long December (expiration month) 700 (strike price) call option and one short December 690 call option.

<sup>5</sup> See Memorandum from Joe Corrigan, OPRA, to Eileen Smith, CBOE, dated November 21, 1996.

<sup>6</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78e(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

will only have to enter into one transaction. In the case of Vertical Spreads with a multiplier of 500, the transaction-related expenses would be substantially reduced from a comparable trade involving standard index options. Third, in the case of Vertical Spreads overlying the S&P 100, the investor will have the opportunity to invest in an option product that has European-style exercise. Standard S&P 100 options ("OEX") have American-style exercise. The exchange expects Vertical Spreads to be supported enthusiastically by market-makers because spread trading is a familiar strategy to professional traders and the Vertical Spreads can be easily incorporated into the overall risk profile of the market-maker's trading strategy in standard index options.

An addition will be made to Rule 24.1 to describe the new product as well as the term "vertical spread interval."

**Position and Exercise Limits.** The Exchange is proposing position limits for Vertical Spreads overlying the S&P 100 of 100,000 contracts where the index multiplier is 100. The Exchange also is proposing position limits for Vertical Spreads overlying the S&P 500 Index of 100,000 contracts where the index multiplier is 100. The Exchange believes these position limits are consistent with the position limits that have been established for standard index options on the S&P 100 and 500 indexes. To the extent that the Exchange lists and a member holds Vertical Spread positions with different multipliers (i.e., 100 and 500) yet overlying the same index, these positions would be aggregated in determining compliance with the position limits. Each Vertical Spread with a 500 multiplier would count as 5 Vertical Spread contracts for the purpose of determining compliance with the position limits. The exercise limits for Vertical Spreads will be equal to the positions limits set forth above in accordance with the terms of current Rule 24.5.

**Margin.** With respect to margin requirements, risk exposure is limited in Vertical Spreads, and therefore, the maximum margin requirements should not exceed the maximum exposure amount which, for each Vertical Spread option contract equals the vertical spread interval times the index multiplier. The proposed amendments state that the maximum margin required for a put or call Vertical Spread option contract carried in a short position shall not exceed this maximum exposure amount. In addition, the amendment provides that for each put or call Vertical Spread option contract carried

in a short position in a cash account, the customer must deposit cash equal to the maximum exposure amount. The rules will also provide that the required margin for a spread when the exercise price of the long call index option is greater than the exercise price of the short call index option where at least one leg of the spread is a CAPS or Vertical Spread would be the lesser of (1) the difference in the aggregate exercise prices or (2) the cap interval or the vertical spread interval as appropriate.

**Listing of Series.** The Exchange expects to list both put and call contracts having various spread intervals. Initially, the Exchange intends to list an at-the-money strike and various strikes around the at-the-money level in the first two near-term months. New strikes will be added when the underlying indexes trade through the highest or lowest strike available.

**Settlement.** The expiration date for Vertical Spreads will be the Saturday immediately following the third Friday of the expiration month. Exercise will result in the delivery of cash on the business day following expiration. The exercise settlement amount will be equal to the difference between the OEX or SPX settlement value, as appropriate, and the strike price of the Vertical Spread contract; or the amount of the spread interval, whichever is less, multiplied by the multiplier, i.e., either \$100 or \$500. Vertical Spreads will have a European-style of exercise.

**Miscellaneous.** CBOE will use the same surveillance methods it currently employs with respect to other broad-based index options.

CBOE has also been informed that the Options Price Reporting Authority ("OPRA") has the capacity to support the new series associated with the listing of Vertical Spreads.

By adopting rules that will provide for the trading of index options that will provide investors with certain advantages over current products in the way of reduced transaction costs and risk reduction, CBOE believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposed rule change will impose no burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-CBOE-96-76 and should be submitted by February 25, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 97-2631 Filed 2-3-97; 8:45 am]

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<sup>4</sup> 17 CFR 200.30-3(a)(12).

[Release No. 34-38207; File No. SR-PHLX-97-02]

**Self-Regulatory Organizations; Notice of Filing of and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Proposing to List and Trade Options and LEAPS on the PHLX Oil Service Index**

January 27, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 22, 1997, the Philadelphia Stock Exchange Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.<sup>1</sup> The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Philadelphia Stock Exchange, Inc. ("PHLX" or the "Exchange") pursuant to Rule 19b-4 of the Securities Exchange Act of 1934 ("Act") proposes to list and trade options and LEAPS on the PHLX Oil Service Index ("Oil Service Index" or "Index") composed of the stocks of 15 corporations involved in the oil service industry.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included

statements concerning the purpose of and basis for the proposed rule change and discussed any comments its received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The purpose of the proposed rule change is to list for trading European style options on the PHLX Oil Service Index, a new index developed by the Exchange. The Oil Service Index is comprised of 15 companies operating in the oil service industry. The companies included within the index provide drilling and production services, oil field equipment, onshore and offshore drilling and support services and geophysical/reservoir services.<sup>2</sup> The Exchange also represents that the Oil Service Index meets the generic criteria for listing options on narrow-based indexes as set forth in PHLX Rule 1009A. Accordingly, the Exchange is submitting this proposed rule change pursuant to and in accordance with the procedures set forth in the Commission's generic index approval order<sup>3</sup> and the PHLX proposes to list and trade options on the Index no sooner than 30 days after the filing date of this proposed rule change.

*Ticker Symbol:* OSX.

*Settlement Value Symbol:* OSV.

$$\frac{SP_1 + SP_2 + \dots + SP_{17}}{\text{divisor}} \times 100$$

Where:

SP- current stock price

divisor = number of stocks in the index

*Index Maintenance:* To maintain the continuity of the Index, the divisor will be adjusted to reflect non-market changes in the price of the component securities as well as changes in the composition of the index. Changes which may result in divisor adjustments include but are not limited to stock splits, dividends, spin-offs, certain

rights issuances and mergers and acquisitions.

The Exchange shall maintain the index in accordance with the Generic Index Approval Order.<sup>4</sup> If the Index fails at any time to satisfy the maintenance criteria set forth in the Generic Index Approval Order, the Exchange will immediately notify the Commission of that fact and will not open for trading any additional series of options on the Index unless failure is determined by

*Underlying Index:* The PHLX Oil Service Index is a price weighted index composed of 15 stocks from the Oil Service industry that are traded on either in the New York Stock Exchange ("NYSE") or the NASDAQ market ("NASDAQ"), and are, therefore, reported securities as defined in Rule 11Aa3-1 under the Act. Further, they all presently meet the Exchange's listing criteria for equity options contained in PHLX Rule 1009 and are currently the subject of listed options on U.S. options exchanges.

As of December 23, 1996, the market capitalization of all stocks in the index exceeded \$60 billion and such individual capitalizations ranged from \$392 million to \$25 billion. All 15 component issues in the Index had monthly trading volumes in excess of one million shares over each of the past six months from July through December 1996. Accordingly, the Exchange represents that with respect to the criteria for market capitalization and trading volume, the Index satisfies the generic listing standards as stated in PHLX Rule 1009A. Further, the largest single component represents 16.6% of the weight of the index and the five highest weighted components do not in the aggregate account for more than 60% of the weight of the index. The value of the index is set at 75 as of December 31, 1996.

*Index Calculation:* The Index is a price weighted index. To compute the Oil Service Index, the following formula would be used:

the Exchange not to be significant and the Commission concurs in that determination or unless the continued listing of options on the PHLX Oil Service Index has been approved by the Commission under Section 19(b)(2) of the Act. In addition to not opening for trading any additional series, the Exchange may, in consultation with the Commission, prohibit opening purchase transactions in series of options

<sup>1</sup> On January 24, 1997, the Exchange filed with the Commission an amendment ("Amendment No. 1") to the proposed rule change. The amendment, among other things, clarifies what actions the Exchange may take in consultation with the Commission in the event that the Index fails to meet certain maintenance criteria. Letter from Nandita

Yagnik, Esq., New Product Development, PHLX, to Janet Russell-Hunter, Esq., Special Counsel, Office of Market Supervision, Division of Market Regulation, SEC, dated January 23, 1997.

<sup>2</sup> A list of the specific issues together with their number of shares and percentage in the Oil Service

Index as of December 23, 1996 is attached to the filing as Exhibit B.

<sup>3</sup> Securities exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 ("Generic Index Approval Order").

<sup>4</sup> *Supra* note 3.



previously opened for trading. (e.g., PHLX Rule 1010).

Absent Commission approval, the Exchange will not increase the number of components to more than 20 or decrease the number to fewer than 10, and in no event will the Exchange decrease the number of components within the index to less than nine components. The PHLX will not make any change in the composition of the Index that would cause fewer than 90% of the stocks, by weight or fewer than 80% of the total number of stocks in the index to qualify as stocks eligible for equity options trading under PHLX Rule 1009. The Exchange represents that only U.S. companies are represented in the Oil Service Index. However, if non-U.S. components (stocks or American Depositary Receipts) are added that are not subject to comprehensive surveillance sharing agreements between the PHLX and the primary exchange on which the components are traded, those components will account for no more than 20% of the index by weight.

The PHLX Oil Service Index value will be disseminated every 15 seconds during the trading day. The PHLX has retained Bridge Data Inc. to compute and to do all necessary maintenance of the Index.<sup>5</sup> Pursuant to PHLX Rule 1100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority. The Index value will also be available on broker-dealer interrogation devices to subscribers of the options information.

**Unit of Trading:** Each options contract will represent \$100, the index multiplier, times the Index value. For example, an Index value of 200 will result in an option contract value of \$20,000 (100 x 200).

**Exercise Price:** The Exercise prices will be set in accordance with PHLX Rule 1101A(a).

**Settlement Value:** The Index value for purposes of setting outstanding Index options and Index LEAPS contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of the National Market Securities traded through NASDAQ, the first reported sale price

will be used for the final settlement value for expiring Index options contracts. If any of the component stocks do not open for trading on the last trading day before expiration, then the settlement value will be determined in accordance with the by-laws and rules of the Options Clearing Corporation ("OCC").<sup>6</sup>

**Last Trading Day:** The last trading day will be the Thursday prior to the third Friday of the month for options which expire on the Saturday following the third Friday of that month.

