

program is reauthorized. The review will be based on those petitions that are submitted prior to the June 16 deadline and accepted for review by the GSP Subcommittee.

A. 1999 Annual Product Review

Interested parties or foreign governments may submit petitions: (1) To designate additional articles as eligible for GSP; (2) to withdraw, suspend or limit GSP duty-free treatment accorded either to eligible articles under the GSP or to individual beneficiary developing countries with respect to specific GSP eligible articles; (3) to waive the competitive need limits for individual beneficiary developing countries with respect to specific GSP eligible articles; and (4) to otherwise modify GSP coverage. As specified in 15 CFR 2007.1, all product petitions must include a detailed description of the product and the Harmonized Tariff Schedule (HTS) subheading in which the product is classified.

B. 1999 GSP Annual Country Eligibility Practices Review

Interested parties may submit petitions to have the GSP status of any eligible beneficiary developing country reviewed with respect to any of the designation criteria listed in sections 502(b) or 502(c) of the Trade Act (19 U.S.C. 2462(b) and (c)). Such petitions must comply with the requirements of 15 CFR 2007.01(b).

C. Submission of Petitions and Requests

Petitions to modify GSP treatment should be addressed to GSP Subcommittee, Office of the U.S. Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508. An original and fourteen (14) copies of each petition must be submitted in English. If the petition contains business confidential information, an original and fourteen (14) copies of a nonconfidential version of the submission along with an original and fourteen (14) copies of the confidential version must be submitted. In addition, the submission containing confidential information should be clearly marked "confidential" at the top and bottom of each and every page of the submission. Petitions submitted as "business confidential" must conform to 15 CFR 2003.6 and other qualifying information submitted in confidence must conform to 15 CFR 2007.7. The version that does not contain business confidential information (the public version) should also be clearly marked at the top and bottom of each page (either "public version" or "nonconfidential"). Furthermore, interested parties

submitting petitions that request action with respect to specific products should list on the first page of the petition the following information: (1) The requested action; (2) the HTS subheading in which the product is classified; and (3) if applicable, the beneficiary country.

All such submissions must conform to the GSP regulations which are set forth in 15 CFR Part 2007. The regulations are also included in "A Guide to the U.S. Generalized System of Preferences (GSP)" (August 1991) ("GS Guide"). Petitioners are strongly advised to review the GSP regulations. Submissions that do not provide all information required by sections 2007.0 and 2007.1 of the GSP regulations will not be accepted for review, except upon a detailed showing in the submission that the petitioner made a good faith effort to obtain the information required. These requirements will be strictly enforced. Petitions with respect to waivers of the competitive need limitations must meet the information requirements for product addition requests in section 2007.1(c) of the GSP regulations. A model petition format is available from the GSP Subcommittee and is included in the GSP Guide. Petitioners are requested to use this model petition format so as to ensure that all information requirements are met.

Only the public versions of the submissions will be available for public inspection and only by appointment. Appointments to review petitions may be made by contacting Ms. Brenda Webb (Tel. 202/395-6186) of the USTR Public Reading Room. The hours of the Reading Room are 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday.

Frederick L. Montgomery,
Chairman, Trade Policy Staff Committee.
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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket OST-99-5051]

Passenger, Third-Party, and Property Liability Insurance Coverage for U.S. and Foreign Air Carriers—Non-Approval of Exclusions Related to the Year 2000 Problem

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Department issues this notice to remind all carriers of its requirements with regard to passenger,

third-party, and property liability insurance under 49 U.S.C. 41112(a) and 14 CFR part 205. The notice informs carriers that certain aviation insurers wish to write into airline insurance policies required by Title 49 and Department regulations an exclusionary clause that would exclude liability for damages related to the Year 2000 problem and other computer-related time, date, and year changes. The notice further informs carriers that no such exclusion has been approved by the Department and reminds carriers that any carrier operating with such an exclusion in place would not be in compliance with Title 49 of the United States Code and 14 CFR part 205 and would be subject to enforcement action.

FOR FURTHER INFORMATION CONTACT:

Dayton Lehman, Deputy Assistant General Counsel, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 7th Street SW., Washington, DC 20590. Tel. No. (202) 366-9342.

Notice

We face a challenge in the Year 2000 (Y2K) computer problem that, if unmet, could pose risks to the public and disrupt the flow of commerce. Addressing the Y2K problem is a top priority for the U.S. Department of Transportation.

While transportation operations are typically the responsibility of the private sector, ensuring their safe, smooth functioning is a matter of national concern and the Department is taking steps to assist our partners.

Department officials have met with industry associations and businesses in every sector, and have held industry-wide forums to address the issue. We will continue to work with carriers to address Y2K problems; however, we wish to make clear that carriers must continue to comply with existing requirements while addressing Y2K problems.

Department regulations require airlines to provide a minimum level of insurance coverage for passenger, third-party, and property liability resulting from an accident. 14 CFR Part 205. It has come to our attention that some aviation insurers wish to write into airline insurance policies an exclusionary clause that would exclude all liability for damages related to the Y2K problem. No Y2K insurance exclusion has been approved by the Department.¹

¹ The same endorsements that contain the Y2K exclusionary clauses of which we are aware also propose to eliminate coverage for claims arising

Pursuant to part 205, all direct air carriers and foreign air carriers, including U.S. commuters and air taxis (14 CFR 298.2) as well as Canadian charter air taxi operators (14 CFR 294.2(c)), are required to carry minimum "aircraft accident liability insurance coverage" for "bodily injury to or death of aircraft passengers" as well as "persons, including non-employee cargo attendants, other than passengers, and for damage to property." Each carrier must file a certificate of insurance with the Department, signed by an authorized representative of the insurer or insurance broker, stating that the carrier has in effect insurance coverage meeting the requirements of Part 205. Minimum coverage amounts depend on the class of carrier and aircraft size.