**Trading Hours:** 9:30 a.m. to 4:10 p.m. EST.

**Position and Exercise Limits:** The PHLX Oil Service Index is an industry index. The PHLX will employ position and exercise limits pursuant to PHLX Rules 1001A(b)(i) and 1002A, respectively. The position and exercise limits will, therefore, be 15,000 contracts.

**Expiration Cycles:** Three-months from the March, June, September, December cycle plus at least 2 additional near-term months. LEAPS will also be traded on the Index pursuant to PHLX Rule 1101A(b)(iii).

**Exercise Style:** Exercise style will be European.

**Premium Quotations:** Premiums will be expressed in terms of dollars and fractions of dollars pursuant to PHLX Rule 1033A. For example, a bid or offer of 1½ will represent a premium per options contract of \$150 (1½ x 100).

The options will be traded pursuant to current PHLX Rules governing the trading of index options (see, particularly, PHLX Rule 1000A through 1102A and generally PHLX Rules 1000 through 1072). The Exchange also represents that surveillance procedures currently used to monitor trading in index options will be applicable to this Index. These procedures include having complete access to trading activity in the underlying securities which are all traded on either the NYSE or NASDAQ. In addition, the Intermarket Surveillance Group Agreement ("ISG Agreement") dated July 14, 1983, as amended on January 29, 1990 will be

<sup>6</sup> The Commission notes that pursuant to Article XVII, Section 4 of the Options Clearing Corporation's ("OCC") by-laws, OCC is empowered to fix an exercise settlement amount in the event it determines a current index value is unreported or otherwise unavailable. Further, OCC has the authority to fix an exercise settlement amount whenever the primary market for the securities representing a substantial part of the value of an underlying index is not open for trading at the time when the current index value (i.e., the value used for exercise settlement purposes) ordinary would be determined. See Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 42671 (order approving SR-OCC-95-19).

applicable to the trading of options on the Index.

The proposed rule change is consistent with Section 6 of the Act in general, and in particular with Section 6(b)(5), in that it is designed to promote just and equitable principles of free trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on the Burden on Competition*

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received at the time of the filing.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the foregoing rule change complies with the standards set forth in the Generic Index Approval Order,<sup>7</sup> it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. Pursuant to the Generic Index Approval Order, the Exchange may not list Index options for trading prior to 30 days after the date that the amended proposed rule change was formally filed with the Commission. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W.,

<sup>5</sup> Pending approval by the Commission, the PHLX proposes to utilize its own internal system's calculation of index values in certain circumstances. See SR-PHLX-96-36 Regarding Index Value Calculations by the Index Calculation Engine ("ICE") System.

<sup>7</sup> *Supra* note 3.

Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office at the PHLX. All submissions should refer to File No. SR-PHLX-97-02, and should be submitted by February 25, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Margaret H. McFarland,**  
Deputy Secretary.

[FR Doc. 97-2629 Filed 2-3-97; 8:45 am]

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#### SMALL BUSINESS ADMINISTRATION

##### [Declaration of Disaster Loan Area #2923]

##### Nevada; Declaration of Disaster Loan Area (Amendment #1)

In accordance with notices from the Federal Emergency Management Agency, dated January 15 and 17, 1997, the above-numbered Declaration is hereby amended to include Mineral and Churchill Counties, including the Walker River Paiute tribal lands located in Lyon, Churchill, and Mineral Counties in the State of Nevada as a disaster area due to damages caused by severe storms, flooding, and mud and land slides. This declaration is further amended to establish the incident period for this disaster as beginning on December 20, 1996 and continuing through January 17, 1997.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Esmeralda, Lander and Nye in the State of Nevada may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is March 4, 1997, and for loans for economic injury the deadline is October 3, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 23, 1997.

**Bernard Kulik,**  
Associate Administrator for Disaster Assistance.

[FR Doc. 97-2741 Filed 2-3-97; 8:45 am]

BILLING CODE 8025-01-P

##### [Declaration of Disaster Loan Area #2018]

##### New York; Declaration of Disaster Loan Area, (Amendment #2)

In accordance with a notice from the Federal Emergency Management Agency, dated January 14, 1997, the above-numbered Declaration is hereby amended to include Tompkins County in the State of New York as a disaster area due to damages caused by severe thunderstorms, high winds, rain and flooding which occurred November 8-15, 1996.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Cayuga and Cortland in the State of New York may be filed until the specified date at the previously designated location.

All other information remains the same, i.e., the termination date for filing applications for physical damage is February 7, 1997, and for loans for economic injury the deadline is September 9, 1997.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 23, 1997.

**Bernard Kulik,**  
Associate Administrator for Disaster Assistance.

[FR Doc. 97-2740 Filed 2-3-97; 8:45 am]

BILLING CODE 8025-01-P

##### [Declaration of Disaster Loan Area #2927]

##### Washington; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on January 17, 1997, I find that King and Snohomish Counties in the State of Washington constitute a disaster area due to damages caused by winter storms, land and mud slides, and flooding beginning on December 26, 1996 and continuing. Applications for loans for physical damages may be filed until the close of business on March 18, 1997, and for loans for economic injury until the close of business on October 17, 1997 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P. O. Box 13795 Sacramento, CA 95853-4795, or other locally announced locations. In addition, applications for economic injury loans

from small businesses located in the contiguous counties of Chelan, Island, Kitsap, Kittitas, Pierce, Skagit, and Yakima in the State of Washington may be filed until the specified date at the above location.

Interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere .....	8.000
Homeowners without credit available elsewhere .....	4.000
Businesses with credit available elsewhere .....	8.000
Businesses and non-profit organizations without credit available elsewhere .....	4.000
Others (including non-profit organizations) with credit available elsewhere .....	7.250
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere .....	4.000

The number assigned to this disaster for physical damage is 292711 and for economic injury the number is 935400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 23, 1997.

**Bernard Kulik,**  
Associate Administrator for Disaster Assistance.

[FR Doc. 97-2742 Filed 2-3-97; 8:45 am]

BILLING CODE 8025-01-P

#### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

##### Notice of Meeting of the Industry Sector Advisory Committee on Small and Minority Business (ISAC 14)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

**SUMMARY:** The Industry Sector Advisory Committee on Small and Minority Business (ISAC 14) will hold a meeting on February 24, 1997 from 9:45 a.m. to 4:00 p.m. The meeting will be open to the public from 9:45 a.m. to 12:45 p.m.

**DATES:** The meeting is scheduled for February 24, 1997, unless otherwise notified.

**ADDRESSES:** The meeting will be held at the Department of Commerce in Room 4830, located at 14th Street and Constitution Avenue, NW., Washington, DC, unless otherwise notified.

**FOR FURTHER INFORMATION CONTACT:** Millie Sjoberg, Department of Commerce, 14th St. and Constitution Ave., NW., Washington, DC 20230, (202)

482-4792 or Suzanna Kang, Office of the United States Trade Representative, 600 17th St. NW., Washington, DC 20508, (202) 395-6120.

**SUPPLEMENTARY INFORMATION:** The ISAC 14 will hold a meeting on February 24, 1997 from 9:45 a.m. to 4:00 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code and Executive Order 11846 of March 27, 1975, the Office of the U.S. Trade Representative has determined that part of this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. During the discussion of such matters, the meeting will be closed to the public from 12:45 p.m. to 4:00 p.m. The meeting will be open to the public and press from 9:45 a.m. to 12:45 p.m. when other trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committee will not be invited to comment.

Phyllis Shearer Jones,

Assistant United States Trade Representative,  
Intergovernmental Affairs and Public Liaison.

[FR Doc. 97-2627 Filed 2-3-97; 8:45 am]

BILLING CODE 3190-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 97-006]

#### Chemical Transportation Advisory Committee; Meeting

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meetings.

**SUMMARY:** The Chemical Transportation Advisory Committee (CTAC) and its Prevention Through People (PTP) and Vapor Control System (VCS) Subcommittees will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. All meetings are open to the public.

**DATES:** The meeting of CTAC will be held on Thursday, March 6, 1997, from 9 a.m. to 3 p.m. The meetings of the PTP and VCS Subcommittees will be held on Wednesday, March 5, 1997, from 9:30

a.m. to 3 p.m. Written material and requests to make oral presentations should reach the Coast Guard on or before February 26, 1997.

**ADDRESSES:** The CTAC meeting will be held in room 6200, Nassif Building, 400 Seventh St. SW., Washington, DC. The PTP and VCS Subcommittee meetings will be held in room 1301 and 6103, respectively, at U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC. Written material and requests to make oral presentations should be sent to Commander Kevin S. Cook, Commandant (G-MSO-3), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593-0001.

**FOR FURTHER INFORMATION CONTACT:** Commander Kevin S. Cook, Executive Director of CTAC, or Lieutenant J.J. Plunkett, Assistant to the Executive Director, telephone (202) 267-0087, fax (202) 267-4570.

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2.

#### Agendas of Meetings

*Chemical Transportation Advisory Committee (CTAC).* The agenda includes the following:

- (1) Progress report from the Prevention through People (PTP) Subcommittee.
  - (2) Progress report from the *ad-hoc* 46 CFR Part 152 Subcommittee.
  - (3) Progress report from the Vapor Control System (VCS) Subcommittee.
  - (4) Status of the implementation of Navigation and Vessel Inspection Circular (NVIC) no. 1-96, Safety Standards for the Design and Operation of a Marine Vapor Control System at Tank Barge Cleaning Facility.
  - (5) Potential hazardous materials release and the grounding of the M/T Igloo Moon off Key Biscayne, FL.
  - (6) Union Carbide's PTP efforts to prevent the release of hazardous materials.
  - (7) Status of the Hazardous Substance Response Plan rulemaking and workshops.
  - (8) Overview of the information available from the Marine Safety Newsletter and World Wide Web.
- Vapor Control System (VCS) Subcommittee.* The agenda includes the following:
- (1) Review the minutes from the meeting conducted on January 29, 1997, in Houston, TX.
  - (2) Discuss work completed by facility VCS work group.
  - (3) Discuss work completed by vessel VCS work group.

*Prevention through People (PTP) Subcommittee.* The agenda includes the following:

- (1) Complete discussions on recommended revisions to Accident Investigation Form (CG-2692) which address human factors issues.
- (2) Discuss near accident reporting scheme and how information collected can be used to share lessons learned with the marine transportation industry.
- (3) Review/discuss the safety check off lists used during loading operations. Determine "best practices" which can be shared with vessels and facilities.

#### Procedural

All meetings are open to the public. At the Chairperson's discretion, members of the public may make oral presentations during the meetings. Persons wishing to make oral presentations at the meeting should notify the Executive Director no later than February 26, 1997. Written material for distribution at the meeting should reach the Coast Guard no later than February 26, 1997. If a person submitting material would like a copy distributed to each member of the committee or subcommittee in advance of the meetings, that person should submit 25 copies to the Executive Director no later than February 19, 1997.

#### Information on Services for the Disabled

For information on facilities or services for the disabled or to request special assistance at the meeting, contact Lieutenant Plunkett as soon as possible.

Dated: January 27, 1997.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 97-2634 Filed 2-3-97; 8:45 am]

BILLING CODE 4910-14-M

[CGD 97-005]

#### Technology Symposium on Vessel Traffic Services; Meeting

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Coast Guard is undertaking an effort to identify the minimum requirements and capabilities a Vessel Traffic Service (VTS) must have to serve its wide range of users. This effort will form the basis for the Coast Guard to propose to Congress a viable production program for a VTS that takes advantage of available, off-the-shelf and open architecture systems that are inexpensive to build and operate. To

this end, the Coast Guard will sponsor a Technology Symposium on VTS systems. The symposium will feature oral presentations by industry about VTS technology.

**DATES:** The Symposium will be held on February 12, 1997 from 8:30 a.m. to 4:45 p.m.

**ADDRESSES:** The Symposium will be held at the Hyatt Regency Hotel Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Gene Lockhart (USCG) (202) 267-2813; Robert Perris (USCG) (202) 267-2220; FAX (202) 267-4018.

**SUPPLEMENTARY INFORMATION:** The preliminary agenda for the Symposium is as follows: 0800-0830 Registration; 0830-0835 Welcome; 0835-0900 Announcements; 0900-1145 Industry Presentations by CDA Corp., Denbridge Digital Limited, GP&C Sweden AB, Hughes Aircraft Company, Kongsberg Norcontrol; 1145-1300 Lunch Break; 1300-1630 Industry Presentations by Lockheed Martin Corp., Meteor Communication Corp., Newcomb Communications Corp., Computer Sciences Corp., Ross Engineering, STN Atlas Elektronik; 1630-1645 Closing Remarks.

The Hyatt Regency Hotel Crystal City is located at the southern end of Crystal City near National Airport. The hotel's phone number is (703) 418-1234/7226.

Dated: January 29, 1997.

**Frederic N. Squires,**

*Captain, U.S. Coast Guard, Acting Director of Acquisition.*

[FR Doc. 96-2634 Filed 2-3-95; 8:45 am]

**BILLING CODE 4910-14-M**

### Surface Transportation Board

[STB Finance Docket No. 33338]

#### Luzerne and Susquehanna Railway Company—Lease and Operation Exemption—Luzerne County Rail Corporation, F & L Realty, Inc., and SLIBCO Utilities, Inc.

Luzerne and Susquehanna Railway Company (LS), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and operate certain lines of Luzerne County Rail Corporation (LCRC), F & L Realty, Inc. (F & L), and SLIBCO Utilities, Inc. (SLIBCO), located in Luzerne and Lackawanna Counties, PA. The proposed transaction was to have been consummated as soon as possible after the January 20, 1997 effective date of the exemption.

The lines involved are described as follows: (1) approximately 1.7 miles of

rail line owned by LCRC and F & L between milepost 10.0 at the north side of Montage Road Crossing and milepost 10.5 at Little Virginia (the Dunmore Secondary Track); and between milepost 3.7 at Little Virginia and milepost 2.5 at Runaround Switch (the Brady Industrial Track); and (2) the Minooka Industrial Track owned by SLIBCO for its entire 1.5-mile length from Runaround Switch to the end of the track at Davis Street (the Minooka line). LS will lease and operate rail lines totaling approximately 3.2 miles.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33338, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423 and served on: Eric B. Lee, Esq., 501 Plaza Drive, Vestal, NY 13850.

Decided: January 27, 1997.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 97-2699 Filed 2-3-97; 8:45 am]

**BILLING CODE 4915-00-P**

### Surface Transportation Board, Transportation

[STB Finance Docket No. 33290]<sup>1</sup>

#### Sault Ste. Marie Bridge Company— Acquisition and Operation Exemption—Lines of Union Pacific Railroad Company

Sault Ste. Marie Bridge Company (SSMB), a Class III rail carrier, has filed a notice of exemption under 49 CFR 1150.41 to acquire and operate approximately 220 miles of rail lines of Union Pacific Railroad Company (UP) in the Upper Peninsula of Michigan and northern Wisconsin. The lines to be acquired and operated are: (1) The Escanaba Subdivision, extending from milepost 4.0 near Duck Creek, WI, to LS&I milepost 74.50 at Ishpeming, MI,

<sup>1</sup> On January 6, 1997, Inland Steel Company and LTV Steel Company, Inc., jointly filed a petition to reject the notice of exemption or to revoke the exemption. Simultaneously, they filed a petition to stay the effectiveness of the notice of exemption pending a ruling on the petition to reject or revoke. The stay request was denied by decision served January 24, 1997. The petition to reject or revoke will be handled in a separate decision.

a distance of 178.25 miles. (There are milepost equations at Menominee, MI, where milepost 49.99 = milepost 51.00, and at Escanaba, MI, where milepost 116.49 = milepost 117.00.)<sup>2</sup>; (2) The Iron Mountain Branch, extending from milepost 0.0 at Powers, MI (connection with the Escanaba Subdivision) to milepost 30.24 at Antoine, MI, a total distance of 32.01 miles. (The Iron Mountain Branch includes 1.30 miles of trackage rights over E&LS between UP mileposts 28.45 and 29.60 at Antoine, and a 1.62-mile industrial park spur at Antoine.); (3) The Niagara Industrial Lead, extending from milepost -0.40 at Quinnesec, MI (connection with the Iron Mountain Branch) to milepost 3.75 at Niagara, WI, a distance of 4.15 miles.; and (4) The Palmer Industrial Lead, extending from milepost 0.0 at Cascade (connection with the Escanaba Subdivision) to milepost 6.06 at Palmer, MI, a distance of 6.06 miles. (The Palmer Industrial Lead currently is out of service.) SSMB also will acquire by assignment from UP incidental trackage rights over lines of LS&I between Eagle Mills Jct. and Eagle Mills, MI, a distance of approximately 3 miles, and between Empire Junction and Empire Mine, MI, a distance of approximately 2 miles, and over lines of Fox Valley & Western Ltd. between Duck Creek and Green Bay, WI, a distance of approximately 4 miles.

The scheduled consummation date originally was January 20, 1997, but SSMB extended it to January 24, 1997.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33290, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423. In addition, a copy of each pleading must be served on: Janet H. Gilbert, 6250 North River Road, Suite 9000, Rosemont, IL 60018 and Robert H. Wheeler, Two Prudential

<sup>2</sup> Trackage between Negaunee, MI, and Ishpeming is owned and operated jointly by UP, Wisconsin Central Ltd. (WCL), and the Lake Superior & Ishpeming Railroad Company (LS&I). Reflecting this arrangement, changes in milepost numbering occur at West Wye near Negaunee, where milepost 176.85 and WCL milepost 164.49 designate the same point, and again at Euclid Avenue Yard in Ishpeming, where WCL milepost 170.70 and LS&I milepost 73.79 designate the same point. The Escanaba Subdivision includes industry trackage at Menominee/Marinette jointly owned or operated with the Escanaba & Lake Superior Railroad Company (E&LS).



Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

Decided: January 28, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,  
Secretary.

[FR Doc. 97-2696 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P

[STB Finance Docket No. 33332]<sup>1</sup>

**Summit View Incorporated—Corporate Family Exemption—Continuance in Control of the Youngstown Belt Railroad Company**

Summit View Incorporated (Summit) has filed a notice of exemption to continue in control of its subsidiary, The Youngstown Belt Railroad Company (YBRR), upon YBRR's becoming a Class III rail carrier. The transaction was to have been consummated shortly after December 31, 1996, the effective date of the exemption.

YBRR, a noncarrier, has concurrently filed a notice of exemption in *The Youngstown Belt Railroad Company—Lease and Operation Exemption—Warren & Trumbull Railroad Company*, STB Finance Docket No. 33333, to lease and operate approximately 12.9 miles of rail line, together with incidental trackage rights, owned by another Summit subsidiary, The Warren and Trumbull Railroad Company (WTRC); and (2) to acquire and operate 2.4 miles of connected rail line owned by CSX Transportation, Inc. (CSXT) via simultaneous assignment of WTRC's rights under a Track Lease/Operating Agreement with CSXT, a total of 15.3 miles of rail line, exclusive of the incidental trackage rights, located in Mahoning and Trumbull Counties, OH.

Summit controls four other nonconnecting Class III rail carriers: the Ohio & Pennsylvania Railroad Company; the Ohio Central Railroad, Inc.; the Ohio Southern Railroad, Inc.; and the Youngstown & Austintown Railroad, Inc.