Section 205.6 of the Department's regulations, 14 CFR 205.6, prohibits the effectiveness of any liability insurance policy exclusion not specifically approved by the Department. The Department and the Civil Aeronautics Board before it have permitted exclusions from liability coverage only in a very limited number of circumstances. These exclusions cover, in essence, the following risks:

- (1) War and insurrection;
- (2) Noise, pollution, and other effects not caused by a "crash, fire, explosion, or collision, or a recorded in-flight emergency causing abnormal aircraft operation" (an accident);
- (3) Nuclear risks;
- (4) Damages incurred by an employee arising out of and in the course of his/her employment; and
- (5) Injury to property owned, leased, occupied or used by the insured.

The Department recently established a public docket, OST-99-5051, that contains correspondence regarding exclusions requested in the past, including those described above. All future correspondence regarding requests for exclusions will also be placed in the docket, which can be accessed through the Internet at <http://dms.dot.gov>. You should be aware that, although the Department may not have permitted a particular exclusion, section 205.6 also specifically provides that insurers retain the right to recover from carriers any amounts paid under the policy. For example, although an insurer may be obligated to make payments to claimants because the regulations require a particular

coverage, the regulations would not prohibit a provision in a policy requiring a carrier to reimburse an insurer for Y2K-related claims where the carrier has failed to satisfy the insurer that it has in place a program to become Y2K compliant.

Any carrier operating with a Y2K exclusion in place covering passenger, third party, or property liability for aircraft accidents would not be in compliance with the insurance requirements contained in part 205. All U.S. carriers should be aware that, under 49 U.S.C. 41112(a), any certificate to provide air transportation ceases to be effective if an air carrier fails to comply with part 205. This condition is also specifically made a part of the operating certificate of each U.S. carrier. Likewise, pursuant to 14 CFR 298.37 air taxis and commuter air carriers are prohibited from conducting operations not properly covered under part 205. In addition, all foreign air carriers should be aware that all permit and exemption authority of foreign air carriers is also specifically conditioned on compliance with part 205. Consequently, any operations performed without lawful insurance coverage as required by part 205 would be unauthorized.

The Department has been approached by a major aviation industry insurer requesting approval of its Y2K exclusion. In addition, other major insurers have attempted to impose such an exclusion on carriers without first seeking Department approval of the exclusion. The exclusions of which we are aware would involve immediate imposition of a Y2K exclusion, with the insured carrier given the right to obtain a limited "write-back" of coverage, provided it demonstrates adequate Y2K compliance or planning to the insurer's satisfaction. The write-back coverage would be designed to meet Part 205 requirements. We urge carriers that have not done so to implement programs to ensure that they will achieve timely Y2K compliance and to work with their insurers to ensure that there is no lapse in required coverage. We wish to make clear, however, that the Department has not approved any insurance arrangement for Y2K-related problems that does not provide continuous coverage meeting the minimum coverage requirements set forth in part 205.

Certain insurers have assured us they recognize that, in the absence of Department approval, any Y2K exclusion written into the policies of their particular airline clients will not be applicable to the minimum liability requirements of part 205. However, we are concerned that other carriers may

have had Y2K exclusions written into their liability policies by insurers with different views and that such carriers may not yet have obtained coverage meeting the requirements of part 205 under a "write-back" clause, or otherwise. Any carrier operating without the liability coverage required by part 205, including coverage for Y2K-related problems, is subject to immediate enforcement action, which could include civil penalties assessed under 49 U.S.C. 46301 and action against its operating authority. Section 46301 provides for civil penalties of \$1,100 per violation and, in the case of a continuing violation, \$1,100 per day for each day each violation continues. In addition, carriers and their responsible officials should be aware that 49 U.S.C. 46316 provides for criminal penalties in the event of knowing and willful violations of the Department's regulations and Title 49.

This notice is not concerned with Y2K exclusions from insurance coverage not included in the minimum passenger, third-party, or property liability limits set forth in 14 CFR part 205, such as loss of business by an airline or other liability not resulting directly from operation of an aircraft.

If you have any questions, you may contact Dayton Lehman, Deputy Assistant General Counsel, Office of Aviation Enforcement and Proceedings, on 202-366-9342.

Dated: April 19, 1999.

An electronic version of this document is available on the World Wide Web at <http://dms.dot.gov>.

Nancy E. McFadden,
General Counsel.

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. FHWA-1999-5382]

Fiscal Year (FY) 2000 Implementation Guidance for Interstate Maintenance Discretionary Program Funds

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; FHWA solicitation memorandum for FR 2000 funds; request for comments on selection criteria for FY 2001 and beyond.

SUMMARY: This document provides implementation guidance on the Interstate maintenance discretionary (IMD) program for FY 2000 and beyond. On March 4, 1999, a memorandum on

from computer-related problems in connection with "any other change in time, date, or year," including the reset of the Global Positioning Satellite system that will occur on August 21-22, 1999. As with the Y2K exclusion, the Department has not approved any such exclusion.