Summit has filed its notice of exemption under 49 CFR 1180.2(d)(3) as the proposed continuance in control is a corporate family transaction.<sup>1</sup> Summit states that: Summit, YBRR and WTRC are members of the same corporate family; and that the transactions involved will not result in any adverse changes in service levels, significant operational changes, or a change in the

competitive balance with carriers outside Summit's corporate family. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(3).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III railroad carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33332, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: Kelvin J. Dowd, Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, DC 20036.

Decided: January 29, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,  
Secretary.

[FR Doc. 97-2697 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P

[STB Docket No. AB-167 (Sub-No. 1175)]

**Consolidated Rail Corporation—Abandonment—In Huntingdon County, PA**

The Board has issued a certificate authorizing Consolidated Rail Corporation (Conrail) to abandon its 1.60-mile Mt. Union Industrial Track, from milepost 0.0 to milepost 1.60, in the Borough of Mt. Union, Huntingdon County, PA. The abandonment was granted subject to standard employee protective conditions.

The abandonment certificate will become effective on March 6, 1997, unless the Board finds that a financially responsible person has offered financial assistance (through subsidy or purchase) to enable rail service to be continued.

Requests for public use conditions must be filed with the Board and Conrail by February 14, 1997.

Any offers of financial assistance (OFA) must be filed with the Board and Conrail no later than February 14, 1997.

The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer:

"Office of Proceedings, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10904 and former 49 CFR 1152.27.<sup>1</sup> Requests for public use conditions must conform with former 49 CFR 1152.28(a)(2).

Decided: January 29, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,  
Secretary.

[FR Doc. 97-2698 Filed 2-3-97; 8:45 am]

BILLING CODE 4915-00-P

[STB Docket No. AB-227 (Sub-No. 7X)]

**Wheeling & Lake Erie Railway Company—Abandonment Exemption—In Wyandot County, OH**

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice of exemption.

SUMMARY: The Board, under 49 U.S.C. 10502, exempts from the prior approval requirements of 49 U.S.C. 10903 the abandonment by the Wheeling & Lake Erie Railway Company of its 2.3-mile Carey Spur line between milepost 55.3 and milepost 53.0 near Carey, in Wyandot County, OH, subject to labor protective conditions and an environmental condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on March 6, 1997. Formal expressions of intent to file an OFA<sup>1</sup> under 49 CFR 1152.27(c)(2) and requests for interim trail use/rail banking under 49 CFR 1152.29 must be filed by February 14, 1997; petitions to stay must be filed by February 19, 1997; requests for a public use condition under 49 CFR 1152.28 must be filed by February 24, 1997; and petitions to reopen must be filed by March 3, 1997.

ADDRESSES: Send pleadings referring to STB Docket No. AB-227 (Sub-No. 7X): (1) Office of the Secretary, Case Control

<sup>1</sup> Although final rules in *Abandonment and Discontinuance of Rail Lines and Rail Transportation under 49 U.S.C. 10903*, STB Ex Parte No. 537 (STB served Dec. 24, 1996) went into effect on January 23, 1997, this abandonment application was filed before that date and, therefore, we have processed the application under the former regulations and will continue to use them in this proceeding to process an OFA, if one is filed.

<sup>1</sup> See *Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 L.C.2d 164 (1987).

<sup>1</sup> This notice corrects and supersedes the notice in this proceeding that was served on January 24, 1997, and published the same date at 62 FR 3735.

Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423, and (2) William C. Sippel, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, N.W., Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: January 23, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,  
*Secretary.*

[FR Doc. 97-2695 Filed 2-3-97; 8:45 am]

**BILLING CODE 4015-00-F**

**UNITED STATES INFORMATION AGENCY**

**Culturally Significant Objects Imported for Exhibition; Determinations**

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 F.R. 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 F.R. 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Exiles and Emigres: The Flight of European Artists from Hitler" (See

list<sup>1</sup>), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The Los Angeles County Museum of Art from on or about February 22, 1997, through May 22, 1997, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

Dated: January 31, 1997.

Les Jin,

*General Counsel.*

[FR Doc. 97-2827 Filed 1-31-97; 12:01 pm]

**BILLING CODE 8230-01-M**

<sup>1</sup> A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619-5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547-0001

# **Federal Register**

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**Tuesday  
February 4, 1997**

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## **Part II**

### **Department of Education**

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**Impact Aid: Extension of Notice  
Announcing a Special Application and  
Amendment Filing for Certain Fiscal  
Years (FYs) 1995 and 1996 Section 8002  
Grants and (FY) 1997 Section 8003  
Grants and Notice Extending Application  
Deadline Date for (FY) 1997 Section 8002  
Grants and (FY) 1998 Section 8003  
Grants; Notices**

## DEPARTMENT OF EDUCATION

**Impact Aid and Grants; Special Application, Amendment Filing Date Extension**

**AGENCY:** Department of Education.

**ACTION:** Extension of notice announcing a special application and amendment filing date for certain Impact Aid fiscal years (FYs) 1995 and 1996 section 8002 grants and FY 1997 section 8003 grants.

**SUMMARY:** On Friday, December 13, 1996, the Secretary announced in the Federal Register (61 FR 65924) a special filing date of January 31, 1997, for the submission of applications or amendments for certain Impact Aid FYs 1995 and 1996 section 8002 grants and FY 1997 section 8003 grants. As a result of several legislative amendments to the Impact Aid statute (Title VIII of the

Elementary and Secondary Education Act), it was necessary to provide additional time to certain local educational agencies (LEAs) described below, which are affected by the amendments, to file new or amended applications for certain fiscal years for which the general annual filing dates have passed. Due to unavoidable delays in the production and distribution of those past year application packages, the Secretary extends that special filing date.

**EFFECTIVE DATE:** This notice announcing an extension of a special filing date until February 28, 1997, for the specified Impact Aid FYs 1995 and 1996 section 8002 grants and FY 1997 section 8003 grants is effective February 4, 1997. The deadline date for the transmittal of comments on those

applications by State Educational Agencies is March 17, 1997.

**SUPPLEMENTARY INFORMATION:** The categories of Impact Aid applicants and the basis and fiscal years for which new or amended applications for past years may be filed, were specified in detail in the December 13 notice, and are summarized again at the end of this section. In all three cases, the specified section 8002 or 8003 applications or amendments for past fiscal years must be filed by February 28, 1997. The 60-day extended deadline provision (with a 10 percent payment reduction penalty) in section 8005(d) of the Impact Aid statute is not applicable to applications or amendments that are submitted under this extension as a result of the congressional amendments for the otherwise closed fiscal years specified in the following table.

## NEW IMPACT AID APPLICATION AND AMENDMENT FILING DATES

Type of applicant	Basis for extension	Affected fiscal year	New filing date
Section 8002 .....	Eligibility based on former districts for consolidated districts previously eligible under section 2(c) of P.L. 81-874.	FY 1995 or 1996, or both.	Feb. 28, 1997.
Section 8003(f) .....	Eligibility and payments for heavily impacted LEAs based on second preceding year student, revenue or tax data.	FY 1997 .....	Feb. 28, 1997.
Section 8003 .....	Eligibility and payment for children under section 8003(a)(1)(F) or (G) based on such children numbering at least 1,000 in average daily attendance or equal to at least 10 percent of total average daily attendance.	FY 1997 .....	Feb. 28, 1997.

## FOR APPLICATIONS OR INFORMATION

**CONTACT:** Impact Aid Program, U.S. Department of Education, 600 Independence Avenue SW, 4200 Portals, Washington, DC 20202-6244. Telephone: (202) 260-3858. 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.

(Catalog of Federal Domestic Assistance Number 84.041)

**Program Authority:** 20 U.S.C. 7705.

Dated: January 29, 1997.

Gerald N. Tirozzi,

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 97-2646 Filed 2-3-97; 8:45 am]

BILLING CODE 4000-01-P

Aid fiscal year 1997 section 8002 grants and fiscal year 1998 section 8003 grants.

**SUMMARY:** The Secretary extends the deadline date for the submission of applications for Impact Aid fiscal year 1997 section 8002 grants and fiscal year 1998 section 8003 grants to February 28, 1997. Impact Aid regulations at 34 CFR 222.3 specify that the annual application deadline is January 31. Due to unavoidable delays in the production and the distribution of the application packages, the Secretary extends the deadline for the potential applicants under sections 8002 and 8003 for Impact Aid assistance for the respective years specified. Section 8003 applicants should use a survey date for their student counts that is at least three days after the start of the 1996-97 school year and before the extended deadline of February 28, 1997.

**EFFECTIVE DATE:** This notice extending the application deadline date to February 28, 1997, for Impact Aid fiscal year 1997 section 8002 grants and fiscal year 1998 section 8003 grants is effective February 4, 1997. The deadline date for the transmittal of comments on those applications by State Educational Agencies is March 17, 1997. The

Secretary will also accept and approve for payment any otherwise approvable application that is received on or before the 60th calendar day after February 28, 1997, which is April 29, 1997. However, any applicant meeting the conditions of the preceding sentence will have its payment reduced by 10 percent of the amount it would have received had its application been filed by February 28, 1997.

## FOR APPLICATIONS OR INFORMATION

**CONTACT:** Impact Aid Program, U.S. Department of Education, 600 Independence Avenue SW, Room 4200 Portals, Washington, DC 20202-6244. Telephone: (202) 260-3858. 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.

**Waiver of Rulemaking**

Section 222.3, which establishes the annual January 31 Impact Aid application deadline, is currently in effect. However, due to unavoidable delays in the production and distribution of the application packages, applicants may not have sufficient time

## DEPARTMENT OF EDUCATION

**Impact Aid; Grant Application Deadline Extension**

**AGENCY:** Department of Education.

**ACTION:** Notice extending the application deadline date for Impact



to comply with that annual deadline. Because this amendment makes a procedural change for this year only as a result of unique circumstances, proposed rulemaking is not required under 5 U.S.C. 553(b)(A). In addition, the Secretary has determined under 5

U.S.C. 553(b)(B) that proposed rulemaking on this one-time suspension of the regulatory deadline date is impracticable, unnecessary, and contrary to the public interest.

(Catalog of Federal Domestic Assistance Number 84.041)

**Program Authority:** 20 U.S.C. 7705.

Dated: January 29, 1997.

**Gerald N. Tirozzi,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 97-2647 Filed 2-3-97; 8:45 am]

**BILLING CODE 4000-01-P**



# **federal register**

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Tuesday  
February 4, 1997

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**Part III**

## **Department of Justice**

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**Office of Juvenile Justice and  
Delinquency Prevention**

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**National Innovations to Reduce  
Disproportionate Minority Confinement  
(Deborah Ann Wysinger Memorial  
Program); Notice**

## DEPARTMENT OF JUSTICE

Office of Juvenile Justice and  
Delinquency Prevention

[OJP (OJJDP) No. 1108]

RIN 1121-ZA55

Training and Technical Assistance for  
National Innovations to Reduce  
Disproportionate Minority Confinement  
(The Deborah Ann Wysinger Memorial  
Program)AGENCY: Office of Justice Programs  
(OJP), Office of Juvenile Justice and  
Delinquency Prevention (OJJDP), U. S.  
Department of Justice.ACTION: Resolicitation for award of  
cooperative agreement.SUMMARY: The purpose of this notice is  
to announce the public resolicitation of  
the above-cited program. Peer review of  
applications responding to the initial  
solicitation resulted in the finding that  
none was sufficiently responsive to  
warrant funding.DATES: Applications must be  
postmarked or delivered on or before  
April 7, 1997. Mailed applications must  
be received by April 14, 1997.ADDRESSES: The application and five  
copies should be mailed to: the Office  
of Juvenile Justice and Delinquency  
Prevention c/o Juvenile Justice Resource  
Center, 1600 Research Boulevard, Mail  
Stop 2K, Rockville, MD 20850; 301/235-  
5535.Note: In the lower left-hand corner of the  
envelope, you must clearly write, "Training  
and Technical Assistance for National  
Innovations to Reduce Disproportionate  
Minority Confinement."FOR FURTHER INFORMATION CONTACT:  
Robin V. Delany-Shabazz, Program  
Manager, Training and Technical  
Assistance Division, (202) 307-9963, or  
by e-mail to: delany@ojp.usdoj.gov.

## SUPPLEMENTARY INFORMATION:

## Purpose:

To reduce the disproportionate  
confinement of minority juveniles in  
secure detention and confinement  
facilities nationwide.

## Background

This program implements Section  
261(a)(8) of the Juvenile Justice and  
Delinquency Prevention (JJDP) Act of  
1974, as amended. National data and  
studies have shown that children of  
color are over-represented in secure  
juvenile and criminal justice facilities  
across the country in comparison to  
their percentage in the local population.  
A major contributing factor is that the  
structure of justice decision making  
often disadvantages minority youth.This is true even when controlling for  
socio-economic characteristics and legal  
variables such as types of offense and  
prior delinquent history. Accordingly,  
in the 1988 reauthorization of the JJDP  
Act, Congress amended the Part B  
Formula Grants Program State plan  
requirements to include a new State  
plan requirement addressing the  
disproportionate confinement of  
minority juveniles where it exists. The  
Office of Juvenile Justice and  
Delinquency Prevention (OJJDP) issued  
regulations requiring States  
participating in the Formula Grants  
Program to gather and analyze data on  
disproportionate minority confinement  
(DMC) and, depending on the findings,  
to design strategies to address the issue.  
A Special Emphasis discretionary grant  
program was developed to demonstrate  
model approaches in five competitively  
selected pilot States (Arizona, Florida,  
Iowa, North Carolina, and Oregon).  
Funds also were awarded to a national  
contractor to provide technical  
assistance to both the pilot States and  
other States, to evaluate their efforts,  
and to share relevant information  
nationwide. By 1995, Special Emphasis  
awards had been made to support 12  
demonstration projects to test  
innovative DMC interventions designed  
by States and local communities.Despite these activities, many factors  
contributing to over representation of  
minorities in secure facilities remain  
unchanged, or are even more prevalent,  
as reflected in the widespread disparity  
in juvenile case processing,<sup>1</sup> the paucity  
and poor quality of support services and  
resources, increased numbers of  
children living in poverty, continuing  
disintegration of family structure, teen  
pregnancy, drug use, truancy and  
dropouts, gang activity, and increased  
availability of guns and drugs. The  
impact of these factors is greatest in  
minority communities. The  
consequence of not addressing  
contributing factors was highlighted in  
the October 1995 report from the  
Sentencing Project, *Young Black  
Americans and the Criminal Justice  
System: Five Years Later*. This report  
revealed that nationwide one in three  
black men in the 20-29 age group is  
under the supervision of the justice  
system (in prison or jail; on probation or  
parole)—up from one in four in 1990.<sup>2</sup>  
Many of these are graduates of  
dependency courts, social services and  
juvenile justice systems that failed to  
address their needs and prevent  
recurring crime.Current and previous efforts to  
address over representation yield two  
fundamental lessons. One is that  
systemic, community wideinterventions are necessary to reduce  
DMC. The other is that each jurisdiction  
must assess the magnitude, extent, and  
nature of the disparity. The experience  
of the pilot States makes it clear that  
people are able to reach consensus on  
corrective actions only by gaining a full  
understanding of what leads to  
disproportion, including social  
conditions, social and justice policies  
and the juvenile justice system.  
Specifically this entails assessing at  
what points within and prior to juvenile  
justice system processing  
disproportionality begins to appear or  
increase. How does police discretionary  
action prior to arrest (decision to divert)  
or the processes and decisions relative  
to detention, adjudication, probation,  
sentencing or aftercare affect  
disproportionality? What impact do  
environmental and social factors have  
on disproportionality? Field  
assessments and State site evaluations  
have also generated useful information.  
OJJDP recognizes the need to foster  
development and documentation of  
innovative and effective strategies  
nationwide using training, technical  
assistance, information dissemination,  
provision of practical and targeted  
resource tools, and public education.To help meet that need, OJJDP is  
issuing this competitive solicitation for  
innovative proposals to implement a  
three-year national training, technical  
assistance, and information  
dissemination initiative. It will be  
focused on improving the ability of  
States, selected local jurisdictions and  
OJJDP key grantees to address from  
systemic and community wide  
perspectives the issue of  
disproportionate confinement of  
minority juveniles. An award of  
\$300,000 will support this program in  
its first year.Goal: To help State and local  
jurisdictions reduce the over  
representation of minority children and  
youth in secure detention and  
correctional facilities, jails, and lockups  
by providing jurisdictions with  
knowledge that will enable them to  
successfully address those factors that  
contribute to the problem, including  
information about inventive practices  
and programs and technical assistance  
in implementing successful community  
wide approaches.Objectives: In year one, the selected  
grantee will:1. Review and synthesize the existing  
knowledge base and research on DMC  
including State and local practices and  
policies designed to address DMC.2. Develop an intensive, interactive  
core training curriculum for juvenile  
justice system policy and decision



makers and practitioners on effective interventions and impediments to successful action (refer to item #2 under Program Strategy), and initially deliver to juvenile justice specialists, State Advisory Group (SAG) chairs, and selected grantees.

3. Develop and begin to deliver a system of technical assistance to key OJJDP grantees to incorporate DMC issues, practices and policies into their training and education programs, especially a knowledge of and appreciation for the impact that police practices and community development have on DMC. (Key grantees are those training and technical assistance providers working with police, the courts, and juvenile detention staff; SafeFutures sites; Title V recipients, and States using State Challenge Program funds to address DMC.) The technical assistance system should be innovative and varied in concept and execution.

4. Develop and begin the process of assisting DMC grantees implementing local program interventions to better manage, institutionalize, and sustain their programs over the long-term. This process is to include a needs assessment.

5. Collaborate with OJJDP's Formula Grants Program technical assistance contractor and OJJDP staff on developing effective approaches and strategies for assisting States to improve DMC compliance plans and their strategic planning, program design, program implementation, and policy formulation as it addresses DMC in the long and short term.

6. Plan, develop and implement a national dissemination and education effort that builds on the training and technical assistance system proposed to facilitate development of effective DMC efforts at the State and local levels.

7. Identify five to seven people to serve on an advisory group to support project implementation. The specific tasks of the advisory group are to provide consultation and advice to the grantee on current DMC policy and practice issues and to advise on the impact and progress of DMC program planning and implementation. Members are to be selected to ensure diversity of perspectives, experience, gender and cultural orientation. Grantees is expected to convene two annual meetings of the advisory group.

Objectives for years two and three are to: (1) build on year one efforts and continue to deliver training and technical assistance to the key constituents (as noted in objectives #2, 3 and 5, above) of the core curriculum; (2) continue to support and assist DMC intervention grantees (as noted in

objective #4, above); (3) implement the national dissemination and education campaign (as noted in objective #6); and (4) develop other appropriate products and resource tools to help OJJDP's key constituencies to improve their abilities to assess and effectively address disproportionate confinement of minorities.

*Program Strategy:* OJJDP will make a single award for \$300,000 under a cooperative agreement. The award will be for a one-year budget period under a three-year project period. The purpose of this award is to equip States and local units of government to address disproportionate confinement of minority youth, where it is determined to exist, through systemic, community wide, interdisciplinary and strategic approaches. This will be accomplished through (1) development of resource materials, guidelines, and programs suitable for targeted dissemination; (2) development of a core curriculum on DMC issues, barriers, supports, and successful interventions suitable for use with elected officials, judges, law enforcement agencies, prosecutors, public defenders, court personnel, State Advisory Groups, and juvenile justice specialists; (3) delivery of technical assistance to State and local agencies to support strategic planning, program design, program implementation, and policy formulation that addresses DMC both in the long and short term; and (4) support for OJJDP grantees, including the use of DMC materials and the core curriculum, to make their programs responsive to this issue.

Because DMC is an issue that affects and is affected by all juvenile justice policies and practices, the grantee will coordinate the work of this cooperative agreement with other OJJDP grantees addressing delinquency prevention, juvenile justice system improvement, and research and data collection. This coordination entails ensuring that information is shared and that collaboration occurs where appropriate. Note that materials developed under other grants and contracts that either relate to this issue or have potential for supporting the work of this initiative will be made available to this grantee. These materials will allow the grantee to avoid duplication and expand the impact of work being done to enhance and strengthen efforts to reduce DMC. The materials, protocols, curriculums, and resource and dissemination networks of the Juvenile Justice Clearinghouse, the OJJDP National Training and Technical Assistance Center, Community Research Associates (the national technical assistance contractor for the Formula Grants

Program), and other key OJJDP grantees and contractors will support development of products identified in this solicitation.

#### Products

The grantee will be required to produce a number of products over the 3-year project period. During the first project year, the grantee will:

- Create a protocol for delivery of training and technical assistance which informs and supports the constituencies noted previously, including selected communities.

- Produce a summary document synthesizing what is known about DMC policy and practice throughout the Nation.

- Develop a training curriculum on DMC requirements, issues, and effective interventions, including components on ethnic and cultural competence, systems change, community development and police practices.

- Compile a report on the results of the needs assessments conducted with the DMC implementation grantees and plans to support and assist each grantee.

Products for years two and three will be agreed to by the grantee and program office after award.

#### Eligibility Requirements

OJJDP invites applications from public and private agencies, organizations, and institutions. Private for-profit organizations must waive any fee or profit to be eligible for this program. This is a competitive training and technical assistance program. Funds will be awarded under a cooperative agreement to an organization or collaboration of organizations demonstrating a thorough understanding of DMC issues and the implications for policy and practice. The applicant must also have significant experience in the assessment and development of programs designed for disadvantaged and culturally diverse youth living in communities lacking culturally sensitive services; expertise in delivery of training and technical assistance to tribal, rural, and urban communities; demonstrated competence in management of intercommunity group relations and cultural issues; and experience in creating and implementing broad-based public education efforts. Given the combination of skills required, organizations are encouraged to collaborate in applying for this program. The award would be made to a lead agency, which would be responsible for distributing funds as described in the application.

### Selection Criteria

Applications will be rated by a peer review panel on the extent to which they meet the following criteria. Applicants are to organize applications in accord with these criteria.

#### Problem(s) To Be Addressed (25 points)

Applicants must concisely describe the problems to be addressed by the proposed program and convey a clear understanding of the purposes, work requirements, and expected results of the project. In particular, the applicant must demonstrate a thorough understanding of DMC issues, the barriers and supports to DMC reduction, the implications for policy and practice, especially in the areas of law enforcement (community policing) and community development, and the importance of ethnic and cultural competence to program success. Applicants must also address issues associated with providing DMC training and technical assistance to States and localities.

#### Goals and Objectives (10 points)

Applicants must demonstrate an understanding of the overall goals, objectives and tasks of this solicitation through a clear description of how the applicant's proposed program meets the solicitation's goals and objectives.

#### Project Design (25 points)

Applicants must detail a project design that is innovative, viable and within their ability to carry out. Applicants must delineate quantitative and qualitative measures by which progress in meeting project objectives will be assessed. Applications must indicate how project objectives and work requirements will be achieved and must describe a cohesive and well-thought-out plan for transferring knowledge to the field about DMC and best practices for reducing DMC.

#### Management and Organizational Capability (25 points)

Management structure, staffing, and experience working with State agencies and local entities must be shown to be adequate and appropriate to implement and complete the project successfully, efficiently, and cost effectively.

Commitments of collaboration with other organizations must clearly and specifically show their respective project responsibilities, dollar amounts, number of hours, and the manner in which ongoing communication and collaboration will be managed. Key project staff and consultants should have significant experience in the areas addressed in this initiative, including

juvenile justice system processing and multicultural programming for youth. Descriptive resumes must be provided for all key staff.

The applicant organization must document its ability to implement the project, being certain to address all of the eligibility requirements. This section should include a succinct description of organizational experience with respect to the program objectives and proposed activities.

#### Budget (15 points)

Applicants must provide a budget for the activities to be undertaken that is complete, detailed, reasonable, allowable, and cost effective and a budget narrative that describes and justifies proposed costs. Note that the applicant is to provide program budget support for two annual meetings of the advisory group as noted in objective #7.

#### Award Period

This project will be funded for 36 months in three 12-month budget periods. After the first budget period, funding depends on grantee performance, availability of funds, and other criteria established at the time of award.

#### Award Amount

Up to \$300,000 is available for the initial 12-month budget period.

#### Format Requirements

Applicants are to limit the Program Narrative (this includes Problem to be Addressed, Goals and Objectives, Project Design and the Management and Organizational Capability) to 25 pages, double-spaced in 10- or 12-point font size. The application abstract cannot exceed one, single-spaced page. There is no page limit on the budget section including the budget worksheets and budget narrative pages. Appended material, including resumes, is limited to 20 pages and should not include letters of support except where such letters describe the roles and responsibilities of applicant partners in the proposed effort.

#### Delivery Instructions

All application packages should be mailed or delivered to the Office of Juvenile Justice and Delinquency Prevention, c/o Juvenile Justice Resource Center, 1600 Research Boulevard, Mail Stop 2K, Rockville, MD 20850; 301-251-5535. Note: In the lower left-hand corner of the envelope, you must clearly write "Training and Technical Assistance for National Innovations to Reduce Disproportionate Minority Confinement."

### Due Date

Applicants are responsible for ensuring that the original and five copies of the application package are postmarked or delivered on or before April 7, 1997. Mailed applications must be received by April 14, 1997. Applications must be submitted with SF424 (Rev. 1988), Application for Federal Assistance, as the cover sheet. Proposals must also be accompanied by OJP Form 7150/1 (50-95), Budget Detail Worksheet; OJP Form 4061/6, Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements; and OJP Form 4000/3, Assurances. All applicants must sign and submit the Assurances form indicating that they are in compliance with Federal laws and regulations which prohibit discrimination in any program or activity that receives Federal funds.

To obtain the appropriate forms, call the Juvenile Justice Clearinghouse at (800) 638-8736 or (301) 251-5500. Applicants may also download these forms from the *Application Kit: Competitive Discretionary Grant Programs*, located on the Office of Juvenile Justice and Delinquency Prevention web site at <http://www.ncjrs.org/toc.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Robin V. Delany-Shabazz, Program Manager, Training and Technical Assistance Division, on 202-307-9963, or send an e-mail to [delany@ojp.usdoj.gov](mailto:delany@ojp.usdoj.gov).

Dated: January 21, 1997.

**Shay Bilchik,**

*Administrator, Office of Juvenile Justice and Delinquency Prevention.*

#### Endnotes

1. Howard N. Snyder and Melissa Sickmund, *Juvenile Offenders and Victims: A National Report* (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, August 1995), p. 92; William Feyerherm, *Lessons Learned* (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 1996, in press).

2. Marc Mauer and Tracy Huling, *Young Black Americans and the Criminal Justice System: Five Years Later* (Washington, DC: The Sentencing Project, 1995), 1-2.

#### References

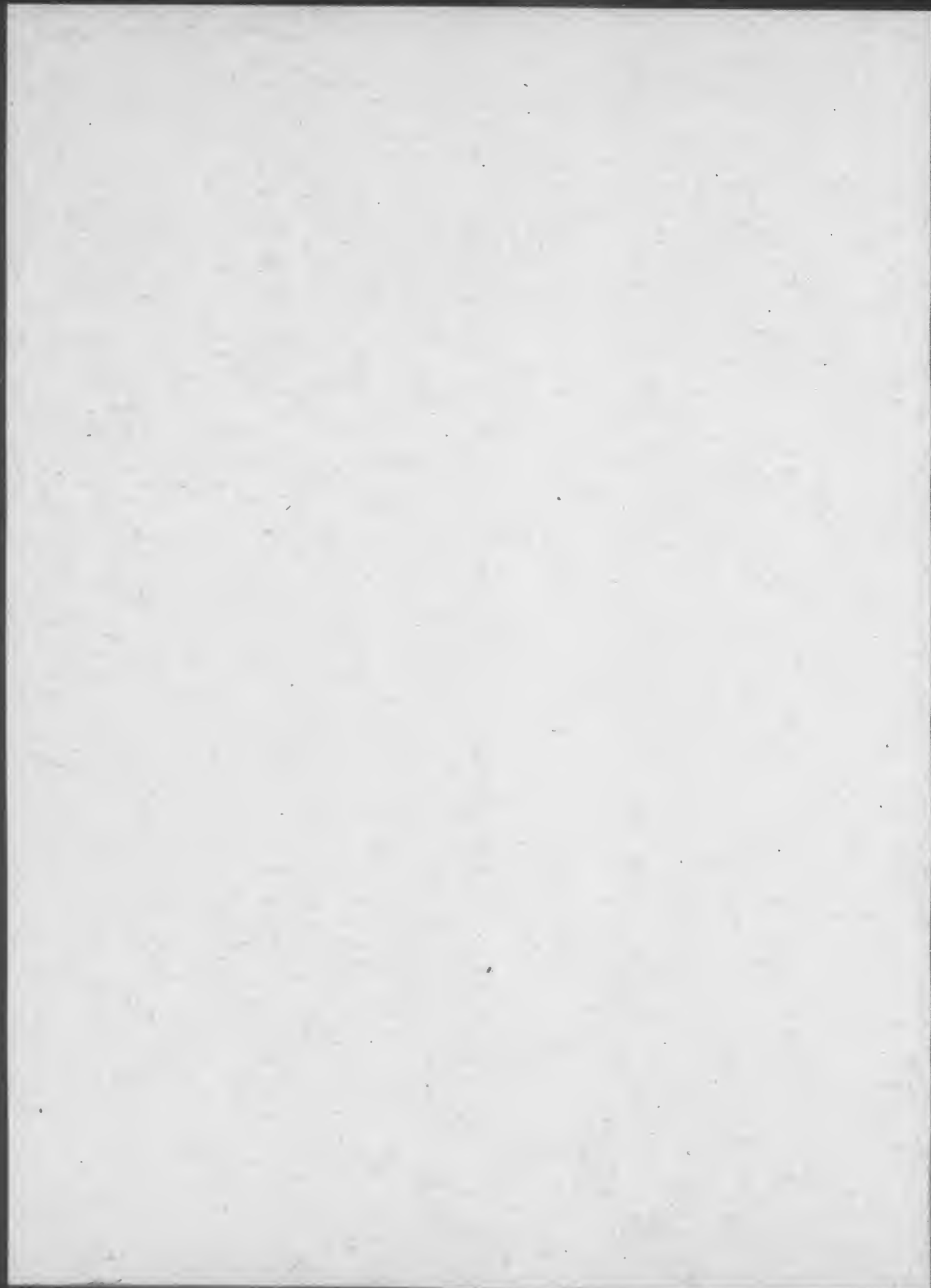
American Bar Association. *America's Children at Risk: A National Agenda for Legal Action*. Report of ABA Working Group on the Unmet Legal Needs of Children and Their Families, 1993.

Annie E. Casey Foundation. *Kids Count Data Book*. Baltimore, MD: Casey Foundation, 1995.

- Bishop, D.M., and C.E. Frazier. *A Study of Race and Juvenile Processing in Florida*. A report submitted to the Florida Supreme Court Racial and Ethnic Bias Study Commission, 1990.
- Children's Defense Fund. *State of America's Children*. Washington, DC: Children's Defense Fund, 1996.
- Community Research Associates. *Status of the States Reports: A Review of State Materials Regarding Over-Representation of Minority Youth in the Juvenile Justice System*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, in press. (Source of preliminary and anecdotal information from State status reports on DMC.)
- Kempf, K.L., S.H. Ecker, and R.L. Bing. *An Analysis of Apparent Disparities in the Handling of Black Youth Within Missouri's Juvenile Justice System*. St. Louis: Department of Administration of Justice, University of Missouri, 1990.
- Lockhart, L.L., P.D. Kurtz, R. Stephen, and K. Gauger. *Georgia's Juvenile Justice System: A Retrospective Investigation of Racial Disparity*. Research report to the Georgia Juvenile Justice Coordinating Council: Part I of the Racial Disparity Investigation. School of Social Work, University of Georgia, 1990.
- Pope, C.E. "Blacks and Juvenile Crime: A Review" in D.E. Georges-Abeyie (ed.), *The Criminal Justice System and Blacks*. San Francisco, CA: Chandler Publishing, 1984.
- Pope, C.E., and W. Feyerherm. "Minorities and the Juvenile Justice System." OJJDP Research Summary. Washington, D.C.: U.S. Department of Justice, 1993.
- Pope, C.E., and W. Feyerherm. "Minority Status and Juvenile Justice Processing." *Criminal Justice Abstracts* 22 (2): 327-336 (part I); 22 (3): 527-542 (part II), 1990.

[FR Doc. 97-2704 Filed 2-3-97; 8:45 am]

BILLING CODE 4410-18-P





# Federal Register

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Tuesday  
February 4, 1997

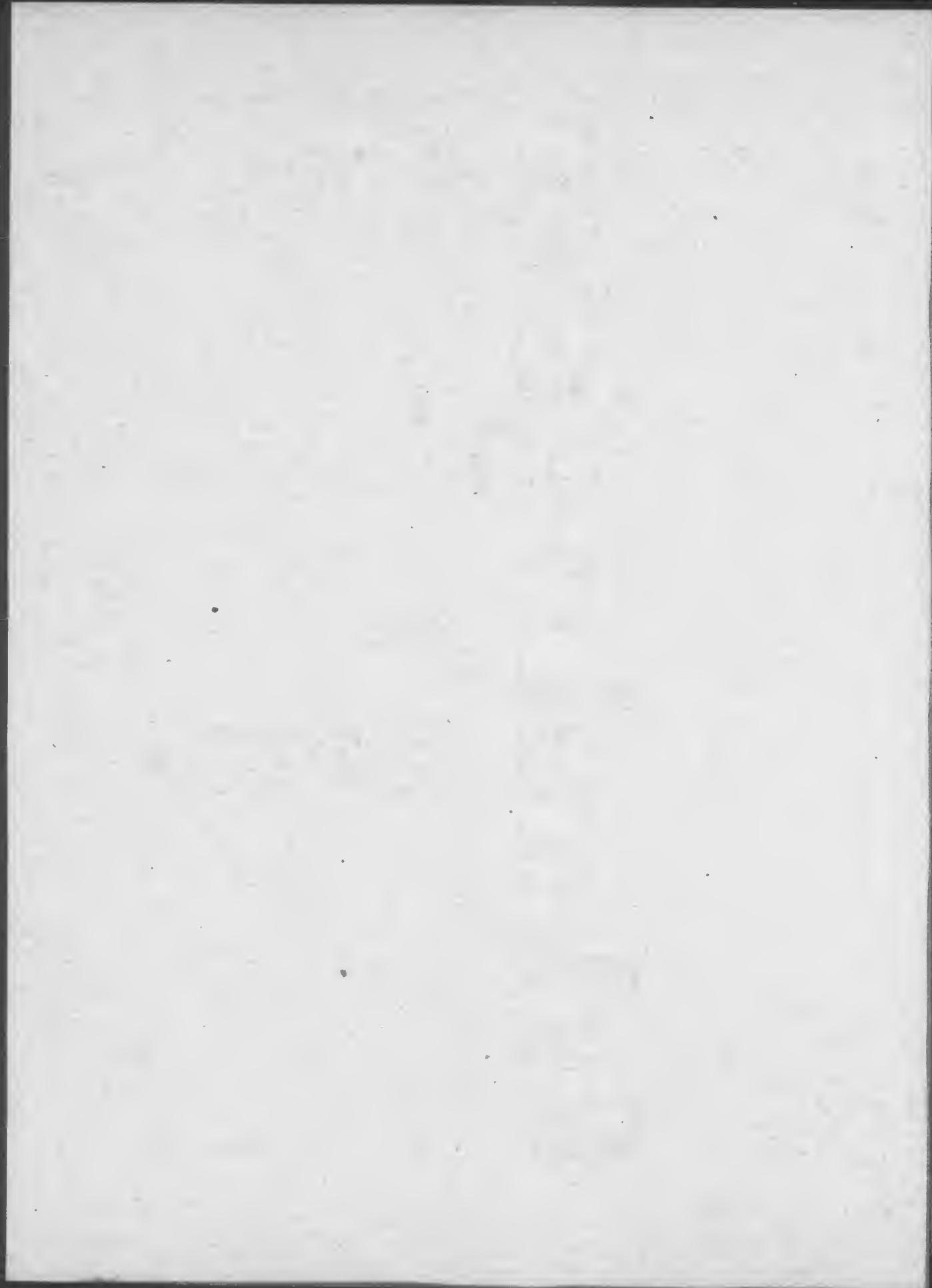
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Part IV

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## The President

Proclamation 6970—National African  
American History Month, 1997



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**Presidential Documents**

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Title 3—

Proclamation 6970 of January 30, 1997

The President

National African American History Month, 1997

By the President of the United States of America

**A Proclamation**

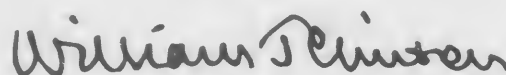
For much of the past century, the contributions that African Americans and other minorities have made to our Nation's progress were not fully recognized. African American History Month is an important means by which we help right that wrong. It awakens our collective social conscience to the importance of giving all of our children a complete and accurate record of their country's history. And, perhaps most important, it helps to reinforce America's highest ideals—our respect for diversity, community, and freedom.

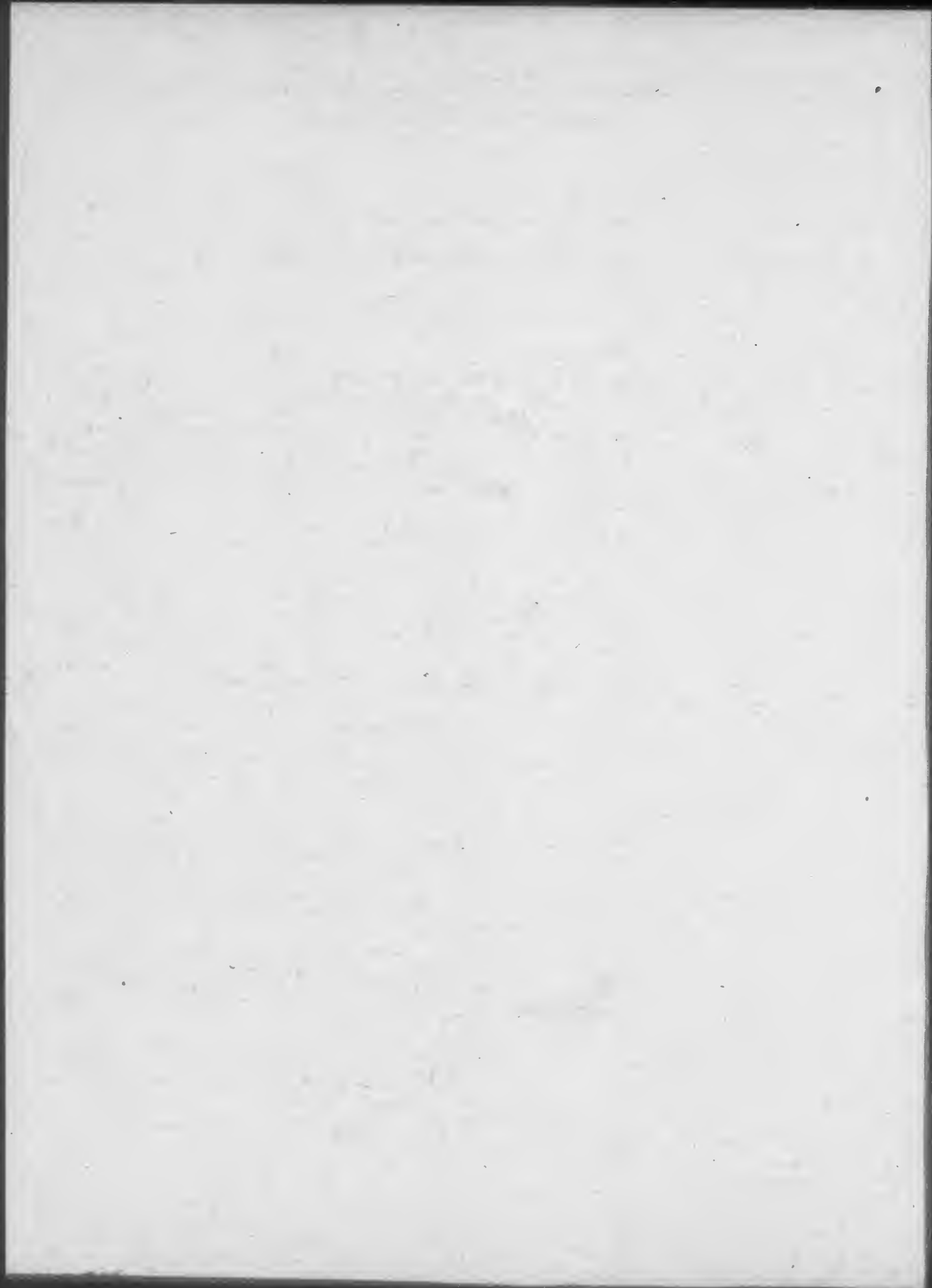
During this time of celebration and learning we are inspired by the courage, wisdom, and vision of men and women such as Frederick Douglass, Harriet Tubman, Carter G. Woodson, and Fannie Lou Hamer. These great Americans dedicated their lives to ensuring that the ideals of freedom and equality are guaranteed to all. Their noble efforts—and the efforts of those they inspired—renewed the spirit of our founding creed: "All men are created equal." As we approach the 21st century, it is more vital than ever that we remain vigilant in protecting the ideals these visionary leaders fought so hard to uphold. We must continue to extend the circle of equality, justice, and opportunity until it embraces every American.

As we pay homage to our past, throughout the month of February and all year long, let us, with enlightened minds and emboldened hearts, continue the legacy of the civil rights movement. Let us present a diverse but united front to those who would reverse the vital progress that has been made. As the world's beacon of hope and freedom, let us approach the new millennium keeping this vigil.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim February 1997 as National African American History Month. I call upon public officials, educators, librarians, and all the people of the United States to observe this month with appropriate ceremonies, activities, and programs that raise awareness of African American history.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of January, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-first.







# **Federal Register**

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Tuesday  
February 4, 1997

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**Part V**

## **The President**

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Proclamation 6971—American Heart  
Month, 1997



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**Presidential Documents**

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Title 3—

Proclamation 6971 of February 1, 1997

The President

American Heart Month, 1997

By the President of the United States of America

**A Proclamation**

More than 700,000 men and women die each year of heart disease, making it the leading cause of death in our country. Annually, about 1.5 million Americans suffer heart attacks, one-third of which are fatal. Collectively, diseases of the heart and blood vessels claim about 960,000 American lives annually. These statistics only hint at the individual and collective tragedy brought on by heart disease and stroke and underscore the need for us to do everything possible to combat cardiovascular diseases.

Research has brought dramatic improvements to our knowledge of heart disease and how to combat it. We have learned much in recent years and now know that the processes leading to heart disease typically begin early in life and worsen over the years; symptoms often do not appear for decades. We also better understand the effects of genetics, gender, and lifestyle. High blood cholesterol, high blood pressure, smoking, diabetes, and obesity increase the risk of developing heart disease; physical activity can reduce the risk of suffering from cardiovascular disease, including stroke.

Additionally, research has brought improved diagnostic methods and treatments for those afflicted with heart disease. Noninvasive imaging devices can now show the heart at work inside the body, giving doctors more precise information about their patient's condition. And new tests and therapies allow us to detect and treat a heart attack more effectively and minimize damage to the heart muscle.

These striking developments in biomedical techniques and increased public awareness and education have helped reduce the death rate from heart disease by nearly 60 percent in the past 30 years, and deaths from stroke by about 65 percent.

The Federal Government has contributed to these advances by supporting research and public education programs of the National Heart, Lung, and Blood Institute, part of the National Institutes of Health. The American Heart Association also has played a crucial role in bringing about these remarkable accomplishments through its research and education programs and the work of dedicated volunteers.

Yet much remains to be done. The incidence of obesity has risen dramatically over the past 30 years, and renewed efforts are needed to make all Americans aware of how they can lower the risks of heart disease by adopting a commonsense regimen of diet, exercise, and, in some cases, medication.

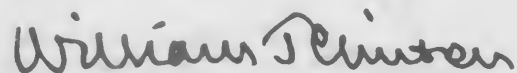
More, too, must be done to help survivors of initial heart attacks live full lives. Within six years of a heart attack, for instance, more than a third of those afflicted develop severe and often disabling chest pain. One-fourth or more of them will have another heart attack, and another fifth suffer heart failure. The challenges posed by heart disease are becoming ever more pressing as America ages and more of us live beyond age 65—the group most affected by this disease.

In the face of these daunting challenges, we Americans, acting individually and collectively, can fight heart disease and give ourselves and our families a healthy future.

In recognition of these important needs in the ongoing battle against cardiovascular disease, the Congress, by Joint Resolution approved December 30, 1963 (77 Stat. 843; 36 U.S.C. 169b), has requested that the President issue an annual proclamation designating February as "American Heart Month."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim February 1997, as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, officials of other areas subject to the jurisdiction of the United States, and the American people to join me in reaffirming our commitment to combating cardiovascular disease and stroke.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of February, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-first.



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Vol. 62, No. 23

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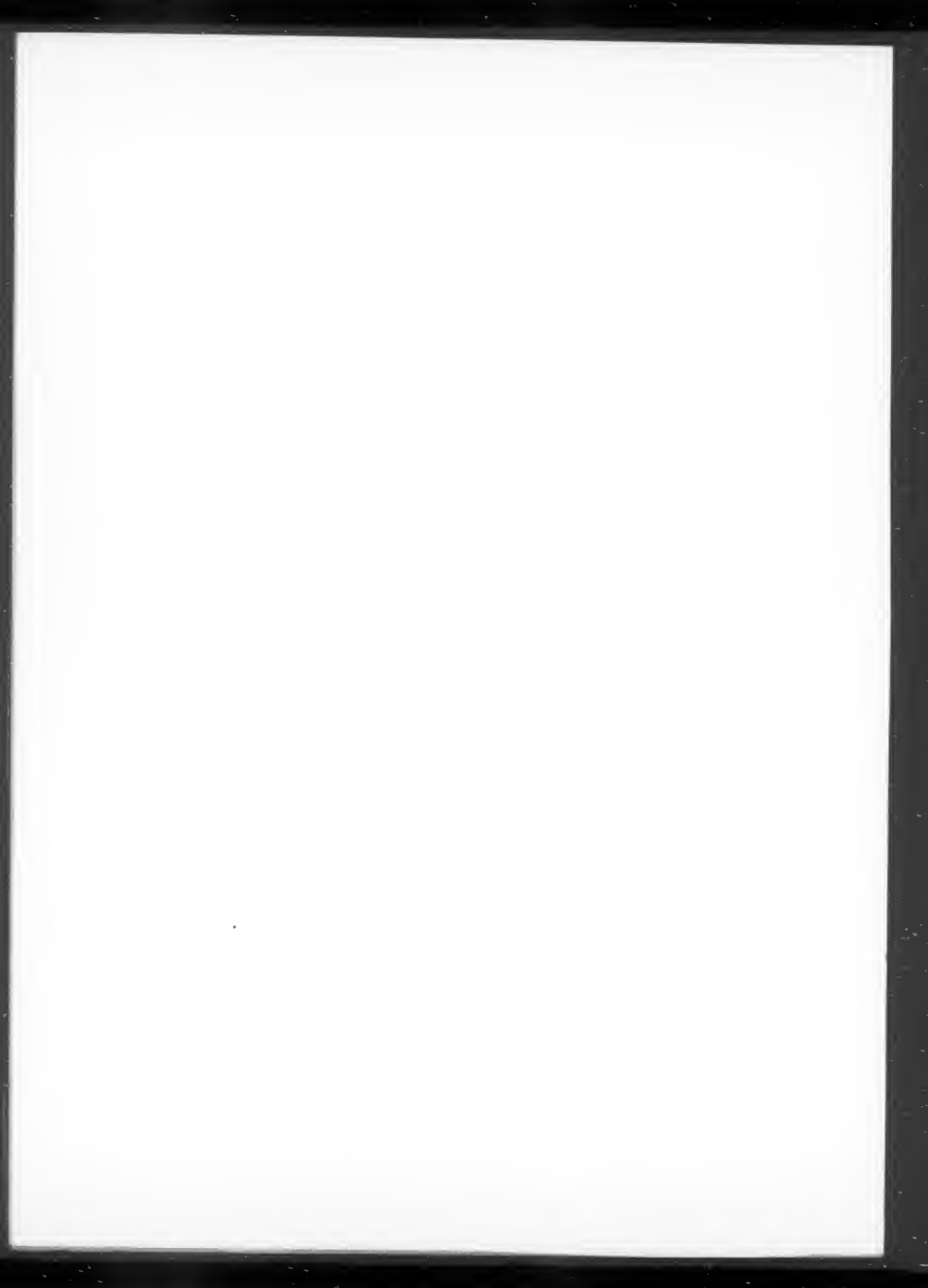
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